

CELEBRATING
20 YEARS
OF THE
INDIGENOUS
BARRISTERS
TRUST



NEW SOUTH WALES
BAR ASSOCIATION

ANNUAL REPORT

2020-21



Acknowledgement of Country

Our office is on the traditional lands of the Gadigal People of the Eora Nation. During the COVID-19 pandemic many staff are working remotely. We acknowledge each of the First Nations Peoples on whose lands we work and pay deep respects to their elders past, present and future.

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20 YEARS
OF THE
**INDIGENOUS
BARRISTERS
TRUST**

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Annual General Meeting

The Annual General Meeting will be held on Thursday, 4 November 2021 at 5pm via Zoom Conference. Zoom conferencing details will be emailed to members prior to the Annual General Meeting.

Cover Art

Dugulaarra by
Frances Belle Parker (Yaegl)

Table of Contents

THE YEAR IN REVIEW

President's Report	8
Executive Director's Report	13
20 years on... the work of the Indigenous Barristers Trust continues	18

PROFILE

Statistics	24
Office Bearers and Bar Council	28
Bar Association staff	29
Committees	30

REPORTS

Arranging and promoting continuing professional development

Professional Development Department	36
Education Committee	40
New Barristers Committee	41

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

BarCare	42
Bar Library	45
Wellbeing Committee	48
Costs and Fees Committee	55
Innovation and Technology Committee	57

Supporting equity and diversity

Diversity and Equality Committee	58
Accessibility Panel	61

Marketing and promoting the work of barristers

Practice Development Committee	62
Alternative Dispute Resolution Committee	64

Contributing to public debate and law reform

Criminal Law Committee	66
Human Rights Committee	68
First Nations Committee	69
Family Law Committee	71
Common Law Committee	73
Industrial Employment Health and Safety Committee	74
Legal Aid Committee	75
Inquests and Inquiries Committee	76

Promoting access to justice

Legal Assistance Referral Scheme	77
Legal Assistance Referral Scheme statistics	86

Assisting in matters of professional discipline

Professional Conduct	90
Professional Conduct statistics	93

FINANCIAL STATEMENTS

New South Wales Bar Association	100
Barristers' Benevolent Association	125
Indigenous Barristers' Trust	141

Dugulaarra (Together)

Yaygirr Language 2021

Cover Artist: Frances Belle Parker (Yaegl)

The artwork 'Dugulaarra' means 'together' in Yaygirr language.

Across the work, stretching from side to side are many different symbols and shapes that tell a greater story. They flow across the work like a river, or an undulating landscape encapsulating elements of great importance to all Aboriginal people. It is our land, it is our river systems that unite us, gives us strength and pushes us forward. These are our bloodlines that connect us to country and tell our stories.

A row of black figures feature in the centre of the work, stretching across from side to side. These figures represent all Indigenous barristers, depicted walking the same path and all linked together. There is a strong bond between these people connected to their country, forging new paths alongside each other. They are the most distinct component of the work to signify strength, support and unity.

The stars at the top of the work signify a bright future for this team of Indigenous barristers and for all who work with them. There is a clear sense of hope and direction and a focus on the future.

Below the stars is a band of blue oval shapes. These shapes represent the communities they have come from and the communities they will reach through their work in the future.

Between the figures and the stars, and on either side of the blue oval symbols are bands containing orange and black, and yellow and black markings. This is a depiction of journey. Journey for communities, journey for the legal teams, and journey for the individuals. There is a real sense of movement within these shapes, these represent the moving forward of our people.

The bright colours and patterns at the base of the work, upon which the figures are grounded represent the diversity of the communities and the lands of which the legal teams work with. Being below the figures, the patterns also symbolise obstacles and barriers that they have overcome to get where they are today.







The background of the page is a photograph of several judges from behind, wearing traditional black judicial robes and white powdered wigs. They are standing in a line, and the image is slightly out of focus, emphasizing the text overlay.

Year in Review

President's Report



Despite everything COVID-19 has thrown at us, we should not forget that while 2020 was a year of many firsts for our Bar, many have been good.

Michael McHugh SC
President

I would like to begin by thanking Tim Game SC who was president from November 2018 through to November 2020, as well as Executive Members and Bar Councillors for their leadership and guidance of the Bar Association and the profession throughout 2020 and the early days of the pandemic. Tim's outstanding and selfless contributions, in particular, left the new Bar Council and our profession a solid path forward.

Thank you also to our committee chairs and committee members who have worked diligently and tirelessly to provide quality advice to inform responses to all manner of requests, often at extremely short notice.

Thank you to all members and committees who have prepared and delivered CPDs to date this year, and to the Association's Professional Development Department for their hard work in facilitating this important service for the Bar.

And thank you to the staff at the Association for their dedication and creativity in providing support to members in the changing environment. I am pleased to say our new Executive Director has hit the ground running, bringing new expertise and ideas, as well as administrative excellence.

COVID-19 and the Bar

The reporting period 2020 to 2021 has seen the profession adapt to the COVID-19 pandemic in extraordinary ways. It has certainly been a test of the strength and resilience of the profession and the ability for us all to be adaptable.

When the Premier announced on the 29th of June this year Greater Sydney would be returning to lockdown, we were forced again to reconsider the manner in which the profession operates. Courts had to abandon new jury trials, registries closed and hearings quickly returned to online only. Of course, with the experience of 2020, quickly transitioning to an online system and remote working was far less daunting a prospect had we not all experienced the first lockdown. Yet, the profession has been fundamentally altered.

Technological leaps borne of necessity have come with challenges to our open system of justice but also opened our eyes to new ways of working collaboratively and more flexibly post-COVID, for all barristers.

The pandemic has however taught us many lessons, not least of all the skills we have all mastered, including the Judiciary and Courts, with regards to online platforms such as Teams, Webex and Zoom and

which are now commonplace in all of our practices – even the ubiquitous ‘you’re on mute’. In 2020 the Bar Association developed the Remote Hearing Protocol which outlines the minimum standards for such remote hearings, divided into three categories: General aspects of court hearings, Conduct and Technical. Practitioners should have regard in addition to this protocol in addition to relevant court websites, practice directions and guidelines. There have also been some obvious challenges to practice management and the Bar Association has focussed on assisting members throughout this difficult time.

Despite everything COVID-19 has thrown at us, we should not forget that while 2020 was a year of many firsts for our Bar, many have been good.

We made history by becoming the first bar examiner in Australia to conduct the Bar Exam by computer, not paper. Conducting our Committee meetings via Zoom enabled us to work collaboratively with members of the regional Bar to a greater extent than was ever possible before. We launched our first virtual twitter photo wall to mark International Women’s Day. Our first partnership with NIDA helped us hone effective advocacy to camera skills for video appearances. Our first online Female Law Students Open day enabled us to engage with significantly more students across the state than in any year before. Our very first Zoom webinar CPD was so well received it has been followed by many others. Over the past 12 months all of the CPD’s have been delivered by online means and most of them recorded for later viewing, creating greater availability for all members.

October 2020 marked the first anniversary of the establishment of our Accessibility Panel, which has already made tremendous progress in raising awareness of and addressing accessibility matters at the Bar and the courts.

A major focus for the Bar Association has been the mental health and wellbeing of members and the wider profession including the Judiciary and members of the court. We have sought to keep members abreast of government regulations and arrangements for assistance for those members whose practices have been affected by the lockdown, particularly the junior members of the Bar. One of the benefits of working in chambers is the collegiate environment where junior members have a senior member of the profession easily accessible, should they have any questions or problems they wish to raise. The absence of members in chambers has impacted the juniors and readers dramatically. The Bar is a profession that thrives on chambers life and engagement with other

members of the profession. I urge all members to return to chambers when safe to do so and otherwise take steps to ‘check-in’ on the more junior members.

I would also like to thank the heads of jurisdictions our members practise in for their unstinting support of the profession during these extraordinary times. Two recent examples are the letters from Chief Justices of the NSW Supreme Court and Federal Court, both noting their judges were conscious of the difficulties working from home can entail and encouraging the profession to raise them with the court when needs be.

During 2020 it was necessary to postpone the first Bar Practice Course due to the social distancing restrictions. The two courses scheduled for 2020 were combined into one hybrid course with half of the Readers attending the Bar Association each day and the other half attending via audiovisual means. As we moved forward 2021 the Professional Development again were faced with imposed restrictions due to COVID-19 and it has been necessary to host the Bar Practice Course entirely by remote means. While there are obvious benefits to being able to quickly convert an in person course to remote means, the camaraderie and friendships formed throughout the Bar Practice Course will be impacted by this absence of physical human engagement and the social interaction. Efforts will be made to assist the Readers attending this course when restrictions are eased.

Strategic Plan 2021-25

Over the past year a tremendous amount of work was undertaken to prepare the Association’s next five-year Strategic Plan. I would like to express my thanks to the Strategic Plan Steering Committee and to all those who have helped to inform the plan’s development. We have listened to your feedback about what we are doing well, and where we need to do better.

Our Strategic Plan is one of the tools we arm ourselves with to face the challenges and opportunities of the future. The Plan encapsulates our vision of justice, independence, leadership and service. It sets out our Association’s mission to assist us to:

- a. Serve the administration of justice and the community;
- b. Lead in the law and access to justice;
- c. Deliver independent advice and quality service;
- d. Support the profession with expert, flexible and efficient services.

Importantly, it also articulates our shared values of excellence, integrity, respect, candour, collegiality, dedication and humanity.

There is no doubt that more can be done to better market the Bar and differentiate our services as specialist independent advocates and the Association is taking soon-to-be announced concrete steps to assist the one third of all solicitors acting in-house and for government to more easily brief the Bar direct.

A diverse and welcoming Bar

For these efforts to succeed, and for the community to have trust in our Bar, our Bar must reflect the diversity of the community we serve. We have taken significant strides but there is some distance left to travel. I had the privilege of writing to our incoming Advocates for Change to advise them of their Bar Council nomination to serve in these offices. I very much look forward to working alongside Advocate for Gender Diversity, Anthony McGrath SC; Advocate for Cultural Diversity, Lee-May Saw; with our continuing Advocate for LGBTIQ Diversity, Andrew Pickles SC; and Advocate for Accessibility, Robert Dubler SC, to promote an inclusive, vibrant and diverse Bar where all practitioners feel valued.

An inclusive profession hinges on cultivating conditions and cultures that enable people with varying backgrounds and attributes to succeed. Giving instructing solicitors, clients and the community access to the full talent pool, such as through the equitable briefing policy, is a commercial, social and economic imperative.

On behalf of members I thank outgoing Advocate for Gender Diversity, Jane Needham SC, and Advocate for Cultural Diversity, Hament Dhanji SC, for their tireless service and contribution. I also thank our Diversity and Equality and Wellbeing Committees and the Women Barristers Forum for their ongoing efforts in this critical space.

Important work continues by many to combat sexual harassment at the Bar. I personally subscribe to the principle 'the standard you walk past is the standard you accept'. Each and every one of our members and each and every person who works at or with the Bar deserves a safe workplace, free from harassment or discrimination. No one is above the law; we must hold each other to the highest standards of ethical and professional behaviour.

The Association is continuing to work with members, Heads of Chambers, Committees, Courts, the Office of the Legal Services Commissioner and our colleagues at the NSW Law Society, Law Council and Australian Bar Association to ensure that sexual harassment is understood as plainly unacceptable and eliminated from our profession.

This year the Association's regional CPD conference series included for the first time a session at each conference on combatting sexual harassment. These sessions were developed by the Deputy Chair of the Diversity and Equality Committee, Melissa Fisher, with Committee Chair Kate Eastman SC and the Department of Policy and Public Affairs. They were delivered by senior members of the Bar: Advocate for Change, Anthony McGrath SC; Robert Lethbridge SC; and Craig Everson, with Robert Hollo SC and Executive members serving on a discussion panel following the presentation. These sessions at the regional bar conferences at Newcastle, Ballina and Orange generated frank and helpful discussions and, together with similar feedback from the Sydney conference, the ongoing work of our committees and Association staff, give me real confidence that, with continued focus, we can make the Bar a fairer and more equitable profession for *all* of us.

As part of our commitment to this we have focussed an enormous amount of our time and attention to education and understanding what is and is not acceptable behaviour. We recently commissioned a short film featuring the NSW Chief Justice the Hon Tom Bathurst AC QC and actors and which has been shown to the readers before wider distribution for training purposes.

Policy endeavours

Another important part of the Association's work is to promote the administration of justice, including through advice and advocacy on policy and public affairs.

The 2020–21 NSW Budget was regrettably another missed opportunity to invest in critical aspects of justice for First Nations Peoples and to address the systemic over-representation of First Nations Peoples in custody. Recent reforms to adult sentencing have not to date seen any decrease in the proportion of adult First Nations persons in custody. The rates of overrepresentation of First Nations peoples in custody in NSW either remain steady or continue to grow.

At 28 June 2020, First Nations peoples represented 26.1% of the total inmates in NSW. As at 14 March 2021, First Nations peoples represented 27.1% of total inmates. Since June 2020 to March 2021, the percentage of male First Nations inmates has risen from 25.6% to 26.6%. The percentage of female First Nations inmates remained constant at 34.1%.

The commencement of a Walama Court pilot independently by the District Court of NSW is to be applauded and is no doubt a welcome start towards addressing substantive inequality for these adults.

Yet an overwhelming case, including on economic grounds, remains for the Walama Court to be fully and unequivocally implemented by government – as it has for the Koori Court for children, which has been operating successfully for years and indeed has recently been expanded by government.

As members know, the Walama Court was supported by the Australian Law Reform Commission (ALRC) in its 2018 Report *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* to address the overrepresentation of First Nations peoples in custody. The Walama Court was also recommended by the Special Commission of Inquiry into the Drug ‘Ice’ in 2020.

The NSW Department of Communities and Justice Secretary told Parliament in September 2019 that the Walama Court was ‘an excellent proposal’ being considered alongside ‘a range of other proposals, in the 2020–21 budget cycle’ and ‘the issue is simply one of funding’.¹

However, the fiscal benefits of the pilot, such as savings from reduced rates of incarceration and recidivism, and a gain in productive output, are expected to equal and exceed its cost. The Walama Court would also result in further fiscal benefits in other areas such as policing, health, family welfare payments and out of home care costs.

I recognise the significant contributions of the Association’s First Nations Committee and Joint Working Party on the Over-Representation of Aboriginal People in Custody in NSW in leading our continued work to press these important priorities, in concert with many others.

There has been a significant volume of ongoing policy work across all areas of practice, including as I mentioned above, our ongoing work to combat sexual harassment involves a significant body of policy and organisational change work on multiple levels: within the Bar, the legal profession and our broader community.

We are working closely with the Law Council, Australian Bar Association, Office of the Legal Services Commissioner and many others to address these matters, and to advocate to Attorneys-General to address existing lacunas in the law regarding sexual harassment.

The Association worked closely with the Law Council of Australia to continue our longstanding opposition to the Commonwealth Government’s flawed family court merger out of concern it will hurt, not help, NSW families and children in need of specialist family law assistance.

Despite some amendments, the Federal Circuit and Family Court of Australia Bill 2019 (Cth) proceeded and we now see a merged court system which commenced on 1 September 2021, which has resulted in the abolition of a specialist, stand-alone Family Court as we know it, by collapsing it into the generalist, chronically under-resourced and over-worked Federal Circuit Court, to the detriment of children, families and victims of family violence.

These concerns were shared by more than 110 stakeholders including Women’s Legal Services Australia, National Aboriginal and Torres Strait Islander Legal Services, Community Legal Centres Australia, and former Chief Justice of the Family Court, Elizabeth Evatt AC. We are, of course, nevertheless engaging with the new Court and seeking to assist as best we can.

The Association continues to raise concern with the NSW Parliament and State Government about the operation of the motor accident claims scheme established in 2017 by the *Motor Accident Injuries Act 2017 (NSW) (MAI Act)*. Three years on, this scheme is significantly under-delivering benefits to injured motorists, while insurers pocket profits.

In 2017 the value of CTP insurance for those injured on the road was substantially reduced based on actuarial claims made by the government. The then existing scheme was said to be ‘inefficient’ as it put less than 50% of the premium collected into the hands of the injured. However, the Association has consistently raised concerns that the new Scheme has performed even worse. Overall figures indicate that barely 5% of premium dollars are now being received by injured claimants under the MAI Act. By way of contrast, CTP insurers have kept over \$8 billion dollars, with no chance of clawing back any super profits for years to come, if at all.

The power imbalance between the injured and insurers is striking. Those injured on the road are at the mercy of a motor accidents scheme that suffers from many of the same flaws as those exposed in workers compensation.

Our members have engaged constructively with the new Personal Injury Commission, however the systemic issues in both workplace compensation and motor accident laws and schemes are real. Both systems are failing to care for or adequately support the injured. Both schemes have the effect of leaving the injured to fend for themselves against insurance companies and scheme agents who have access to lawyers experienced in the areas in question. The legislation governing each aspect is extraordinarily complex, involving cross references to other pieces of legislation, regulations, claims and medical guidelines.

1 New South Wales, *Parliamentary Debates*, Legislative Council, 2 September 2019, 84 (Mr Coutts-Trotter).

Both schemes have become increasingly technical, unnecessarily bureaucratic and difficult to navigate without legal assistance. The public are not informed of their rights, including the right to seek legal advice. In fact, victims are actively encouraged to seek to resolve the matter themselves, resulting in increased stress and emotional strain, and inevitably ending up with an unfair outcome.

We will continue to raise these concerns on behalf of the vulnerable members of our community left to wrestle with a system that favours insurers, not the injured.

The Association also remains committed to advocating for proper resourcing of Legal Aid and legal assistance at a State and Federal level and we have had many meetings in this regard. The recent gains in this area are simply inadequate and members will recall Game SC informing counsel that they do not have to accept a legal aid brief where the preparation does not adequately cover the work that is actually required to properly defend accused. We note the UK 'reforms' serve as a warning to governments everywhere – they have devastated their criminal bar and have led to common instances where accused remain in custody because there are simply no prosecutors to run trials.

More AVL?

Our legal system and policy makers are actively considering the further role of AVL and remote hearings. The Bar will continue to consult with them and the wider profession on its impacts, including on case management hearings, interlocutory applications, trials, witnesses, appeals and open justice, among other factors.

At a recent CPD, the Chief Judge of the NSW Land and Environment Court, the Hon Justice Brian Preston, reflected on what his Honour saw as both the qualitative and quantitative improvements that have been made through the use of remote hearings in the court and associated alternative dispute resolution processes. His Honour observed that, in the LEC at least, the court would never return to the way it was before, and that pluralism and hybrid processes were the silver lining in the COVID-19 cloud.

I recently attended a roundtable discussion held by the NSW Law Reform Commission, which is currently inquiring into Open Justice in this State. Their inquiry is grappling with issues now including the extent to which open justice is impacted by remote hearings, where people cannot attend the court in person or where the media are required to request individual links from the court to observe particular proceedings. Live-streaming capacity has alleviated some of these concerns, and yet there are 'live' issues still to be worked through and the Bar's voice will remain an important sounding board for good policy.

In some respects, these technologies have improved – and have capacity to further improve – accessibility to our justice system. In other cases, reliance on these technologies where it is not in the interests of justice, will undermine the very principles our system is based on, such as open justice and the right to a fair trial.

Moreover, while remote hearings and reliance on AVL can improved access for vulnerable people, conversely, these platforms can and do impede access to justice for those who cannot afford or do not have the skill to use the technology required for meaningful participation. Other troubling issues are managing new risks for abuse or duress, e.g. others standing off camera and influencing the evidence given by a remote witness where the witness is a victim-survivor of domestic violence or elder abuse.

Again, if not managed well, these technologies have created new and different accessibility challenges especially for those of us, lawyers and lay persons alike, with hearing or visual impairments. Late last year, the Association's Accessibility Panel launched an accessibility survey to better understand the experiences of members at the Bar with accessibility issues at the Bar and the courts. This confidential survey has been advertised through InBrief and I would encourage members who have not already done so to complete the survey – it is short and your experiences and insights are instrumental in informing our continued advocacy in this space.

Within our own workplaces, remote hearings have increased flexibility and the opportunity, together with its own demands, to work from home. How do we balance this without damaging important aspects of the traditional chambers model, such as collegiality of the profession, learning from peers and connectedness, or the great strength of the independent referral Bar, our open door policy?

There are important questions still to be answered and challenges, known and unknown to be met, managed, accommodated and mastered. And which I firmly believe the Bar is absolutely capable of – there will always be a strong demand for expert advocates, independent legal advice and assistance in the administration of justice. Our daily strives for excellence in these and other areas augur well for our future.

Our Bar and our members are strong, vibrant, fearless, and I am confident in our continued capacity to successfully adapt to the changing environments in which we ply our trade, all the while remaining a true profession and serving our community.

Michael McHugh SC
President
New South Wales Bar Association

Executive Director's Report



Our route out of the pandemic poses challenges, but also presents opportunities for the New South Wales Bar to adapt, show leadership in the law and to serve the administration of justice.

Andreas Heger
Executive Director

Disruption, resilience and continuity

My time as Executive Director of the New South Wales Bar Association began on the closing bell for 2020–21. The content of this report, including the challenges, responses and achievements it surveys, relates substantially to the work of my predecessor, Greg Tolhurst. I wish to thank Greg for his warm welcome and, on behalf of the Association, his work over the past five years.

At the same time, three long serving members of the Bar Association's staff have retired. Between 1996 and 2020 Heather Sare had managed our Legal Assistance Referral Scheme (LARS). Countless barristers gave their time and expertise in response to Heather's call. Under her stewardship, LARS helped some of society's most disadvantaged people receive legal representation. The social value of her work is inestimable. Similarly, for a quarter of a century, Librarian Lisa Allen gave unstinting service to members of the Bar – quite a few of whom are now on the Bench. Under her stewardship the Bar Library grew to become one of the leading law libraries in New South Wales, with a devoted clientele. It is widely respected for the scope of its collection and the quality of its services. Lisa will be missed greatly. Finally, Basil Catsaros, our finance manager for nearly 24 years, has retired. Under his prudent budgeting, sound financial management and constant support for the Finance, Investment and Audit Committee, the Bar Association is in a sound financial position. On behalf of their colleagues and the many members with whom they have worked over the years, I wish to thank Lisa, Heather and Basil for their dedication and service to the Bar Association.

Disruption

This year has been another year of disruption. There were numerous local outbreaks of COVID-19, confusion over public health orders and advice regarding vaccines, economic recession, intense public scrutiny of the legal profession and compounding evidence of an impending climate crisis.

At the time of writing, these crises are ongoing, with little sign of abatement. There is enough medical research to suggest that, regardless of the availability of vaccines, the world will need to live with coronavirus for years to come. The forced technological adjustments will have long term ramifications for the justice system and the delivery of legal services by our members and the broader legal sector.

Impact on the Bar

The New South Wales Bar is a resilient institution. By the second quarter of 2020–21 Australia had entered its first recession since 1990, alongside all the other challenges posed by COVID-19. In 2020–21 the number of PC holders at 30 June was 2434, an increase of 43 or 1.8 per cent, which is actually higher than the long term average yearly growth.

Between April and June each year we survey members completing their PC renewals. This year we asked: ‘Has your practice changed since the COVID-19 pandemic began?’ The Bar is evenly divided. Forty seven per cent said it has, 45 per cent say it has not. A clear majority of regional barristers (55 per cent) answered ‘Yes’, compared to only 18 per cent of Crown prosecutors and public defenders. Of those who said their practice had changed: nearly 80 per cent said they still had not reverted entirely to in-court appearances; more than half had invested in audio-visual and IT equipment; and nearly one-quarter said they do more advice work from home. Only a small proportion of respondents (2.5 per cent) said that they had sold or licensed their chambers.

There is much that is changing, and many barristers – particularly members practising predominantly or exclusively in criminal law with jury trials – are currently adversely affected by lockdowns. The Association will continue to closely monitor developments and to provide support and advocacy on members’ behalf.

Practice support

In early 2021 the Bar Council approved the Strategic Plan for 2021–25. The plan was the result of a long period of consultation with members, including those in the regions, as well as external stakeholders.

It differs from earlier plans insofar as the Bar Association has provided mission, vision and values statements. Crucially, it commits the Bar Association to supporting barristers in the conduct of their profession and to ‘managing the impacts of the pandemic safely and [to assist] in ensuring disruption to the legal system is minimised’. Throughout the pandemic our immediate objectives have been to:

- protect the health and safety of members and staff;
- keep members informed of changes to court procedures;
- provide practice support, wellbeing advice and emergency counselling; and
- preserve continuity of essential regulatory services, such as PC renewals and CPD.

Health and safety

The Bar Common Room was closed last year and there were scarcely any opportunities when it was safe and permitted by public health orders to occupy it. Throughout the year, the Bar Association had to cancel or relocate several professional and collegial events to more COVID-safe venues, including the Bar Exams, CPD seminars, Experienced Barristers lunches and the 2021 Bench and Bar Dinner.

Information for members

During COVID-19 the Bar Council Executive has regularly met remotely to monitor changes to arrangements in local, state and federal courts and to consult with the attorney-general and the Department of Communities and Justice. In 2021, at the time of this report’s publication, the situation across NSW is especially challenging because of the lockdowns across NSW. The Bar Association remains committed to bringing relevant information to the attention of members daily through *InBrief* and the *Consolidated Guide to COVID-19-related Court Arrangements*, whenever necessary.

Practice support

A key tenet of the Bar Association’s mission is to support the profession with expert, flexible and efficient services.

During the best of times, the independence, competence and resilience of barristers is supported by collegiality, mindfulness and self-care. Collegiality, in the form of social functions and the 'Open Door Policy', has long been an important institution at the Bar. However, the pandemic has resulted in barristers spending less time in chambers or in an open court, with increased risk of isolation and associated disorders such as stress, anxiety and depression. The Wellbeing Committee's report outlines several early intervention programs to address this. These include Barristers Safe Place, webinars on recognising and managing vicarious trauma, and facilitating organised sporting, social and recreational activities. Special thanks to Chris Winslow, Kylie Nomchong SC and all committee members for their continued work in this critical area for the Bar.

I would also like to acknowledge and thank the Director of BarCare, Jenny Houen, for her continued work providing the Bar's confidential mental health and financial support service. These services have never been more important than at the present time, and I encourage all members to consider the service for themselves and their colleagues.

After much hard work by the National Australia Bank, Justin Hogan-Doran SC and members of the Costs and Fees Committee, the NAB Escrow Service was launched in September 2020. The service is designed to give barristers greater security for payment and is free to members of the NSW Bar. Detailed information can be found on the member dashboard of our website.

Continuity of services

Members have enjoyed the dividends of the transition to paperless practising certificate renewals, which began in 2019, combined with rapid adoption of audio-visual technology. Governance of the Bar Association is one example. Meetings of our committees, the Bar Council and heads of chambers are now held routinely via videoconferencing, often with higher attendance and more participation from regional members, as well as those with family commitments. The Bar Association was fortunate to have the reserves, the skills and the technology to respond effectively to the circumstances in which we found ourselves. This has most clearly been seen in our Professional Development services.

Professional Development

'Remote advocacy', 'social distancing', 'webinars' and 'virtual courts' are now part of the lexicon of the Continuing Professional Development (CPD) program. At the start of Law Term in 2021 social distancing restrictions had eased sufficiently to allow the Association to hold its annual regional CPD mini-conferences. In addition to the seminars and workshops, a social event was added to the end of each conference to allow members to get together, which they had not been able to do because of the pandemic.

The Professional Development Department also swiftly adapted its robust CPD program and training calendar to an online offering. The Association provided training and support to staff, presenters, and broader membership to ensure a smooth transition. The Association continues to offer on-demand videos via CPD Online.

Members adapted quickly to the changes. Indeed, feedback on the new approach to delivering CPD has been overwhelmingly positive, with over 4,000 live viewers in the 2020/21 CPD year. The Department continues to monitor engagement and feedback, adapting and upgrading software and license to support members. The online experience enjoyed by members in the last 12 months has added resilience to the CPD program that can be adapted for future needs.

The September 2020 and May 2021 Bar Practice Courses were a blend of audio-visual and in-person seminars, culminating in mock trials, carefully organised so as to be socially-distanced. The preparatory work is undertaken by the Professional Development Department, Education Committee and the Examination Working Group, with consultation from university on-line teaching specialists. Our thanks go to Rob Hollo SC, Gillian Mahony, and the Professional Development Department for all their work in redesigning entire courses to ensure that they can proceed. The Association could not have pivoted this course without the continuing support from the presenters, instructors and judges who have been very supportive, and have adapted well to the new online technologies and delivery methods.

Public Policy and Law Reform

In 2020–21, the Association provided 81 submissions to Government agencies, law reform bodies, Parliamentary Committees, the Law Council of Australia and the courts in relation to legal and policy issues. I would like to thank and acknowledge the Association's Committees and policy staff for this significant contribution to public policy in New South Wales and nationally.

Some of the major public inquiries and consultations responded to included:

- Standing Committee of Law and Justice reviews in relation to the motor accidents, workers compensation and lifetime care and support schemes;
- Standing Committee on Social Policy and Legal Affairs Parliamentary inquiry into family, domestic and sexual violence
- Parliamentary Committee on the Independent Commission Against Corruption inquiry into the reputational impact on an individual being adversely named in the ICAC's investigations
- Senate Standing Committees on Foreign Affairs Defence and Trade Inquiry into Issues facing diaspora communities in Australia
- NSW Parliament Regulation Committee Inquiry into the making of delegated legislation
- NSW Joint Select Committee on the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020
- NSW Parliament Legislative Council Select Committee on the high level of First Nations People in custody in NSW
- NSW Legislative Council Standing Committee on Law and Justice Inquiry into the Mandatory Disease Testing Bill 2020
- Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
- NSW Department of Communities and Justice Exposure draft of the Crimes Legislation (Offences Against Pregnant Women) Bill 2020

- Commonwealth Attorney-General's Department consultation regarding R 67B of the Family Law Regulations
- NSW Parliament Regulation Committee Inquiry into Environmental Planning Instruments
- NSW Legislative Council Select Committee on Coronial Jurisdiction

LARS

Notwithstanding Heather Sare's retirement, LARS has continued its work linking barristers with people in need. I would like to thank the whole LARS team, particularly Ms Katie Green who has expanded LARS' efforts over the reporting year, and all the barristers who have provided pro bono services through LARS, for their continued efforts. It is an amazing service and one I would recommend all members consider participating in.

Professional Conduct

The Association also adapted to the pandemic in delivering the Bar Council's delegated regulatory functions, with all staff and Professional Conduct Committees continuing their work remotely. The Bar Council continued to meet and exercise its functions under the Uniform Law remotely and finalised 69 matters throughout the year. It is important to acknowledge the PCCs and Professional Conduct Department staff, led by the Director, Professional Conduct, Jocelyn Sparks for their excellent work in this regard.

Sexual Harassment

The Strategic Plan commits the organisation to the elimination of sexual harassment, discrimination and workplace bullying, which Bar Council is committed to addressing.

This has been a focus for the Association during the reporting period and has been a standing item for Bar Council Policy meetings. Sexual harassment has been a focus of the CPD program, with sessions as part of the Bar Practice Course and in the regional conference series. The session at the

Sydney conference was recorded and is available on the CPD streaming website. The Association has provided training for contact officers under the Best Practice Guidelines and is currently finalising a review of these Guidelines. These measures sit alongside the regulatory work of the Association. Considerable further work is nearing completion, and we anticipate communicating with members about these measures very soon. I would like to thank and acknowledge the work of the many people across the Association – Bar Council, the Executive, Committee chairs and members and staff – for their ongoing work addressing this critical issue.

Diversity and inclusion

Respectful conduct toward one another is just one part of the Bar continuing to attract and retain the best and brightest advocates in the legal profession and the wider Australian community. This needs to extend to creating an inclusive profession that acknowledges and celebrates diversity, including gender, cultural and linguistically diverse people, people with disability, LGBTQIA+ and First Nations people.

We have included more data on the diverse composition of the Bar in this year's report, which shows there is more to do to ensure the Bar is a strong, inclusive, and diverse institution over the long term. This work needs to be Association wide, but is spearheaded by three committees. The report of the Diversity and Equality Committee outlines its work in the reporting year and this work will continue in earnest over the coming year. In addition, the First Nations Committee has provided invaluable support across a range of Association activities, particularly its policy work. Last but not least is the Accessibility Panel; as a person with disability I know the personal and professional growth offered by a career in the law, but I also understand well the significant challenges accessibility can pose. Its advocacy and support for our members with disability is a key pillar in the inclusion agenda of the NSW Bar.

Indigenous Barristers' Trust and First Nations Barristers

2021 marks the 20th anniversary of the Indigenous Barristers' Trust The Mum Shirl Fund and we are proud and grateful to the Trustees that the Trust's commemorative artwork Dugulaarra (Together in Yaygirr language), by First Nations' artist Frances Belle Parker, graces the cover of this report.

The Trust provides financial and other assistance to First Nations barristers and makes grants to law students who aspire to practice as advocates but who need to overcome significant financial or other disadvantages. For 20 years, these grants have enabled First Nations students to complete their law courses and pursue a legal career.

The Trust works towards the long-term strategy of increasing the number of First Nations barristers who will commence practice and flourish at the New South Wales Bar. This, as part of the broader celebration and inclusion of First Nations' people and culture, needs to be a sustained focus of the Bar. I would like to thank the Trustees and I look forward to continuing work in this important area with the Trustees, the Association's First Nations Committee and the broader Bar.

Conclusion

I thank all Bar Association staff for their work, resilience and dedication to the Bar Association during another challenging year. I would also like to acknowledge the significant contribution of the barristers – which is entirely voluntary – through the Association's committees, Bar Council and Executive. These members dedicate an enormous amount of time, effort and skill to the Association and its members.

The Bar Association truly is a remarkable institution.

Our route out of the pandemic poses challenges, but also presents opportunities for the New South Wales Bar to adapt, show leadership in the law and to serve the administration of justice.

Andreas Heger
Executive Director
New South Wales Bar Association

20 YEARS ON...

the work of the Indigenous Barristers Trust continues

In the late 1990s, a number of barristers in New South Wales recognised the significant issue of the under-representation of First Nations barristers at the NSW Bar needed to be addressed. At that time, there was only one First Nations barrister, Mullenjaiwakka (Lloyd McDermott), a situation which was described as *pretty dismal*.

Through the work of the Equal Opportunity Committee and with the strong support of two successive Presidents, Ian Barker QC and Ruth McColl SC (later Justice McColl) and the Executive Director, Philip Selth, a strategy was developed for improving the opportunities for First Nations lawyers to come to the NSW Bar.

One part of the strategy was the establishment of the *Indigenous Barristers' Trust The Mum Shirl Fund* on 6 August 2001.

The recitals of the Trust Deed were as follows:

- a. It is recognised by the body of members of the New South Wales Bar Association that Indigenous persons seeking to make a career at the New South Wales Bar are frequently in circumstances of poverty, suffering or misfortune, both financially and culturally, which constitute a significant obstacle to the pursuit of their chosen career.
- b. The body of members of the New South Wales Bar Association consider that it is in the interests both of Australians generally and of all Indigenous persons for the number of such persons practising at the New South Wales Bar to increase.
- c. For the purposes of facilitating the pursuit of the practice of the law by Indigenous persons and in order to make provision for the objects set out in this deed, the Settlor wishes to create the trusts

hereinafter set out and thereby to establish a Trust Fund, with a physical presence at the offices of the New South Wales Bar Association, which will be a public benevolent institution for the relief of such poverty, suffering, helplessness, misfortune or other disability of Indigenous persons as may constitute an obstacle in the way of their being able to practice at the New South Wales Bar.

- d. For the purpose of giving effect to such desire the Settlor has, upon the execution of this Deed, transferred to the Trustees the sum of Ten Dollars (\$10) (hereinafter referred to as 'the Settled Property').

The Settlor was Justice Ruth McColl, then President of the New South Wales Bar Association and the original Trustees were three barristers (Mullenjaiwakka, Bret Walker SC (as President of the Bar Association) and Chris Ronalds) and one solicitor (Daniel Gilbert). The current Trustees are Michael McHugh SC (as President of the Bar Association), Justice Michael Slattery AM, Tony McAvoy SC and Chris Ronalds AO SC. Each Association President is a Trustee as part of that role. Sir Gerard Brennan AC KBE QC has been the long standing Trust Patron.



Patron of the Trust, Sir Gerard Brennan AC KBE QC, with founding Trustee Chris Ronalds AO SC at the Indigenous Student Forum in November 2008

Mullenjaiwakka (Lloyd McDermott) addresses the Indigenous Student Forum with Tony McAvoy SC seated on stage and Justice Michael Slattery AM in the audience, November 2008



Many law students were in awe and wonderment at being able to meet and chat with the former Chief Justice of the High Court at Trust functions.

Daniel Gilbert donated the funds he held in the Mum Shirl Fund. Shirley Colleen Smith AM MBE (1924-1998) was a Wiradjuri woman who dedicated her life to welfare services. She visited many Aboriginal prisoners in gaol, which led to her being given the name 'Mum Shirl'. She raised over 60 foster children and was involved in setting up the Aboriginal Legal Service in 1971 and also the Aboriginal Medical Service, the Aboriginal Black Theatre, the Aboriginal Tent Embassy, the Aboriginal Children's Service, the Aboriginal Housing Company and the Detoxification Centre. It was fitting that the Trust be partly named after her.

It was anticipated that monies would be raised for the Trust through fundraising from members of the Bar and the judiciary. Consequently, an application was made to the Australian Taxation Office for deductible gift recipient status so donations were a tax deduction for the donor. Unfortunately, this application was refused by the ATO, which led to a successful challenge to that decision in the Federal Court: *Trustees of the Indigenous Barristers' Trust v Commissioner of Taxation* (2002) 127 FCR 63, [2002] FCA 1474.

In that case, Gyles J dealt with the central issue of whether the Trust was a *public benevolent institution* and held:

In my opinion, the undisputed evidence leads to a finding that, at the time the Trust was settled, and for the foreseeable future, many, indeed most, Indigenous persons in Australia could properly be described as 'disadvantaged' generally and, in particular, in relation to education and the ability to take a place in the business and professional world of Australia. Further, in my opinion, the benefits which can be afforded by the Trust are calculated to relieve that disadvantage. It is not to the point to advert to the fact that there are, no doubt, many non-Indigenous Australians who suffer similar disadvantages of one sort or another, and that there are many other Australians who do not have the means or motivation to enter a profession, even assuming that they have the intellectual ability to do so. I am satisfied that there are special disadvantages in advancement in life suffered by Indigenous Australians. Neither is it to the point to liken the benefits to be offered by this Trust to the giving of unnecessary luxuries to persons suffering from poverty. While, at one level, assisting persons to become practising barristers may be seen by some as a luxury, I see it as the grant of assistance to persons to take a place in the world which the ability of the person would warrant but which might be denied without the assistance provided in order to overcome economic and social disadvantage.

The manner in which it was anticipated the Trust was described in evidence:

The applicant trustees anticipate that in due course there will be fund-raising exercises undertaken, primarily with the membership of the Bar Association to whom the existence of the Fund will be promoted. The existence of the Fund will also be promoted to the faculty staff and students of Law Schools, in association with their Indigenous programs, and with other agencies associated with Indigenous law programs and Indigenous law graduates. The applicant trustees anticipate that between \$25,000 and \$50,000 should be available annually to provide assistance to applicants who qualify under the terms of the deed and that in due course the applicant trustees will develop protocols and guidelines to assist them in evaluating applications to the Fund for assistance.

Three days before the hearing commenced, the silk acting for the Trustees asked for the details of the Trust's bank account. When it was explained that there was not one yet in existence, certain views were expressed as to the necessity for the Trust to actually exist to conduct the proceedings. Multiple urgent calls were made and there was a new bank account with \$50,000 in it donated by members of the NSW Bar within 48 hours. Costs were awarded against the ATO and once paid, John Durack SC and DG Charles, acting for the Trustees, immediately donated that amount to the Trust.

Since that time, the Trust has operated consistently with those aims and provided financial support to many First Nations lawyers and law students. It has been funded almost exclusively by Judges and practising barristers, especially by donations at the time of practising certificate renewals and from the charitable donations of most year's silk appointments and from other fund-raising activities.

In 2006, at the initiative of the Bar Association, the first National Indigenous Legal Conference was held in Sydney, with financial support provided by the

Trust. This is now the premier law conference for First Nations lawyers and law students and has provided the opportunity for the creation of effective national networks. It is now held annually at different locations around Australia. The Trust funds two students from each NSW law school to attend the Conference as an important way to foster their involvement with the law.

In 2008, the Trust funded a students' forum for all First Nations law students across the State and funded travel costs for attendees from regional universities. There was a focus upon career opportunities within the law and in particular at the Bar. The students themselves suggested that they would benefit from having mentors at the Bar and this led in 2009 to the establishment of a First Nations mentoring scheme.

In that scheme, law students are mentored by a practising barrister and sometimes by a judge. Regular contact and mentoring is provided and this has included work experience opportunities, reviewing essays to develop analytical and writing skills, assisting in preparation for mooting competitions, exposure to the legal system and barristers' work and some pastoral care. It has also meant that the mentor has been in a position to refer the student to the Trust for financial assistance should that become necessary and to provide a reference when the student is seeking work as a solicitor. There are currently eight First Nations law students being mentored by New South Wales barristers. Over 150 students have been mentored in the last 12 years.

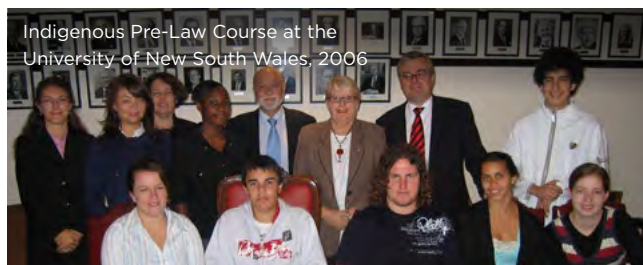
The Trust has assisted aspiring barristers to attend various preparatory courses and sit the Bar exam. Attending the reader's course and setting up practice are essential tasks for the Trust in terms of advice and financial assistance. Assistance for solicitors to attend specialist advocacy courses and international conferences to develop their skills for when they join the Bar are part of the Trust's activities. There are also donations to meet individual needs for students to complete their studies, such as emergency or urgent financial assistance and attendance at the College

of Law. One example is a student who was sleeping in a library due to homelessness from family breakdown and who received urgent assistance from the Trust to ensure that she was safely accommodated in a university college. This financial assistance ensured she did not drop out during her final law semester and she has been a solicitor now for five years.

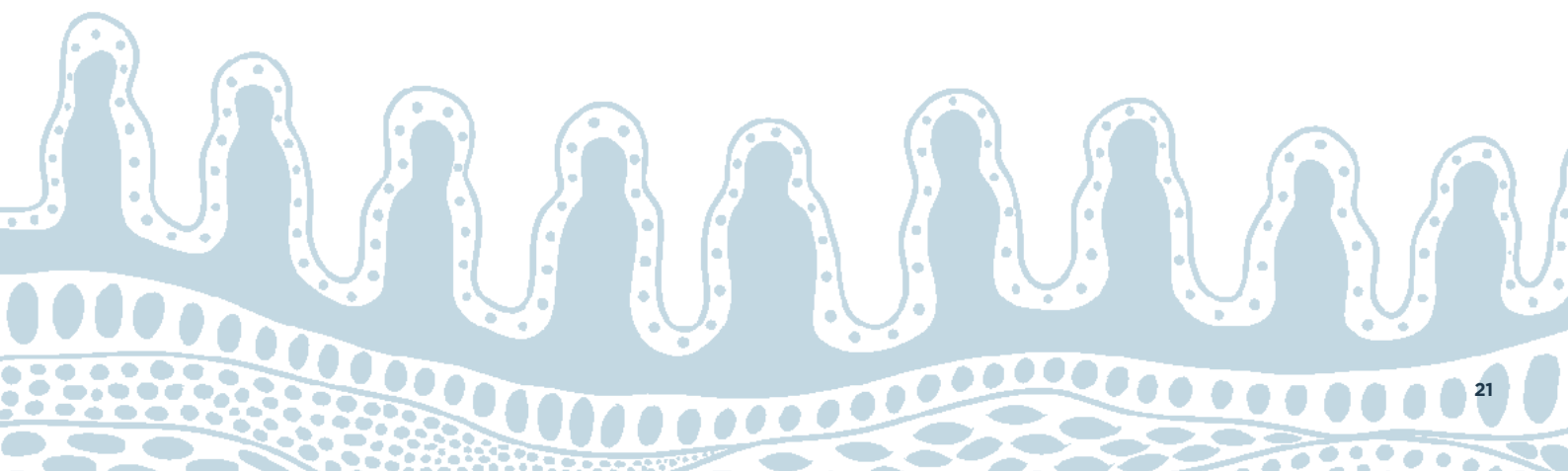
Since the early 2000s, the Bar Association has hosted students attending the Indigenous Pre-Law Course at the University of New South Wales, with those students attending a seminar, meeting barristers and attending court with barristers and Judges. In 2014, 33 First Nations law students attended a *Share a Judge's Day* where they sat in court with Judges and also had discussions with them and court staff behind the scenes. This was repeated in 2017 and involved Judges from the Federal Court, the Supreme Court and the Land and Environment Court, concluding with a social event hosted by the Trust. The Trust funds students from regional universities to attend this Day. The 2020 event has been postponed due to COVID-19 but it is anticipated that it will be held in 2022.

In January 2013, the Bar Association established a Reconciliation Action Plan, which was described by then President, Phillip Boulten SC, as having the explicit aim of increasing the number of First Nations barristers at the New South Wales Bar. The Plan documents the Bar Association's responsibility to ensure that the New South Wales Bar reflects the values of equity and diversity and sets out the Bar Association's goals for the future and the way in which those goals can be achieved. The Trust continues to play an integral role in these aims and objectives.

There are now at least five First Nations barristers in New South Wales and in 2015 Tony McAvoy SC was the first First Nations barrister in Australia to be appointed as Senior Counsel. In addition to McAvoy SC, in 2018 Lincoln Crowley QC was appointed as Queen's Counsel for the State of Queensland. Lincoln commenced practice at the Bar in Sydney in 2003 with ongoing support from the Trust and before moving to Queensland in 2007.



As the Trust celebrates its twentieth anniversary since its inception, it continues to play a pivotal role in increasing opportunities for First Nations lawyers to see the NSW Bar as a realistic and achievable career focus. The strong support of barristers and judges remains essential for its continuing operations and the achievement of its long term objective to continue to increase the number of First Nations barristers at the NSW Bar.







Profile

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 2021 the Bar Association had:

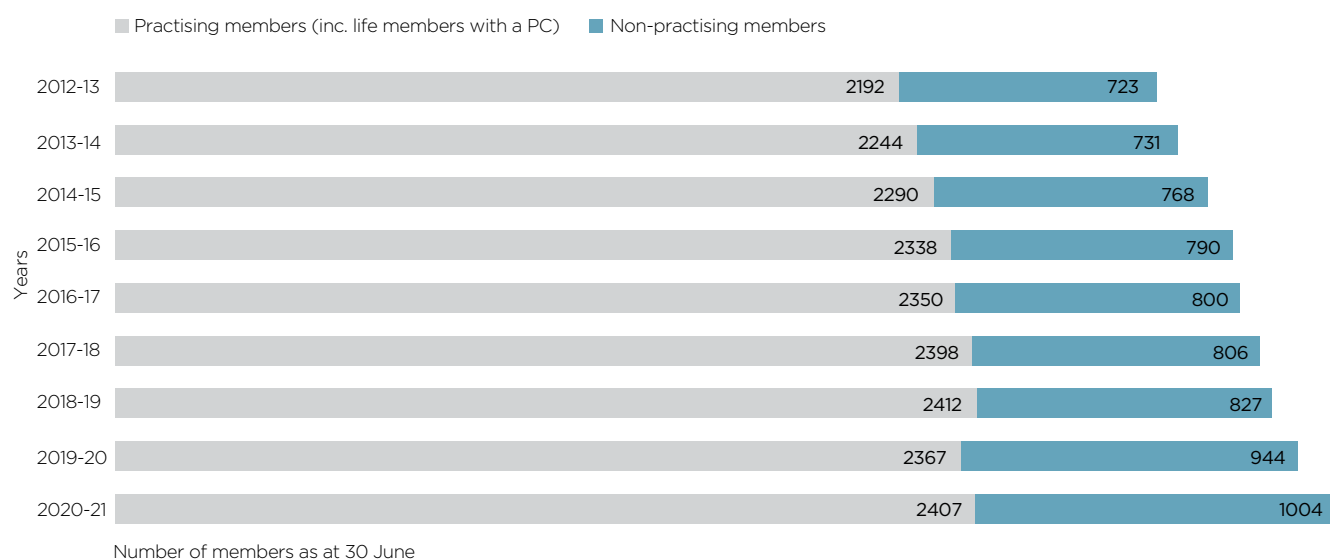


Total
Members
3411

Members with
a NSW PC
2407

Members without a
NSW PC
1004

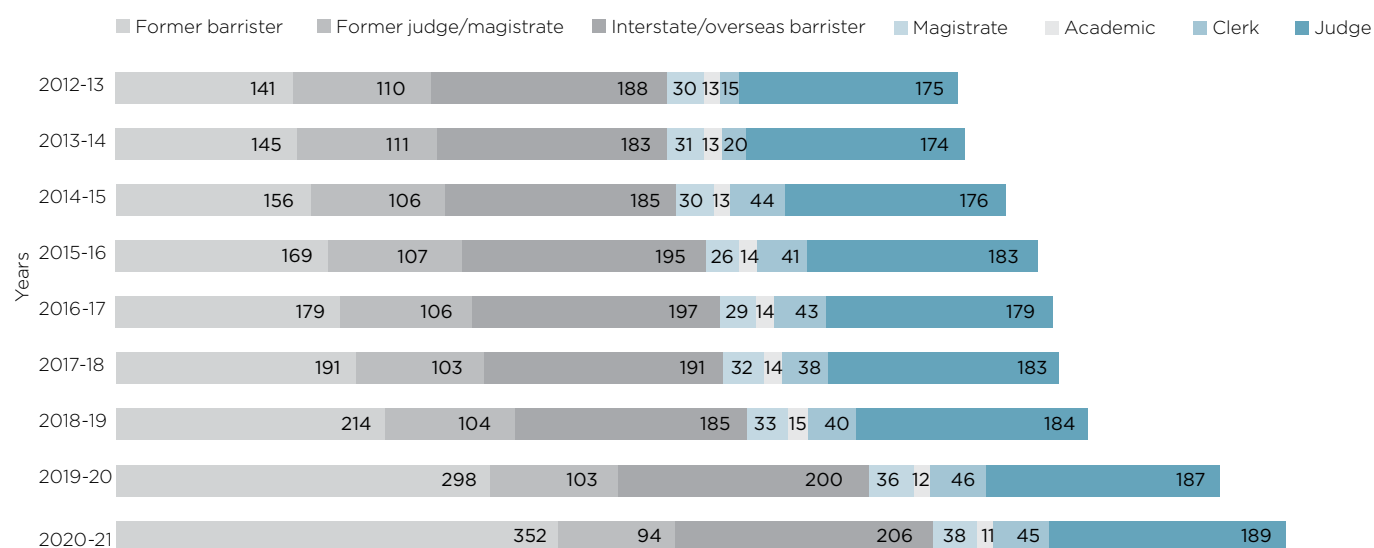
Composition of Bar Association membership



	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Members, practising (as at 30 June. Inc. life members with a PC)									
Male	1754	1788	1805	1838	1832	1862	1852	1815	1823
Female	438	456	485	500	518	536	559	552	583
X	0	0	0	0	0	0	1	0	1
Total	2192	2244	2290	2338	2350	2398	2412	2367	2407
Members, practising – senior counsel (as at 30 June. QC or SC)									
Male	318	326	334	352	351	342	334	327	331
Female	34	35	37	38	40	42	42	44	50
Total	352	361	371	390	391	384	376	371	381
Members, practising – junior counsel (as at 30 June)									
Male	1436	1462	1471	1486	1481	1520	1518	1488	1492
Female	404	421	448	462	478	494	517	508	533
X (Unspecified)	0	0	0	0	0	0	1	0	1
Total	1840	1883	1919	1948	1959	2014	2036	1996	2026
Life members (as at 30 June)									
Current NSW PC holders	9	9	7	7	13	11	11	10	12
Non-practising	27	27	32	32	32	35	37	36	34
Total	36	36	39	39	45	46	48	46	46

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Members without a NSW practising certificate									
Former barrister	141	145	156	169	179	191	214	298	352
Former judge / magistrate	110	111	106	107	106	103	104	103	94
Interstate / overseas barrister	188	183	185	195	197	191	185	200	206
Judge	175	174	176	183	179	183	184	187	189
Judicial officer	2	3	5	5	4	5	5	6	6
Magistrate	30	31	30	26	29	32	33	36	38
Solicitor-general (Commonwealth or state)	1	1	1	1	0	0	0	0	0
Crown prosecutor (interstate or Commonwealth)	2	3	3	1	0	0	0	0	1
Statutory appointment	10	9	9	9	11	11	10	12	14
Member of parliament	1	1	2	2	2	2	2	2	2
Trial advocate	0	0	0	0	0	1	0	0	0
Academic	13	13	13	14	14	14	15	12	11
Clerk	15	20	44	41	43	38	40	46	45
Other	35	37	38	37	36	35	35	42	46
Total	723	731	768	790	800	806	827	944	1004

Non-practising members – Top occupations

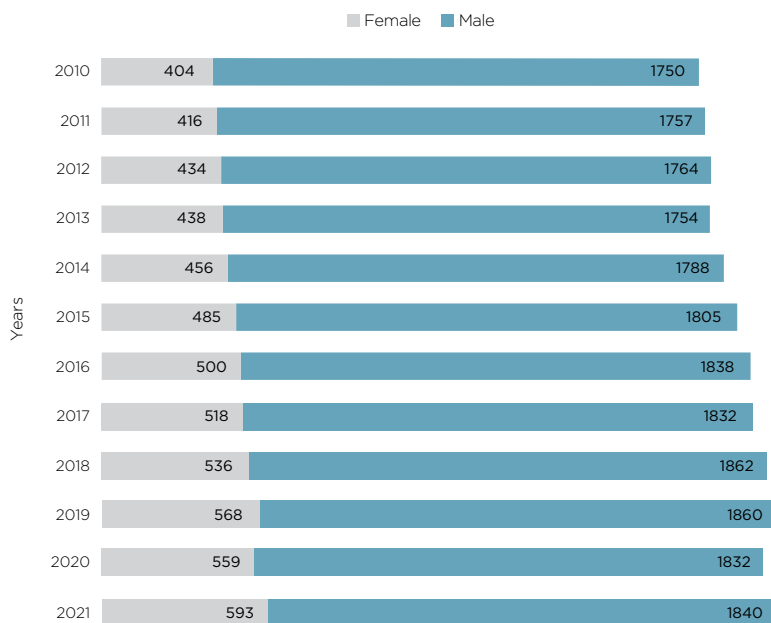


Number of barristers at 30 June

Practising barristers, by gender and jurisdiction of residence (as at 30 June 2021)

Senior counsel	NSW	QLD	ACT	TAS	UK	NZ	Total
Male	335	0	0	0	3	1	339
Female	50	0	0	0	0	0	50
	385	0	0	0	3	1	389
Junior counsel							
Male	1497	2	1	1	0	0	1501
Female	540	1	1	0	1	0	543
X (Unspecified)	1	0	0	0	0	0	1
	2038	3	2	1	1	0	2045
Total	2423	3	2	1	4	1	2434

Practising barristers, male and female, 2010-21

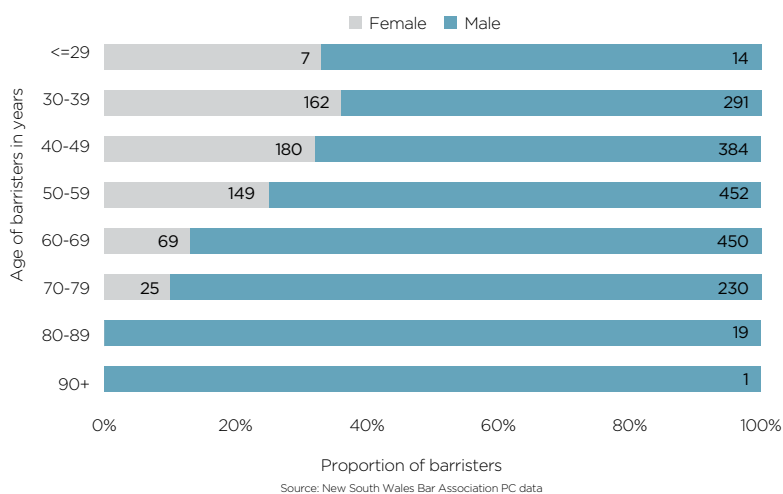


Number PC holders at 30 June 2021
Source: New South Wales Bar Association PC data



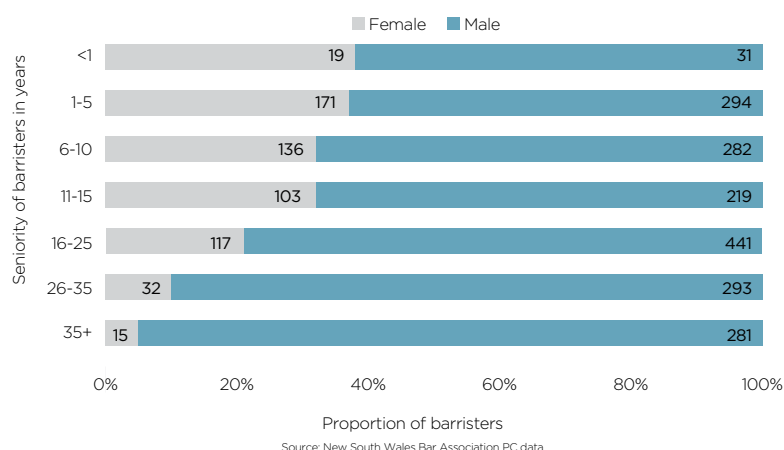
24%
of barristers in
NSW are women

Practising barristers, by age and gender



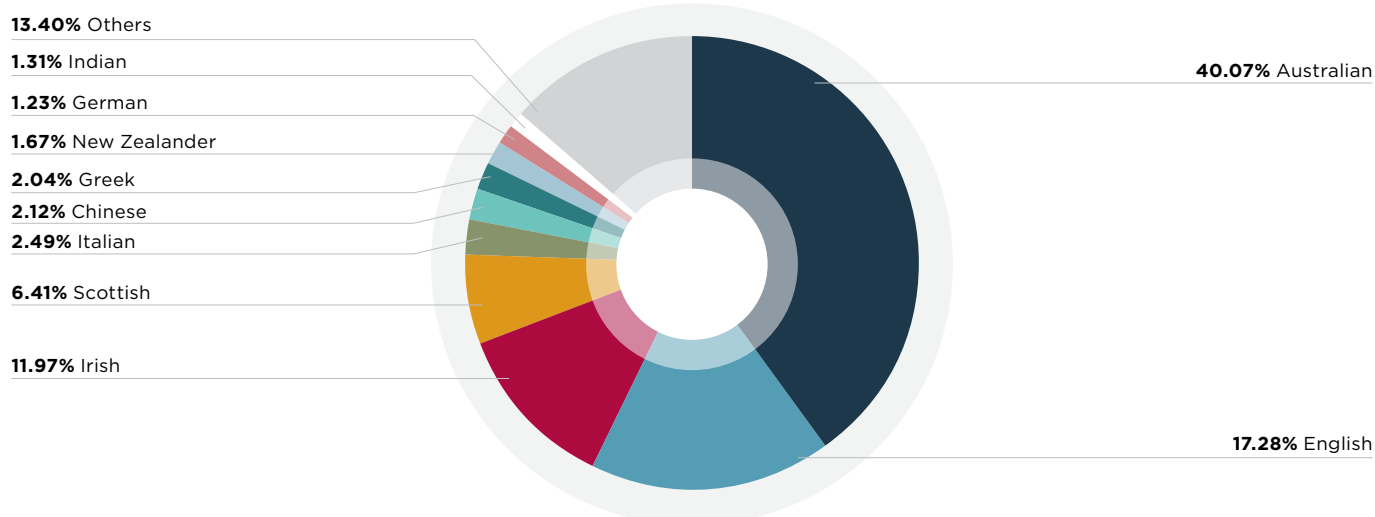
601
of 2434 barristers
were 50-59 years
of age

Practising barristers, by seniority and gender

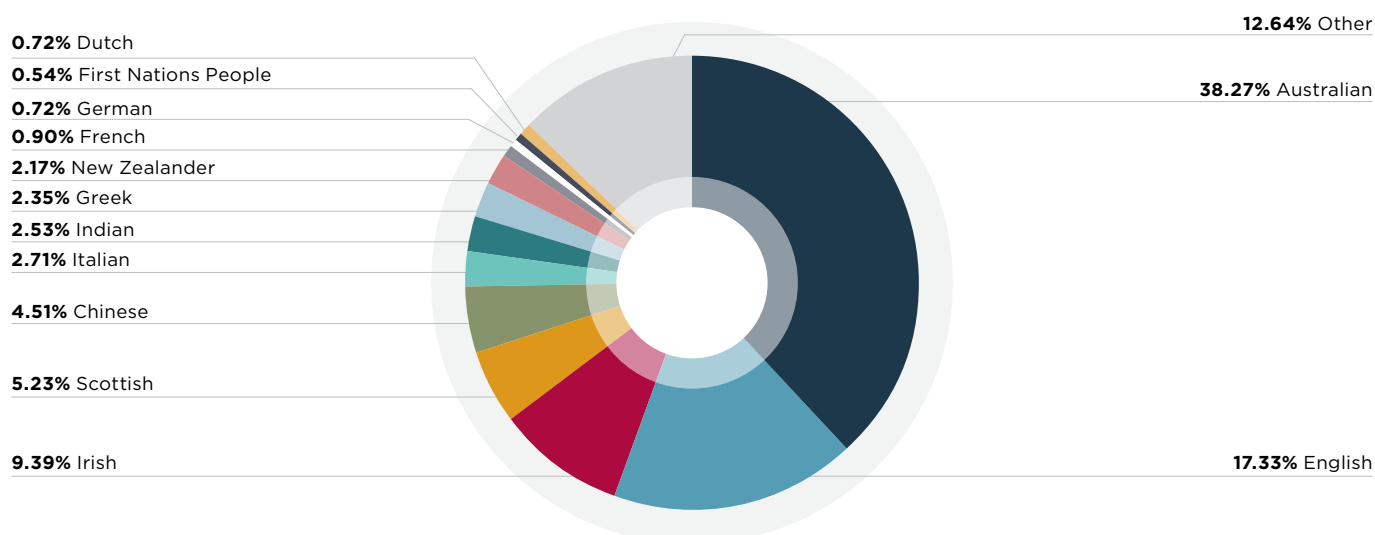


37%
of NSW barristers
< 5 years' seniority
are women

Ancestry, top responses*



Ancestry, barristers of 0-5 years' seniority*



82%

of NSW barristers
were born
in Australia*



18%

were born
overseas,
in 49 countries*



6%

were born
in the
United Kingdom*

Office Bearers

As at 30 June 2021



MICHAEL MCHUGH SC
President



GABRIELLE BASHIR SC
Senior Vice President



PARESH KHANDHAR SC
Junior Vice President



SERA MIRZABEGIAN
Secretary



RUTH HIGGINS SC
Treasurer

Bar Council

Michael McHugh SC
Gabrielle Bashir SC
Paresh Khandhar SC
Ruth Higgins SC
Sera Mirzabegian
Kylie Nomchong SC
Kate Eastman SC
Dominic Toomey SC

Anna Mitchelmore SC
Sophie Callan SC
David Patch
David Rayment
Sean Hughes
Patrick Knowles
Catherine Gleeson
Nicholas Broadbent

Callan O'Neill
Rose Khalilizadeh
Kate Lindeman
Claire Palmer
Georgina Westgarth

Bar Association Staff

As at 30 June 2021

OFFICE OF THE EXECUTIVE DIRECTOR

Andreas Heger	Executive Director
Alastair McConnachie	Deputy Executive Director, Director of Operations
Michelle Nisbet	Executive Assistant and Publications and Promotions Co-ordinator
Jennifer Pearce	Director, Legal
Suanne Colley	Director, Projects and Practice Development

POLICY AND PUBLIC AFFAIRS

Richard Easton	Policy Lawyer
Ellyse Matterson	Policy Lawyer

LEGAL ASSISTANCE

Katie Green	Managing Solicitor, Legal Assistance
Ray Burgess	Legal Assistant, Legal Assistance

SHARED SERVICES

Kim Kemp	Director, Shared Services and HR
Kim Ellis	Document Controller/ Records Management
Maree Fitzgerald	Receptionist
Mel Whitehorn	Records Administrator/ Facilities Management/ Receptionist

SERVICES AND BENEFITS

Chris Winslow	Co-ordinator, Wellbeing and Services
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FINANCE DEPARTMENT

Basil Catsaros	Finance Manager
Lubaina Paisawala	Accountant

BAR LIBRARY

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

PROFESSIONAL CONDUCT DEPARTMENT

Jocelyn Sparks	Director
Jessica Smith	Lawyer, Professional Conduct
Shar Doudman	Lawyer, Professional Conduct
Alannah Curry	Lawyer, Professional Conduct
Cynthia Lam	Lawyer, Professional Conduct
Georgina Stow	Certification Officer
Corinne Gilbert	Senior Administrative Assistant

PROFESSIONAL DEVELOPMENT DEPARTMENT

Bali Kaur	Director Professional Development
Tiffany McDonald	Manager, Learning, Design and Development
Jenny Dinh	Professional Development Coordinator
Hayden Doria	Events Manager

Committees

As at 30 June 2021

ACCESSIBILITY PANEL

Robert Dubler SC (Chair)
 Kate Eastman SC
 Valerie Heath
 Craig Everson
 Tina Jowett
 Sean Docker
 Angela Petrie
 Brenda Tronson
 Nipa Dewan
 Matthew Cobb-Clark
 Jeh Coutinho (Clerk)

ALTERNATIVE DISPUTE RESOLUTION

Mary Walker (Chair)
 Hon Stephen O’Ryan QC
 Stephen Walsh QC
 John Fernon SC
 Gregory Burton SC
 Neil Jackson
 Tom Davie
 Michael Dawson
 Jodi Steele SC
 Craig Carter
 Charles Colquhoun
 Vanessa Thomas
 Rita Lahoud
 Joshua Grew
 Mary Rebehy
 Wilson Chan
 Adele Carr
 Jesse Kennedy
 Navid Sedaghaci

BAR NEWS

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 Gail Furness SC
 Anthony Cheshire SC
 Farid Assaf SC
 Dominic Villa SC
 Elizabeth Raper SC
 Douglas McDonald-Norman
 Penny Thew
 Sean O’Brien
 Kavita Balendra
 Daniel Tynan
 Daniel Klineberg
 Catherine Gleeson
 Victoria Brigden
 Kevin Tang
 Ann Bonnor
 Belinda Baker
 Stephen Ryan
 Christina Trahanas
 Naomi Wootton

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 Bret Walker SC
 Noel Hutley SC
 Tim Game SC
 Sarah Pritchard SC
 Richard Lancaster SC
 Sebastian Hartford Davis
 Kate Lindeman
 Janet McKelvey
 Natasha Hammond
 James Mack
 Michele Kearns (Clerk)

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 Elizabeth Welsh (Deputy Chair)
 Tony Bartley SC
 Simon Harben SC
 Nicholas Chen SC
 Paresh Khandar SC
 David Talintyre
 Andrew Combe
 Maria Gerace
 Eva Elbourne
 Kavita Balendra
 Ross Stanton
 Kayt Hogan

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 Michelle Castle
 David Stewart
 Luke Fermanis
 Katherine Oldfield
 Emma Beechey
 Matt Karam
 Michael Wells
 David Smith

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Gabrielle Bashir SC (Co-Chair)
John Stratton SC
Matt Johnston SC
Richard Wilson SC
Frank Velcro SC
Kieran Ginges
Nathan Steel
Lester Fernandez
Kellie Stares
Pauline David
Paul Coady
Helen Roberts
Duncan Brakell
Ben Bickford
Elizabeth McLaughlin
Nerissa Keay
Christopher Parkin
Rose Khalilzadeh
Georgina Westgarth
Linda Barnes
Academic member
Nicholas Cowdery QC (UNSW)

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Melissa Fisher (Deputy Chair)
Robert Lethbridge SC
Robert Dubler SC
Miles Condon SC
Brenda Tronson
Melanie Cairns
Renee Bianchi
Nipa Dewan
Stephen Tully
Tarik Abdulhak
Sonia Tame
Uche Okereke-Fisher
Jeh Coutinho (Clerk)

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Sally Dowling SC
Patrick Griffin SC
Ed Muston SC
Michael Izzo SC
Tiffany Wong SC
Philip Hogan
Sean Docker
Gillian Mahony
Lester Fernandez
Sharyn Hall
Peter Maddigan
Imtiaz Ahmed
Callan O'Neill
Perry Herzfeld
Louise Hulmes
Alison Hammond
Academic member
Professor Alex Steele (UNSW)

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Hon Stephen O'Ryan QC
Peter Cummings SC
Suzanne Christie SC
Mark Anderson
Christopher Lawrence
Michael Weightman
John Longworth
Mary Rebeh
Claire Cantrall
Sarwa Abdelraheem

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Andrew Smith (Deputy Chair)
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Janet Manuell SC
Eric Wilson SC
Susan Phillips
Simeon Beckett
Nicholas Newton
Louise Goodchild
Paul Bolster
Natasha Case
Charles Gregory
Damian Beaufils
Sian McGee

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Simeon Beckett (Co-Chair)
Craig Lenehan SC
Douglas MacDonald Norman
Miiko Kumar
Kate Barrett
Louise Goodchild
Trent Glover
Bora Kaplan
Carmel Lee
Rob Davies
Charles Gregory
Corrie Goodhand
Madeleine Bridgett
Celia Winnett
Academic member
Daniel Joyce (UNSW)
Andrew Byrne (UNSW)

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Bruce Hodgkinson AM SC (Chair)
Yaseen Shariff SC (Deputy Chair)
John Fernon SC
Ian Neil SC
Elizabeth Raper SC
Ian Latham
Anthony Britt
Andrew Gotting
Bruce Miles
Jamie Darams
Anna Perigo
Bilal Rauf
Maurice Baroni

INNOVATION & TECHNOLOGY

Michael Green SC (Chair)
Angela Bowne SC
Greg Waugh SC
Tamir Maltz
Ben Kremer
Beth Oliak
Therese Catanzariti
Anton Hughes
Ben Mee
Richard Scheelings
Wen Wu
Savitha Swami
Daniel Meyerowitz-Katz
Jordan Widjaja
Jackie Charles (Clerk)
Academic member
Carolyn McKay (USYD)

INQUESTS & INQUIRIES

Kristina Stern SC (Chair)
Peggy Dwyer (Deputy Chair)
Adam Casselden SC
Lesley Whalan SC
Sophie Callan SC
Donna Ward
Georgina Wright
David Lloyd
Kirsten Edwards
Rob Ranken
Joanna Davidson
Nick Kelly
Callan O'Neill
Jake Harris
Emma Sullivan

LEGAL AID

Dean Jordan SC (Chair)
Craig Smith SC (Deputy Chair)
Alex Radojev
James Trevallion
Emily Ito
David Price
Christopher Lawrence
Kellie Stares
Jane Paingakulam
Scott Fraser
Emmanuel Kerkyasharian
Duncan Brakell
Michelle Swift
Clyllyn Sperling
Jeffrey Clarke
Nerissa Keay
Robert Armitage
Rose Khalilizadeh
Talia Epstein
Thomas Liu

NEW BARRISTERS

Georgina Westgarth (Chair)
Corrie Goodhand
Stephen Ryan
Emily Graham
Wen Wu
Karen Petch
Eliot Olivier
Brendan Jones
Elizabeth Esber
Nicholas Bentley
Tomislav Bicanic
Ryan Coffey
Alison Hammond
Jordan Widjaja
Megan Caristo
Anna Moule (Clerk)

PRACTICE DEVELOPMENT

Ian Hemmings SC (Chair)
Michelle Painter SC
David Thomas SC
Tom Brennan SC
Christopher Peadon
Robert Carey
Philip Wallis
Renee Bianchi
Geoff Farland
Sonia Stewart
Michele Kearns (Clerk)
Paul Walker (Clerk)

WELLBEING

Kylie Nomchong SC (Chair)
Michelle Painter SC
Peter McGrath SC
Tim Castle SC
Luigi Lungo
David Sibtain
Mark Sneddon
Matthew Hutchings
Kate Ratcliffe
Turvey To
Cynthia Cochrane
Kellie Edwards
Geoff Farland
Ben Mee
Savitha Swami
Sarah McCarthy

PROFESSIONAL CONDUCT COMMITTEES

PCC#1

Edward Muston SC (Chair)
Robert Hollo SC
Ingmar Taylor SC
Matthew Darke SC
Kate Morgan SC
Michael Izzo SC
Elizabeth Raper SC
Madeleine Avenell SC
Peter Russell
Kieran Ginges
Sera Mirzabegian
Charles Colquhoun
Patrick Knowles
Daniel Klineberg
Catherine Gleeson
Jo Little
Simon Fitzpatrick
Radhika Withana
Georgia Lewer
Emma Bathurst
Vanja Bulut
Georgina Westgarth

PCC#2

Anna Mitchelmore SC (Chair)
Robert Sheldon SC
Nick Kidd SC
David McLure SC
Simon Buchen SC
David Thomas SC
Richard Sergi
Justin Young
Sean Hughes
Mark Seymour
Donna Ward
James Arnott
Melanie Cairns
Nicholas Broadbent
Rob Ranken
Lorna Sproston
Zoe Hillman
Emma Beechey
Jocelyn Williams
Belinda Baker
Daniel Habashy
Rose Khalilzadeh

PCC #3

Dr Ruth Higgins SC (Chair)
David Williams SC
Gail Furness SC
Peter McGrath SC
Nicholas Owens SC
Andre Zahra SC
James Emmett SC
Sophie Callan SC
Yaseen Shariff SC
David Patch
Peter Newton
Elizabeth Welsh
Andrew Fox
Angela Petrie
Clarissa Amato
Peter Maddigan
Declan Roche
Nic Kirby
Conor Bannan
Callan O'Neill
Stephanie Patterson
Claire Palmer

PCC#4

Dominic Toomey SC (Chair)
Ian Coleman SC
Peter Cummings SC
Edward Cox SC
Patrick Flynn SC
Mark Anderson
Luke Brasch
Andrew Naylor
Eric Balodis
Roger Harper
David Rayment
Nicholas Eastman
Nick Kabilafkas
Ben Kremer
Lisa Doust
Amy Douglas-Baker
Robert Yezerski
Greg Antipas
Jill Gatland
Rachael Dart
Sonia Tame
Talitha Hennessy
Kate Lindeman

WORKING PARTIES

For the year 2019-20

Examination Working Party

Ed Muston SC (chair)
Rob Hollo SC
Pat Griffin SC
Elisabeth Peden SC
Miiko Kumar
Jo Little
Ann Bonnor,
Belinda Baker

PII Working Group

Garry Rich SC





Reports

Arranging and promoting continuing professional development

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 the 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;

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.

The Department this year finalised work on a key strategic initiative, the advancement of the CPD program. The aim being to improve and advance the CPD offering in order to provide high quality CPD from subject matter experts utilising the vast knowledge and experience at the Bar.

The legal profession, and the Australian judicial system, like many others, has been forever altered by the COVID-19 pandemic. Computer technology has played a more significant role in courts than ever before, personal appearances have been replaced by videoconferencing, and social distancing has removed much of the cut and thrust of the courtroom. This 'new normal' of digital communication comes with its own and different challenges.

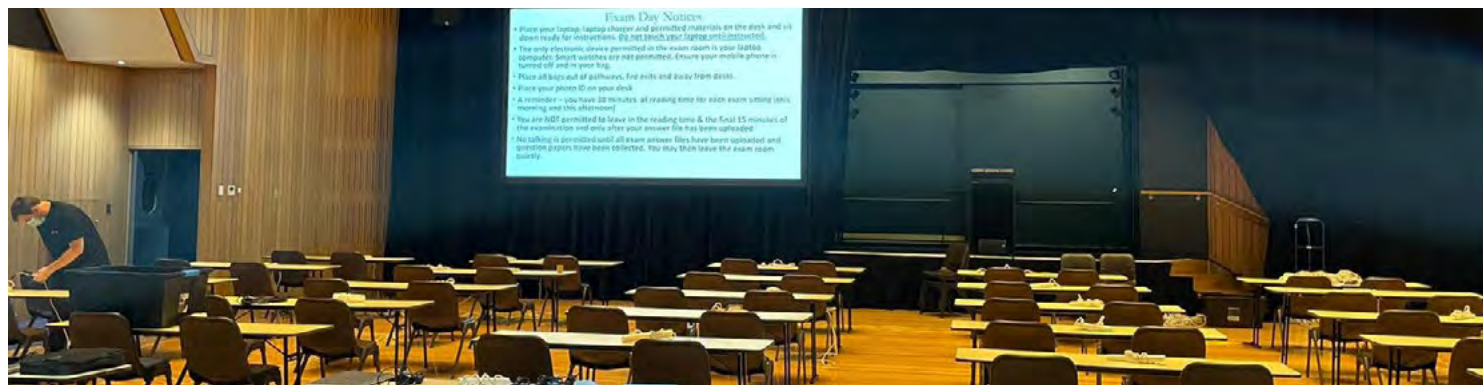
The CPD program pivoted quickly from a face to face format to an online format in March last year in response to the COVID-19 pandemic. The CPD program's main aims this year were to continue to assist members to upskill and navigate the different online technologies and educate members on how to be successful with online advocacy to maintain the competitive edge of advocacy at the Bar.

A specialist interactive online advocacy webinar was provided for our members in June last year. During the seminar, the National Institute of Dramatic Arts (NIDA), the leading provider of presentation and communication skills training, addressed and developed strategies to improve a barrister's online presence, refine digital communication skills and increase the participants' awareness of on-screen dynamics. The workshop was hosted online and was well attended. It provided participating barristers with the specialist tools they need to discharge their duties to the client and the court in an online format.

The department partnered with UNSW Sydney to provide a Practice Management series. The program consisted of four modules. The program aims were to introduce strategies to cover the entire life cycle of practice at the Bar, including establishing a successful practice, practice management, accounting finance, balancing professional responsibilities, managing growth, and what it means to be a successful leader. Each of the four modules were successfully delivered online via Zoom with online supporting materials. Each module was prepared by an academic in consultation with the NSW Bar Association Education Committee and a supporting cast of industry leaders.

The department has remained focussed on ensuring the New South Wales Bar Association remains at the forefront of technical and skills-based development within the profession and continues to deliver quality education and stay adaptable to the future.

The above objectives align themselves with the objectives of the broader New South Wales Bar Association's Strategic Plan.



Exams

In February 2021, The New South Wales Bar Association ran its third online computer-based exam, which was taken offsite for the first time and adapted to ensure a COVID safe environment.

For the February 2021 Bar examinations, 157 candidates submitted a registration to sit for the Bar examination. Not all that registered sat the examination in February – 116 candidates sat the examination. A total of 15 members of the association assisted in the preparation and marking of papers in February 2021.

For the June 2021 Bar examinations, 161 candidates submitted a registration to sit for the Bar examination. Not all that registered sat the examination in June – 111 candidates sat the examination. A total of 19 members of the association assisted in the preparation and marking of papers in June 2021.

The Bar Examination Working Party, a subcommittee of the Education Committee, chaired by Edward Muston SC, continues to provide support, guidance and assistance to the department in the implementation of the Bar Council policy in relation to the Bar Examination. The Bar Council wishes to extend its sincere thanks to all those involved in the writing and marking of the Bar Examination.



In February 2021, The New South Wales Bar Association ran its third online computer-based exam, which was taken offsite for the first time and adapted to ensure a COVID safe environment.

Bar Practice Course

The August/September 2020 course represented the 57th BP. The Department worked extensively in 2020 to modify and adapt the course to be in a position where the course could be delivered as a hybrid or a fully remote course if required. This was the first hybrid Bar Practice course. The course utilised both online and in-person teaching methods. The hybrid format saw readers attend on alternate days to ensure congeniality, with lectures and presentations live-streamed via Zoom to readers at home or in chambers. At the same time, advocacy workshops and applications before a judicial officer were held in person, with strict hygiene and social distancing.

The May 2021 course represented the 58th BPC, this course was run under a COVID safe plan and the format of this course was an in-person course with some workshops being conducted online via Zoom.

Gillian Mahony directed the course. In 2020, 21 female readers completed the course. The course continues to see a greater percentage of women undertaking the course (37%) than the overall percentage of women in practice at the Bar generally (24%).

The course continues to be structured as a four week program of intensive, full-time study. Last year the course was pivoted to enable a fully online format if required due to any public health orders.

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. This year in particular, the following new sessions were added: Adapting to the new world: Technologies in the BPC and the Courts we operate; Occupational exercise technique, demonstration and participation; My first 12 months at the Bar; and, Sexual Harassment and the NSW Bar.

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 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.

The Department ran its annual advocacy tune up workshop in November. In conjunction with the Australian Advocacy Institute, the department successfully trained 12 new advocacy coaches at the beginning of this year. This included a large number of female barristers which will continue to enhance the diversity of instructors.

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 2020-2021 the department offered 40 seminars (50 points) covering all four strands plus a number of workshops and conferences. All CPD seminars and webinars were offered online or in a hybrid format. We would like to thank all presenters and committees who have worked with the department to ensure a successful transition to online learning. Member take up of this service has been positive and feedback is encouraging.

The online format will extend the reach of seminars, and educational offerings, to regional practitioners, interstate and international Bars. Real-time transmission of quality video and audio between several locations has allowed for greater flexibility and member engagement.

The conference program continued to enjoy strong support from all members and aimed to provide excellent opportunities for networking and promoting collegiality. Conferences were run throughout February and March in Orange, The North Coast, Newcastle and Sydney. This year a networking event was added to the regional conferences to allow members to network and discuss issues affecting them with members of The Bar Council. This year for the first time the Sydney Conference was successfully run as a hybrid conference allowing members the choice to attend face to face or online.

As in previous years, the preparation for the conferences for 2022 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.

The department is pleased to advise that as part of its commitment to promoting excellence in Advocacy among its members and the recognition of the importance of training the two advocacy programs introduced last year in 2020, The Vulnerable Witness Advocacy Program and Advocacy Skills for Trial Advocates Workshop will continue this year.

Mentoring Program

Since 2014 the New South Wales Bar Association Mentoring program has supported over 100 junior barristers in their second year at the Bar. The program aims 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 2019 and 2020 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 2020 program was on hold due to the COVID-19 pandemic. The 2021 program was launched in May 2021, 20 barristers in their second year at the Bar have engaged in this program.

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.

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.



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 programme, the mentoring programme and Continuing Professional Development Programme. The Education Committee supports the attainment of the objectives set out in the New South Wales Bar Association's Strategic Plan in its activities. In 2020 this has included the continuing education of barristers, the development of knowledge and skills so that barristers can navigate different technologies and adapt to online court appearances: 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 Bar Practice Course and the advancement of the CPD program.



Arranging and promoting continuing professional development

New Barristers Committee

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

- to promote the pursuit of excellence through targeted Continued Professional Development, camaraderie through social events and other traditions of the general Bar among NSW barristers under 6 years
- to assist NSW barristers under 6 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 6 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 Committee annually provides Cross Examination workshops. The workshops comprise an initial seminar, followed by a group cross-examination exercises and conclude with a demonstration by senior members of the Bar. The next scheduled cross-examination workshop will be in February / March 2021. During October 2020 the committee ran its annual Judicial Q & A, which was well attended. The committee also provides regular networking opportunities for NSW Barristers under 6 years.



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

Confidential Assistance BarCare

BarCare is an integral part of the Bar community that provides assistance to barristers, their family members, clerks and New South Wales Bar Association staff members who are experiencing difficulties in their professional or personal lives.

The service is funded by the Barristers' Benevolent Fund and operates independently of the Association. The service is strictly confidential and BarCare does not give any personal information to the 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.

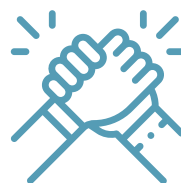
In 2020-2021 BarCare assisted 86 people (68 barristers and 18 clerks, Association staff and barristers' family members). As in previous years the majority of these contacts have been self-referred but referrals are also made by Association staff, clerks colleagues and family members. Primary presenting problems cover a range of areas, including stress and anxiety, relationship difficulties, depression, alcohol use and bullying and harassment. In the last year four people have identified vicarious trauma experienced in the course of the work as the precipitating factor for seeking assistance. As with bullying and harassment the prevalence of this is likely under reported. Included in the panel of psychologists providing counselling services are practitioners who are experienced in working with people who have suffered from sexual harassment, bullying and vicarious trauma. Barristers and clerks are encouraged to contact Jenny Houen if they would like to discuss issues relating to this.

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. Alternately barristers are able to contact one of the specialists directly to make an

appointment. The Barristers' Benevolent Association will pay for the four sessions to support the barrister in accessing appropriate professional assistance. The service is a confidential one. Barristers from outside the metropolitan area are encouraged to contact Jenny Houen who will locate a suitable treating practitioner in their area. Numerous barristers from regional areas have accessed assistance in this manner over the last year.

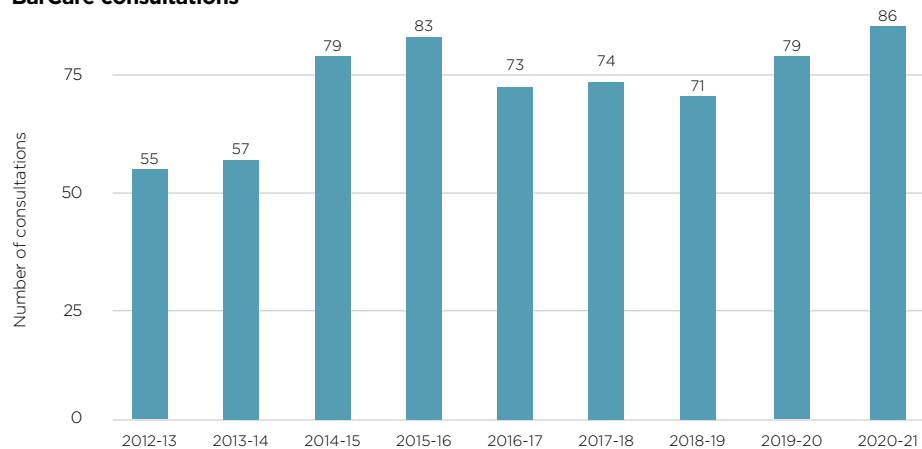
The COVID-19 pandemic has continued to impact every aspect of our lives professionally and personally despite a period of relative respite in the first half of this year. For many barristers these challenges have raised stress and anxiety about their practice, financial security and the future more generally. Working from home and balancing family priorities has been difficult for many. While the profession has adapted well to the technical changes that have allowed most to continue to practice it has been, and continues to be, an uncertain and precarious time with no clear end in sight. This is continuing to have a negative impact on the mental health of many. Barristers and clerks who are confronting difficulties as a result of this are encouraged to contact Jenny Houen for assistance.

In 2020-2021 eight requests for financial assistance were submitted to the Barristers' Benevolent Association, all of which were granted. These grants were made to assist barristers and their families confronted with a range of life challenges, including illness and bereavement. Requests for assistance should be discussed with Jenny Houen who can prepare a submission. These applications are dealt with confidentially by the Association's Executive.

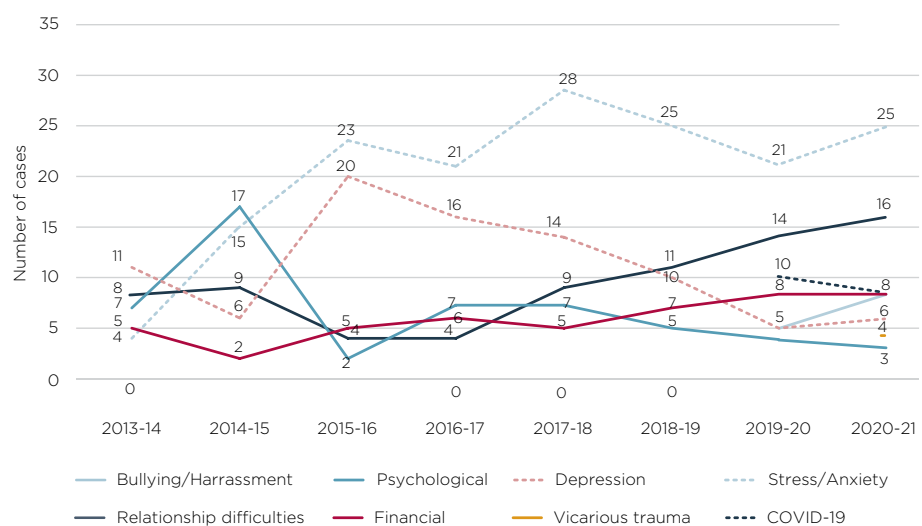


In 2020-2021 BarCare assisted 86 people

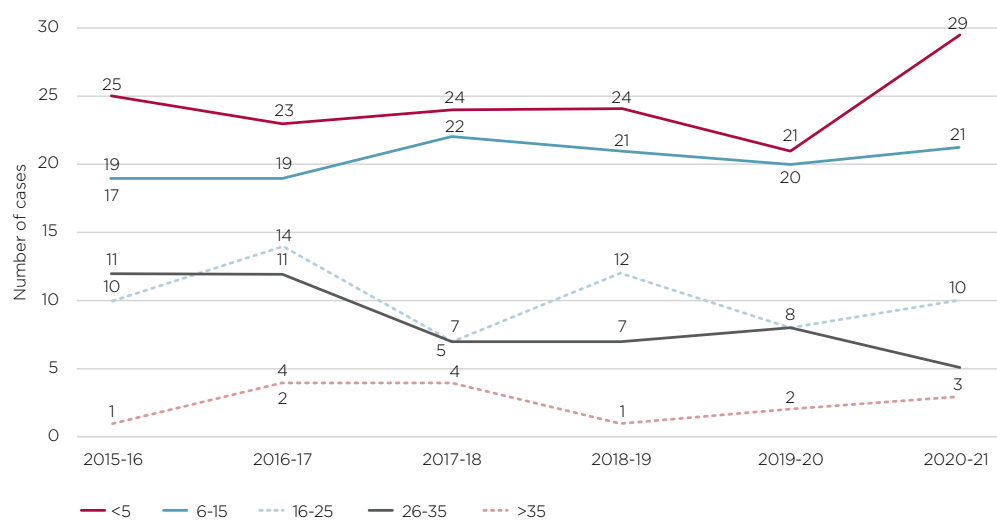
BarCare consultations



Primary presenting problem



BarCare consultations, by seniority



	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Primary presenting problem									
Siege	0	0	15	2	2	0	0	0	0
Bereavement	3	2	4	3	2	2	3	4	3
Psychological	15	7	17	2	7	7	5	4	3
Depression	10	11	6	20	16	14	10	5	6
Stress/anxiety	10	4	15	23	21	28	25	21	25
Relationship difficulties	1	8	9	4	4	9	11	14	16
Gambling	0	0	1	3	0	0	0	0	0
Career advice	0	0	1	3	3	1	2	2	1
Physical health	4	9	4	9	6	1	1	1	0
Alcohol	1	3	1	3	3	1	3	2	1
Financial	3	5	2	5	6	5	7	8	8
Advice and NFA	6	7	5	9	3	5	4	3	3
Rejected offer of assistance	2	1	0	0	0	1	0	0	0
Bullying/harassment	-	-	-	-	-	-	-	5	8
Vicarious trauma									4
COVID-19	-	-	-	-	-	-	-	10	8
Total	55	57	79	83	73	74	71	79	86

Source of referral									
Colleague via bar	2	2	0	0	1	2	1	2	2
Bar staff	14	14	13	11	8	7	13	8	8
Self	27	22	48	46	44	48	43	53	62
Colleague	7	6	7	13	11	8	8	4	3
Family	1	3	2	2	2	1	1	5	1
Clerk	2	3	4	2	2	3	3	4	7
Advice for colleague	2	7	5	9	5	5	2	3	3
Total	55	57	79	83	73	74	71	79	86

Gender									
Male	37	37	47	46	41	44	44	41	47
Female	18	20	32	37	32	30	27	38	39

Age (years)									
<34	6	3	6	9	8	12	13	15	17
35-44	12	12	22	14	7	24	21	25	32
45-55	13	11	27	24	17	12	22	15	26
56-65	13	15	13	17	20	15	10	16	6
>65	4	5	2	20	18	2	3	8	5
Unknown	7	11	9	18	0	9	2	0	0

Years at bar									
<5	12	8	22	25	23	24	24	21	29
6-15	14	16	26	19	19	22	21	20	21
16-25	10	12	13	10	14	7	12	8	10
26-35	7	6	7	11	11	7	7	8	5
>35	5	3	2	1	4	4	1	2	3
Unknown	7	12	9	17	2	5	6	0	0
N/A	-	-	-	-	-	-	-	20	18

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

Bar Library

The Bar Library provides an efficient and effective library service to practicing members of the profession and to members and staff of the Association.

Its major goals are to:

- assist members in the effective use of library resources
- provide information resources in the most appropriate medium
- provide a relevant, up to date and well balanced collection to provide an effective resource to enhance barristers' skills

... by providing the following services:

- identifying, selecting, acquiring, processing and making available resource material within the parameters of the collection development policy, to constitute a relevant, up to date and well balanced collection
- legal reference services for members, exam candidates and Bar Association staff;
- library orientation and legal research training;
- provision of an online library catalogue that enables members to find, follow and access the materials relevant to their practice
- provision of an index of current free access legal web links

2020 to 2021 has been challenging due to the continued impact of the COVID-19 pandemic and its associated restrictions of movement. In accordance with evolving government directives, the library adapted its service to ensure that members were provided with timely and accurate responses to their information needs. During the first part of the year, this was achieved by an off-site reference service, and a twice weekly click and collect service.



The library adapted its service to ensure that members were provided with timely and accurate responses to their information needs during pandemic restrictions.

From 12 October the library reopened from 8.00am to 1.00pm Mondays, Tuesdays, Thursdays and Fridays and the click and collect service was available four days a week. Members could now return to the library in person for research work, while the librarians were also working providing an on site and remote reference service between 9.00am and 5.00pm, Monday to Friday.

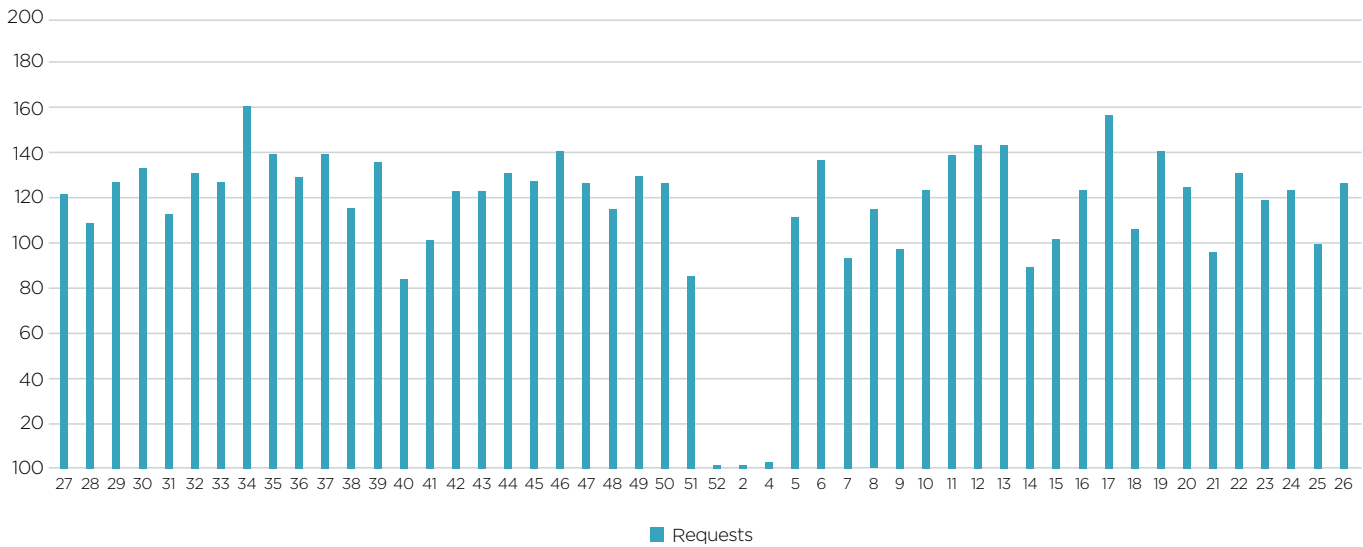
At the beginning of law term in February 2021 the library's opening hours were extended to 8.30am-5.30pm, Monday to Friday. Between 4.30pm and 5.30pm, the librarians worked remotely to minimise peak hour public transport travel.

On 28 June 2021, the library went back into lockdown and the librarians have again been providing an off-site reference service for members.

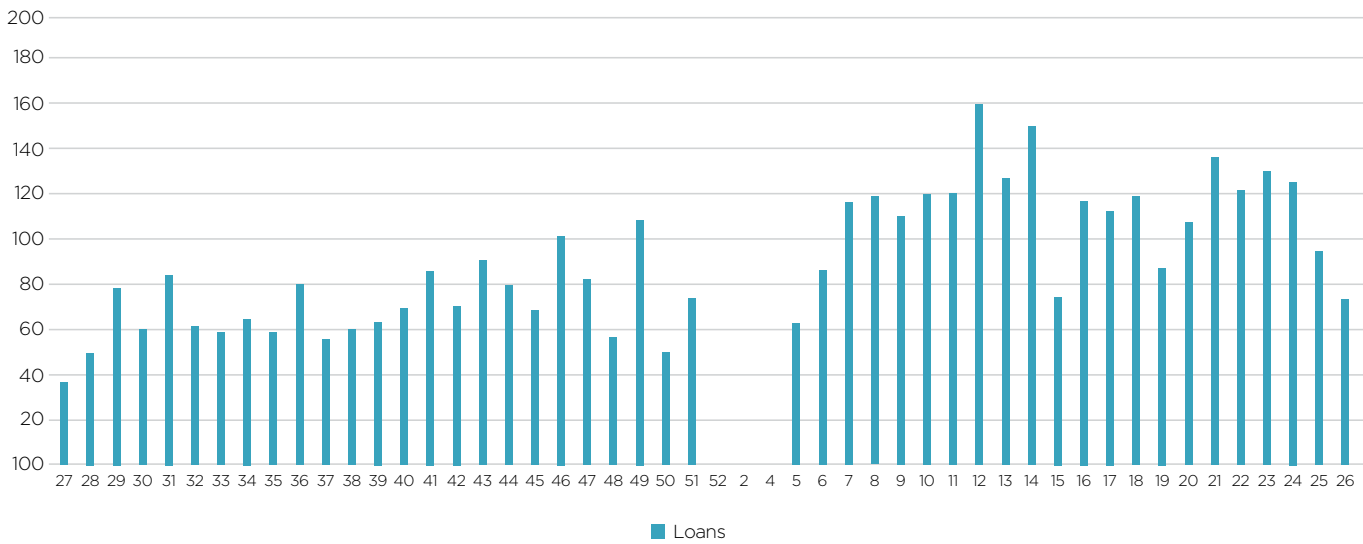
Reference requests remained steady during lockdown and partial reopening – 119 to 120 per week. Interestingly, requests did not decline after the library opened its doors again. If anything they increased. Perhaps members enjoyed the convenience of emailing a request and receiving a rapid response too much to give it up.

By the end of last financial year around 50 books per week were being borrowed, a sharp decrease to previous years. Loans have steadily increased during this year as conditions were relaxed.

Requests by Week FY 2021



Loans by week FY 2021



Period	Loans per week
1 July to 11 October	74
12 October to 18 December	88
1 February to 26 June	128
27 June to 30 June	0

Prior to the library re-opening, measures were put in place to comply with the NSW Government COVID-19 guidelines for libraries relating to the wellbeing of staff and visitors, physical distancing, hygiene and cleaning and record keeping.

The library implemented strict distancing, cleaning and quarantining protocols to minimise materials handling. As part of this policy, the librarian and its library software partners worked on a DIY loans system for members. This included the introduction of a self service kiosk primarily to allow members to borrow books themselves but also to streamline the registration process.

Members were issued with a *Bar Library e-card*, which could be saved in to the wallet of their smart phone and be used to register attendance and borrow books.

Patience was required – by both barristers and librarians – to cope with so many changes in such a short period of time. Internet and phone access in the library can be challenging in normal times.

The system is a work in progress and hopefully when the present conditions are a distant memory, members will enjoy the new automated system.

Major publishers continued their assistance by relaxing some licence conditions and making materials available in different formats at the beginning of the lockdown. These changes continued until December 2020.

The library's professional networks have proved invaluable in assisting us with resources this year but lockdown and the restrictions of some licences for electronic resources made obtaining materials via the traditional Interlibrary Loan system more difficult.

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



Figure 1 Click & Collect Service in action



Figure 2 Self Service Kiosk

The librarians have provided outstanding service to members this year, in spite of the tyranny of distance.

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

Wellbeing Committee



WELLBEING
at the New South Wales Bar

A core objective of the Bar Association's *Strategic Plan 2021* is to promote the standing of the Bar and to support barristers in the conduct of their profession.

Further to that goal, the Wellbeing Committee concentrates its efforts on promoting the physical and mental wellbeing of barristers and addressing factors which may be detrimental to their wellbeing, so that members of the NSW Bar are productive and resilient. In that framework, the Wellbeing Committee has cast its work broadly, whereby the range of initiatives extend from addressing judicial bullying, raising awareness of vicarious trauma to fostering self-care, mindfulness and collegiality. In addition, the Eat Sleep Move initiative is directed to promoting a healthy and active lifestyle for barristers.

The Wellbeing Committee has gained a reputation for being a trusted source of advice for the Bar Council and members of the Bar more widely. Increasingly, it is focussed on improving the mental and physical health of members through early intervention and by delivering seminars by leading academics, researchers and experts in their field.

A long-term goal of the Committee is to develop a methodology for wellbeing that is relevant to barristers – effectively a Barristers Wellbeing Index – rather than simply adapting indices used by academics or dissimilar professions. One of the Committee's key performance indicators is centred on reducing the number and nature of disciplinary matters where the mental health of the barrister is or may be the driving feature of the complaint. A further performance indicator is access to wellbeing services including but not limited to BarCare.

Methodology

Members of the Wellbeing Committee are guided by the latest available reports and research on mental and physical health – of which there is an increasing amount. The Productivity Commission Inquiry Report, *Mental Health* (June 2020) estimated the staggering cost to the Australian economy of lower participation and productivity caused by various disorders, such as acute anxiety and depression. The report recommends increasing attention on prevention, early intervention, removing the stigma associated with mental health and greater clarity in the delivery of clinical and support services. Accordingly, the Committee has begun a review of the BarCare website in order to improve its efficacy and increase the access to those services by members. Further, the Committee is examining ways to improve the support given to barristers in trauma, including those diagnosed with a terminal illness.

Similarly, the Wellbeing Committee is guided by the *Five Ways to Wellbeing*: an evidence-based approach to feeling good and functioning well that came out of the Foresight Project on Mental Capital and Wellbeing in the UK in 2008. They are simple, every day actions to contribute to a positive experience of life: Connect, Be Active, Be Aware, Keep Learning and Help Others.



COVID-19

Connecting with colleagues at social events is an effective way to build a positive outlook, especially for those in the early years of practice at the Bar. The Committee organises a wide range of events to promote collegiality. These include regular Bench and Bar lunches and a variety of interest groups, such as the Bar Book Club and the Knitting Club, as well as sporting activities like netball and football. During 2020-21, a slow start to vaccinations and the threat of intermittent COVID-19 clusters, such as the one on the Northern Beaches, has caused the Bar Common Room to remain closed and made the scheduling of wellbeing social events uncertain and difficult. At the time of reporting, the rising number of cases in Western Sydney and the public health orders have resulted in the cancellation of a Bar bushwalk and a Bench and Bar Lunch, scheduled for August.

That said, the pandemic and intermittent lockdowns have accelerated the adoption of AVL technologies, disrupted work patterns and focussed attention on key determinants of mental health, particularly isolation from family, friends and colleagues. An unexpected but welcome side-effect has been that audiences at Wellbeing Committee events have increased considerably since being delivered online and now include members in the outer suburbs and regions, as well as those who need to balance work and family commitments.

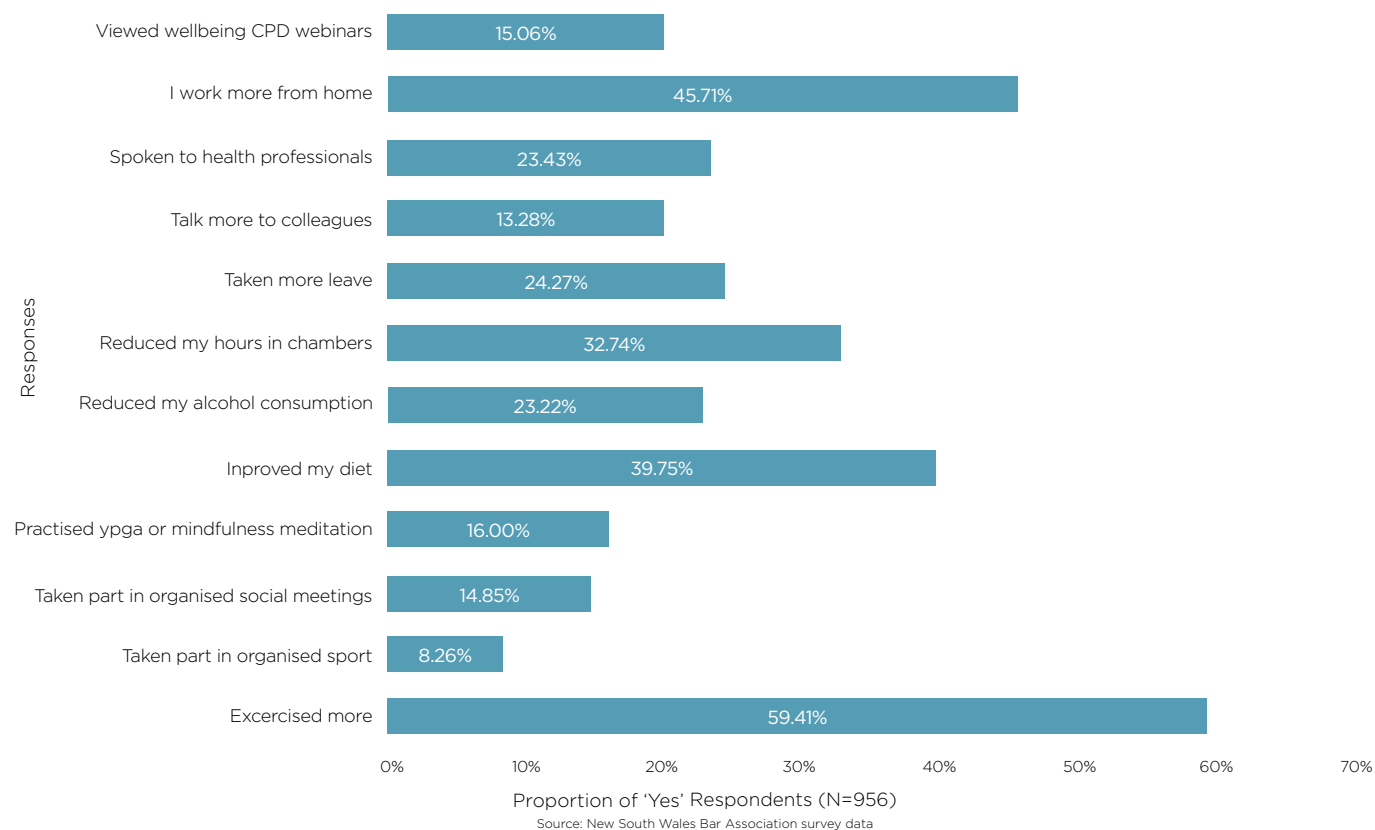


Survey

During the 2021 practising certificate renewal process, the Committee took the opportunity to gauge the reach and impact of its messages about collegiality, self-care and building resilience. Members were asked if they are more conscious of their wellbeing since the pandemic began in 2020.

Fifty five per cent of respondents said 'Yes' (on a response rate of 73%). Of those, nearly 20% per cent credited information or events provided by the Wellbeing Committee. Fifteen per cent said that they had watched a Wellbeing Committee webinar and nearly 40% said that they had improved their diet. One statistic that the Committee will study closely in the near future is the proportion of respondents who said that working more from home had improved their health and wellbeing.

What have you done to improve your health and wellbeing?



55%

of members who responded were more conscious of their wellbeing since the pandemic began in 2020



20%

credited Wellbeing Committee information or events for inspiring improved health and wellbeing

Vicarious Trauma

A significant proportion of barristers deal with distressing subject-matter in their work: murder, sexual assault, catastrophic injuries, mental illness, the abuse of children, betrayal, domestic violence and more. Vicarious trauma (also known as secondary post-traumatic stress) is a phenomenon which is now well-recognised as affecting members of the legal profession, in particular, those who work in criminal, child protection, immigration, family, coronial and work health and safety law.

A key objective of the *Strategic Plan* and of the Wellbeing Committee is to take steps to mitigate the impact of vicarious trauma. Each year the Committee hosts a seminar which helps barristers to detect the symptoms in themselves and their colleagues, and provides them with the means of prevention and intervention. It is presented by Robyn Bradey, an accredited mental health social worker for many decades and author of *The Resilient Lawyer*. This year, on 4 May 2021, Robyn was joined by barristers Kate Richardson SC and Jennifer Single SC, who spoke about their own experiences. The lecture is augmented with a list, which is available for download on the Bar Association website.

BarCare Website

With the aim of increasing the use of BarCare services, the Committee has this year undertaken to vastly improve the BarCare website. One of the key impediments to accessing BarCare services has been the doubts or suspicions held by barristers that if they access the services, that information will not be kept confidential. However, one of the basic tenets of BarCare is that all such information is kept confidential and no-one in the Association is given any information that would identify the persons accessing the services. The Committee has delivered the 'confidentiality' message on regular occasions but it needs to do more. In addition, many barristers are unaware of the wide variety of services that can be provided by BarCare.

As such, the new website is being designed to reinforce that this is a confidential service and to set out, in an easily accessible format, the range of mental health issues (grief, stress, anxiety, divorce, alcohol and substance abuse) for which BarCare services can be provided. In addition, the website will provide confirmation of how the process works. The Committee has engaged with web designers and is providing content for the page. It is expected to be launched before the end of the year.

Safe Place

In January 2021 the Bar Council approved the establishment and conduct of a discussion group, called the 'Safe Place', where barristers may meet and ventilate matters of concern to them, in a confidential setting.

While it does have a collegiate culture, the Bar is intensely competitive. There are risks for barristers who are 'doing it tough' in admitting vulnerabilities to their colleagues, which may cause them to put on a brave face rather than seek advice. For example, we know that a barrister is more likely to call BarCare only when a problem has developed into a full-blown crisis. Further, some barristers have turned to the Bar Association's Ethics Guidance service for advice on matters that are not related to ethics and are properly matters of mental health or personal issues. Early intervention is crucial, which is why the Wellbeing Committee set up the Safe Place to be concomitant with BarCare.

It is well-accepted that those suffering a personal crisis are more likely to open up in a non-judgmental environment: where they are able to speak with people who have had similar problems of their own; where disclosure is not likely to affect their personal or professional status in any way. A great tradition at the Bar has been the 'Open Door Policy'. However, the Wellbeing Committee believes, anecdotally, that there is demand among a new generation of barristers to seek support in the online medium, particularly since the advent of COVID-19, which has brought about an increase in working from home. The discussion group will operate online, making full use of security settings on the Zoom AVL platform to protect the interests of participants.

The first Safe Place took place 30 July and was very successful. The topic for discussion was 'Isolation' but the group also moved on to other issues. The expectation is that Safe Place will be held fortnightly, outside court hours on Friday afternoons.

Mental Health is Everybody's Business

BarCare provides independent counselling for members of the New South Wales Bar, their families and staff, but it does not do workplace training. That is why in 2020, the Wellbeing Committee and the Bar Council commissioned The Black Dog Institute to provide mental health training for members, including heads of chambers, clerks and chambers staff. The training sessions titled 'Mental Health is Everybody's Business', are one-hour presentations looking at: How do we raise awareness? How do we train people to spot the signs that someone is in trouble? How does one intervene effectively? What resources are available?

Last year's planned rollout at the Bar Association's Parramatta mini-conference was cancelled due to the pandemic. Instead, the program began on 18 May 2021 when the committee hosted a 60-minute Zoom webinar presented by Dr Sarah Edelman, aimed specifically at barristers in regional New South Wales. A second seminar was hosted in the conference room of Martin Place Chambers on 1 June. The remainder of the presentations will be rolled out in the next 6 months.

Eat, Sleep, Move

To help make barristers healthier, more productive, more psychologically resilient and more engaged with friends and family, the Wellbeing Committee has engaged with medical and academic experts in the design of its Eat, Sleep, Move initiative. Intermittent lockdowns during the pandemic, combined with the inherent advantages of convenience and interactivity have made AVL the preferred delivery method.

A Fat Lot of Good – how to eat better

On 12 November 2020 more than 70 barristers logged in to watch a presentation by Dr Peter Bruckner, Professor of Sports Medicine at La Trobe University, Melbourne. Since then, nearly 200 members have watched it on the wellbeing pages of the Bar Association's website: www.nswbar.asn.au/practice-support/wellbeing/eat-sleep-move. Many also purchased *A Fat Lot of Good* and following the recommendations, have said what a life-changing process it has been.

Resistance Training and Other Exercise for Optimal Ageing

Approximately one-third of the Bar is over the age of 60 and that cohort is overwhelmingly male. On 11 February 2021 the Committee hosted a webinar by Professor Maria Fiatarone Singh, a geriatrician whose research, clinical research and teaching at the University of Sydney is focussed on the integration of medicine, exercise physiology, and nutrition as a means to improve health status and quality of life across the lifespan of individuals. More than 70 barristers logged in to watch the presentation and, since then, nearly 150 have watched it on the wellbeing pages of the Bar Association's website.



It's all about how you sit

On 18 February 2021 the Committee hosted a webinar on the importance of good posture, presented by Ms Josephine Key, a neuromuscular-skeletal physiotherapist specialising in the treatment of backpain. More than 50 barristers logged in to watch the presentation and another 75 members have watched the video on the Wellbeing page of the Bar Association website. Members have also purchased her book, *Freedom to Move*, which contains pelvic and other exercises.

More to Come

The Wellbeing Committee is planning further webinars in 2021-22, including on Sleep, the Path to Longevity and the microbiome. The Chair of the Committee, Kylie Nomchong SC, together with members Kevin Connor SC and Cynthia Cochrane, contributed articles about Eat, Sleep, Move to the Winter edition of *Bar News*.

Exercise

The Wellbeing Committee has long supported various healthy activities designed to get barristers away from their desk. In 2020–21 members of the Committee started the Bar Walking Group, which gathers at the top of Martin Place at 1pm every Monday for a walk around the Botanic Gardens.

In early 2021 the Committee announced the formation of the Bar Bushwalking Group. The response was overwhelming, with the first walk taking place on Sunday, 2 May 2021 at Manly Dam. More walks are planned in the Royal National Park the Sassafras Gully Loop, Springwood.

Mooting

Last year it was reported that the Wellbeing Committee had established a pilot program with the University of New South Wales Law Society to provide judges for the Allens Linklaters Senior Mooting Competition. The objectives are to promote closer ties with the universities, help the barristers of the future, foster collegiality and provide opportunities for Continuing Professional Development.

Cooperation has continued and broadened during 2020–21 with requests for barristers to judge: the quarter-finals of the UNSW Private Law Moot in May; witness examinations in April; and the semi-finals of the Sydney University Law School torts moot. The universities are grateful for the assistance provided by the Bar and the Wellbeing Committee is investigating ways to automate and streamline the support procedures.



Experienced Barristers Program

In 2019, the Committee established the Experienced Barristers Program which, among other things, recognised the long and valuable service of those members of the bar who had been practising for 50 years or more. Wonderful events and some lunches, attended by dozens of barristers and their families, were organised and certificates presented to the honoured members of the Bar. We heard stories of their careers including both the challenges and the highlights.

We Hear You

In light of the reports of sexual harassment by former Justice Dyson Heydon, there was a flood of women who wanted to be heard about their own experiences, both historical and recent. In conjunction with the work being done by the Diversity and Inclusion Committee, the Wellbeing Committee has begun developing a program to listen to those accounts.

BOLT

In early 2020, the Wellbeing Committee set up a project together with the Education Committee, the Innovation and Technology Committee, the Practice Development Committee, and the New Barristers Committee called the Bar Online Learning and Teaching program (BOLT). That project had a number of facets but were all directed to assisting the membership address the consequences of the COVID-19 pandemic. The first was to address the rapid introduction of new AVL technology (noting that the courts all appeared to be using different platforms). The second was to address isolation, the lack of access to colleagues and the need to keep the 'Open Door' policy working for younger members of the Bar.

Member Services

In addition to all of the above, the Committee continues to coordinate member services including but not limited to the promotion of grants from the Benevolent Association, flu vaccinations in the Common Room or, as was done this year, in the St James Church in Phillip Street, and access to discounted goods and services including gym memberships as well as cars, household goods through Member Advantage.

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

Cost and Fees Committee



In 2020/21, the Costs and Fees Committee continued to contribute to the New South Wales Bar Association's policy and law reform work within its charter regarding legal costs and fees. The Committee also contributed to the Association's professional development of, and to advocate for the interests of, the Association's members.

Active participation in policy development, law reform & stakeholder engagement

During 2020/21, an ongoing topic for the Committee's attention involved the developments regarding costs in class actions in Australia, particularly changes in the regulation of litigation funders and legislative amendments in Victoria to permit

plaintiffs' lawyers in representative proceedings to receive percentage-based costs orders (i.e. to change contingency fees, which are otherwise prohibited by s 183 of the *Uniform Law*).

The Committee's analysis of the developments in class actions throughout last year informed the Association's [submission](#) of 27 July 2020 to the Parliamentary Joint Committee on Corporations and Financial Services' (PJCCFS's) [inquiry into litigation funding and the regulation of the class action industry](#).

The Association's submission to PJCCFS was consistent with its longstanding position to oppose contingency fees. It also recommended that a comprehensive, Australia-wide approach to the regulation of representative proceedings should be adopted.

The Committee also provided significant contributions to the Association's submission to the Law Council of Australia on the Joint Costs Advisory Committee's inquiry into legal practitioners' scale of costs in August 2020.

In March 2021, the Committee adopted the draft prepared by member Philippe Doyle Gray for a proposed submission by the Association to the Federal Court of Australia consultation on the use of digital technologies in the courtroom beyond the COVID-19 pandemic.

During the course of 2021, Committee members Philippe Doyle Gray and David Smith have also considered the meaning of 'fair and reasonable' charges for legal costs with a view to assisting members in future CPDs and publishing guidance as to the meaning of that phrase as it appears in the *Legal Profession Uniform Law (NSW)*.

Professional development and education

Committee member Janet McDonald provided assistance to the Professional Development Department in October 2020 by reviewing and updating her *Costs and Billing – A Basic Guide for Readers and Returning Barristers* for use by students on the Bar Practice Course.

In late 2020, an outline entitled *A Guide to Fee Recovery* prepared by Committee members Luke Fermanis and Michael Wells was published on the Association's website. The guide provides an overview of the steps barristers can take to ensure timely payment of any outstanding fees. The guide was well received by members. It will now form part of the materials on the Bar Practice Course.

Following the success of its CPD event on fee recovery in March 2020, Committee members David Stewart and Michael Wells hosted a second seminar on the topic in March 2021. The event was aimed to assist members in their first five years of practice at the Bar on the practical steps for ensuring the timely payment of invoices. To increase members' awareness and understanding of the National Australia Bank's (NAB's) Escrow Service, the Committee also hosted a CPD event in March 2021 on the NAB's free, on-line banking accounts provided exclusively to barrister members of the New South Wales Bar Association and their clients to enable money for barristers' fees to be held securely.

Other CPD seminars to be hosted by the Committee in 2021/22 will include an event by Matt Karam and Katherine Oldfield on personal costs orders made under *s 99* of the *Civil Procedure Act 2005* (NSW).

Support and encouragement of the New South Wales Bar

To obtain information on the extent of the problem of unpaid fees at the Bar, the Committee has provided advice to the Association on the wording of the practising certificate survey questions concerning fees and stale invoices.

Members of the Association continue to have access to the services of the fee-recovery scheme, which is overseen by the Committee and operated by the Committee's Policy Lawyer.

The fee-recovery scheme remains a useful support for members. In the 2020/21 financial year, assistance provided to members under the scheme led to the recovery of \$280,218.43 in unpaid barristers' fees. To assist New South Wales barristers during the COVID-19 pandemic, the fee-recovery scheme has been available over the course of 2020/21 to members whose invoices have been left unpaid for 90 days or more.

The Committee has been greatly assisted by the Association's staff over the course of the last year and, in particular, the tireless work of the Committee's policy lawyer Richard Easton.

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

Innovation and Technology Committee

The 2020–21 Committee year has been a busy time for the Innovation and Technology Committee. The Committee has continued to provide advice and support to Bar Council through a variety of initiatives. Further, the Committee has played a significant role in keeping members of the Bar informed and up to date on technology innovations, particularly in relation to the continuing effects of the COVID-19 Pandemic.

A specific helpline was established at technology_assist@nswbar.asn.au. Innovation and Technology Committee representatives are available to provide email assistance to members having connectivity issues.

At the end of 2020, the Committee held the inaugural Legal Innovation and Technology Blog Competition in partnership with the University of Sydney and with assistance from the Committee's academic member, Dr Carolyn McKay. The competition was a key point of outreach for the Committee, with university students submitting blogs on legal innovation which were then judged by the Committee. A virtual awards ceremony was held to award the winning team. The Committee will continue its outreach efforts throughout the coming year.

The Committee is currently working with Dr Carolyn McKay on her research grant into Digital Criminal Justice and Vulnerability, with a focus on access to justice issues that arise from using technology to conduct online hearings. The Committee looks forward to utilising the results of the research to inform its ongoing policy work.

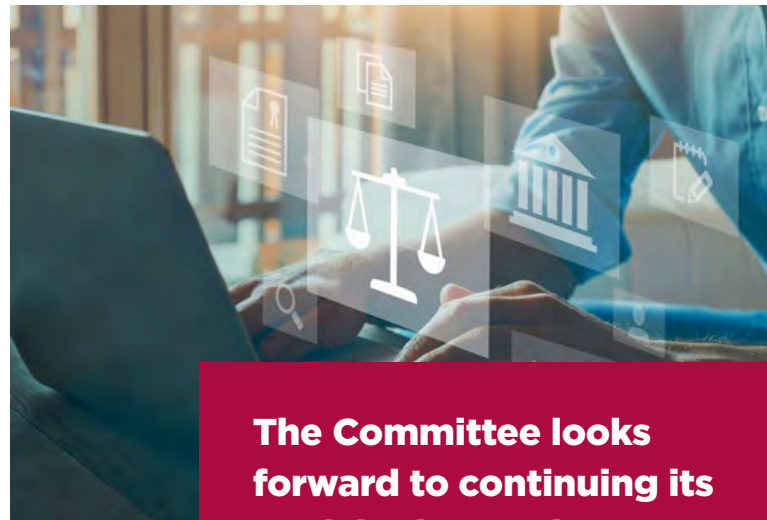
The Committee made significant contributions to the Association's submission in response to the Federal Court's request for feedback on the impact of technology on a variety of issues and practice areas. The Committee also drafted the

Association's contribution to the Law Council of Australia for their submission to the Senate Finance and Public Administration Legislation Committee in response to the Inquiry into the Data Availability and Transparency Bill 2020 and Data Availability and Transparency (Consequential Amendments) Bill 2020.

The Committee hosted the second CPD in a series of CPDs on artificial intelligence, titled Privacy, Data and Surveillance. The CPD explored the ways in which privacy, personal data and anonymity are changing due to the rapid development of technology, as well as the ways in which law reform will be informed by these developments.

The Committee also hosted the CPD, Data and Development: the Intersection of Cybersecurity and the Law, which examined the intersections of law, public policy and contemporary cybersecurity developments, what amounts to 'reasonable' cybersecurity conduct by Australian corporations and professionals, and what steps barristers can take to protect their clients' data.

The Committee has begun publishing monthly IT Blogs in *InBrief*, informing members about technological innovation, developments, current events and data security.



The Committee looks forward to continuing its work in the coming year.

Supporting equity and diversity

Diversity and Equality Committee

The Diversity and Equality Committee (DEC) has contributed to policy development and submissions, promoted the Bar and diversity to promote inclusion at the Bar over the 2020-21 committee year. The DEC meets monthly and continued to meet via Zoom in 2020-21.

Sexual harassment

Over the past year, the DEC has continued its work in addressing sexual harassment at the Bar and the profession more broadly by undertaking the following work:

- Assisting with the development of a Bar Association video, which at the time of writing is in the final stages of post-production;
- Melissa Fisher (Deputy Chair) developed and coordinated the CPD series for the February – March 2021 CPDs on ethics points;
- Presenting to the readers course on sexual harassment;
- Contributing to the review of the *Best Practice Guidelines*;
- Providing advice on practice certificate renewals forms and Rule 123;
- Monitoring and responding to Law Council of Australia's National Action Plan; *Time for Change: Addressing Sexual Harassment portal*; draft model policy;
- Monitoring and responding to the ABA's initiatives re the amendment of Rule 123 of the Barristers Rules and model policies;
- Reviewing the reports into the Victorian Courts and Tribunals; and South Australian Legal Profession;

- Reviewing the Commonwealth's *National Road-map to the Respect@Work Report*;
- Contributing to submissions on the *Sex Discrimination and Fair Work Amendment Bill*;
- Providing support for women who experience sexual harassment and liaison with Wellbeing Committee;
- Briefing other committees, including new WBF Chair;
- Assisting the Association's Executive Director on a review of sexual harassment complaint handling procedures in conjunction with a review undertaken by Griffith University;
- Contributing to the development of resources to support those who have experienced or witnessed sexual harassment at the NSW Bar;
- Reviewing relevant on-line complaints portals;
- Follow up on IBA work from #UsToo and consideration of training options; and
- Providing advice and assistance to the Executive Director as required.





Women at the Bar

In addition to sexual harassment issues, the DEC has continued to consider and respond to issues concerning women at the Bar. This includes:

- Reviewing the Equitable Briefing Policy and implementation strategies as the Policy is being reviewed by the Law Council;
- Considering the implementation strategies arising from the Association's new Strategic Plan;
- Working with WBF and WLA (NSW); and
- Promoting flexible working arrangements, particularly the issues arising for parents during COVID-19.
- Anthony McGrath SC was appointed the Advocate for Change for Gender and the DEC has met with him to discuss his objectives in relation to sexual harassment and women at the Bar.

International Women's Day

The DEC hosted an extremely successful International Women's Day event on 8 March 2021 which celebrated the 2021 theme, 'Choose to Challenge'. The panel was chaired by the Chair of the DEC, Kate Eastman SC, and made up of current and former lawyers and barristers, including Michaela Whitbourn, Legal Affairs Reporter for the Sydney Morning Herald, barrister Uche Okereke-Fisher of State Chambers and playwright and screenwriter Suzie Miller.

Female Law Students Open Day 2021

The DEC hosted its annual Female Law Students Open Day in August for the first time via Zoom due to the COVID-19 pandemic. The event was hugely successful with record registration from students around the country and more than triple the number of attendees. As the Open Day was held virtually, students from regional and remote areas were able to participate in the event, as too were other students who may have otherwise not attended in person.

The event was supported by around 30 barrister volunteers who ran small group sessions with students after a Panel which featured the Honourable Justice Williams, the Honourable Justice Markovic, Gabrielle Bashir SC and Natasha Case. Due to the success of the virtual event, it is the intention of the DEC to host the event online again in 2021.

Annual Sybil Morrison Lecture

The annual Sybil Morrison Lecture was hosted online via Zoom, again with high attendance numbers. Her Excellency the Honourable Margaret Beazley AC QC, Governor of New South Wales chaired the event which honoured the life of the late the Hon Jane Mathews AO's contributions to the law, jurisprudence and the legal profession, through papers by Katrina Dawson Award winners Naomi Wootton and Aleksandra Ilic.

This event will again be hosted via Zoom in September 2021.



The DEC hosted its annual Female Law Students Open Day in August for the first time via Zoom due to the COVID-19 Pandemic. The event was hugely successful with record registration from students around the country and more than triple the number of attendees.

LGBTQI Diversity and Inclusion

The DEC is also developing Principles on LGBTQI Diversity and Inclusion for the Bar Council to consider.

Dr Stephen Tully organised and chaired a CPD titled 'Gender and Sexuality Diverse Clients and the Law'. The session addressed the current issues and challenges facing transgender and gender diverse people in Australia and the broader LGBTQI community. Practical elements of the CPD included how to sensitively engage with trans/gender diverse clients and the services available to them.

Cultural Diversity

The DEC raised with the courts via the Association issues regarding policies and guidance for barristers who wear religious headwear in court. The courts have advised that a revised policy is under development.

The DEC has considered and reviewed the Bar Council of England and Wales initiatives on promoting cultural diversity.

DEC members attended the Iftar Dinner in March 2021.

The DEC worked collaboratively with Diverse Women Lawyers on mentoring, advocacy and mooting.

The DEC members are considering further action, including developing specific initiatives on unconscious bias on race and ethnicity.

Lee-May Saw was appointed the Advocate for Change, Cultural Diversity. The DEC has worked with Ms Saw on a range of activities in relation to Asian Australian Lawyers, including data collection relevant to cultural diversity and awareness.

InBrief blog

The DEC continued to produce blogs in InBrief relating to diversity, equality and inclusion. These blogs provided valuable insights and information to members of the Bar, with topics ranging from a review of judicial impartiality to meeting the legal service needs of LGBTQI clients. These blog posts will continue to be published in 2021.

Education and engagement

The DEC hosted the inaugural *Classroom to Courtroom* webinar series for law students interested in a career at the Bar, with the first two sessions focusing on criminal law and equity. The pilot sessions were well received and the DEC will continue to host these sessions in 2021.

Robert Lethbridge SC and Brenda Tronson organised a CPD session on '*Understanding Coercive Control in Practice*' which was hosted by Suzanne Christie SC. This CPD was a panel consisting of Dr Catherine Boland, Clinical Psychologist at Relationspace, Dr Karen Williams, Consultant Psychiatrist and founder of Doctors Against Violence Towards Women and Philippa Davis, Principal Solicitor of Women's Legal Service NSW. The discussion was an excellent guide for practitioners in identifying coercive control and safely managing issues which arise when interacting with clients experiencing it.

As noted above, a series of CPDs specifically addressing sexual harassment was arranged by Melissa Fisher.

Future of the Bar and the Strategic Plan

The DEC has developed an issues paper, titled 'Chambers of the Future', outlining the ways in which possible novel features of barristers' chambers may impact the diversity of the Bar, both positively and negatively.

Ongoing policy work for the Association

The DEC has provided policy advice to the Executive Director, Bar Council and the Association as required.

The DEC has provided input into confidential submissions to the NSW Department of Communities and Justice and worked closely and collaboratively with the Association's Accessibility Panel.

Supporting equity and diversity

Accessibility Panel

The Accessibility Panel had a busy year of advocating for people with disability in the legal system.

The Panel continued its advocacy work around the accessibility of the courts, and working with the NSW Sheriff towards improving the access points of the various courts.

The Panel also put to Bar Council a memo to develop a *Disability Inclusion Action Plan* for the Association, which was approved in December 2020. The Panel will draft the Disability Action Plan this year so that it can be adopted by the Association.

During the reporting year, the Panel has worked with the Association's Professional Development Department regarding accessibility issues arising in, and accessibility content within, the upcoming Bar Practice Course.

The Panel prepared two important submissions to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. The first submission focussed on the experiences of people with disability specifically in the criminal justice system. The second submission focussed more generally on the ways in which people with disability, including practitioners and those interacting with the justice system as victim or perpetrator, experienced disadvantage within the justice system and the ways in which these issues could be improved.

A submission was also prepared to the Department of Communities and Justice regarding the *Disability (Regulation of Restrictive Practices) Bill 2021*, and Matthew Cobb-Clark from the Panel also attended a Department Roundtable consultation regarding the proposed legislation in June 2021. Consultation in relation to the proposal is expected to continue in 2021-22.

The Panel also made a submission to the Law Council *Discussion Paper—Diversity in the Legal Profession: Persons with a Disability*.

The Panel also prepared an accessibility survey that was distributed in *InBrief* for practitioners to answer to inform inclusion efforts at the Bar. The Panel is currently working on a report that utilises the data from the survey in order to improve accessibility for practitioners.

The Panel sought the assistance of the Law Society of New South Wales to advocate jointly to each of the courts in NSW in order to establish a Court Users Group on Accessibility matters.

The Panel will work with the Law Society of New South Wales in the coming year to ensure that accessibility issues are addressed by the various courts.

Finally towards the end of the reporting year Robert Dubler SC indicated that he would be stepping down as Panel Chair to be replaced by Valerie Heath. The Panel would like to thank Robert for his leadership, energy and commitment to disability issues affecting the Bar and looks forward to his continuing involvement as a Panel member over the coming year.

Marketing and promoting the work of barristers

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, the promotion of the Bar in the delivery of cost efficient and quality legal services in the areas of advisory and dispute resolution services, and supporting readers and the junior Bar.

One of the Committee's priorities in the reporting period was 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, and on developing initiatives to benefit junior members of the Bar.

As part of its engagement with in-house counsel, the Association continued its annual Corporate Alliance Program Partnership with the Association of Corporate Counsel (ACC) during 2020. This arrangement enabled the Association to provide joint CPD sessions for members and ACC members and, among other things, provides discounted sponsorship benefits for other ACC events.

As a result of COVID-19 restrictions the ACC's National Conference 2020 was held online, meaning that the usual sponsorship opportunities for onsite marketing at the Conference were not available. The Committee was able to organise a joint CPD webinar with ACC in October 2020. The session entitled 'Dawn Raiders' was targeted at barristers and in-house counsel and examined the question 'Is your company ready for the unannounced attendance of a corporate regulator or law enforcement authority exercising search & seizure powers?'. The session received a great deal of interest from both members of the Association and ACC members, with over 140 registrations for the event.

The Association also was a Barista Station sponsor at the 2021 ACC NSW In-House Counsel Day, where clerks attended the Conference to provide tips and advice to in house counsel delegates on how to brief the Bar direct and how to locate the right barrister for their particular needs.

Clerk members of the Committee have also had ongoing involvement with the continuing briefing roadshows for in-house teams and law firms which focuses on practical guidance for lawyers on briefing the bar. A number of roadshow presentations were held over the course of the reporting period. There is a growing demand for the presentations from in house teams and law firms, and they will continue to be rolled out during the second half of 2021.

A continuing focus for the Committee has been the development of CPD sessions. Apart from the Dawn Raiders CPD webinar mentioned above, the Committee has continued to focus upon CPD presentations aimed at assisting the junior Bar.

The Committee organised a well-attended webinar in conjunction with the Refugee and Casework Service regarding their pro bono Judicial Review Project which dealt primarily with the steps involved in bringing an application for judicial review of a decision of the Immigration Assessment Authority under the *Migration Act 1958*. The webinar, held on 26 November 2020, was aimed at junior barristers, who can expect to obtain valuable opportunities to appear (often unled) before Judges of the Federal Circuit Court through their involvement with the Project.

Other webinars intended for the benefit of the junior Bar were held in late March and mid-April 2021 which involved a panel including two serving magistrates focusing upon appearances in the Local Court of NSW and a panel including the Hon Justice Kate Williams of the Supreme Court examining the issue of insolvency work for junior barristers respectively. Both webinars were well attended and attracted a great deal of interest from attendees.

The Chair participated in a series of meetings during 2020 with the Chairs of the Wellbeing, Education, Innovation and Technology and New Barristers Committees to discuss a range of measures regarding online learning and teaching issues in the current COVID-19 pandemic environment. One such measure involves a 'reverse reading' program, whereby junior barristers can assist more senior members in relation to technology issues relating to, for example, remote hearings.

These discussions led to the Committee developing and piloting an innovative webinar for attendees of the 2020 and 2021 Bar Practice Courses on 29 June 2021 entitled 'Reading for the Future: A technology primer for readers'. The webinar focussed upon using technology in advocacy and as part of electronic briefing. The 'Reading for the Future' project was developed as a response to the reduction in face-to-face contact between senior members of the Bar and readers. Prior to the COVID-19 pandemic this contact occurred during lengthy court lists and other opportunities for face to face interactions in the

course of practice. By focusing on technology, the session aimed to equip readers to connect with senior members of the Bar, through sharing technological skills and fostering collaboration. The webinar, which was introduced by the President Michael McHugh SC, involved a panel of speakers covering the topics of electronic briefing, virtual court advocacy, using technology in cross-examination and assisting senior barristers with technology. The session was well attended and received. Feedback from attendees was sought and the pilot will be evaluated by the Practice Development, Innovation and Technology and Education Committees, so that a decision can be made as to whether it should become a regular feature of future reading programs.

The Committee will continue to develop CPD projects on practice development issues, particularly those involving technology and the junior bar.

The Committee has also worked to identify relevant Commonwealth Panel firms and Commonwealth and State briefing agencies, including ACCC and ASIC, with a view to providing them with information and, potentially, presentations regarding the value of briefing the Bar direct in appropriate cases. An initial meeting has been held with the Office of Legal Services Co-ordination and discussions will continue in this regard.

The Committee has also been receiving regular updates from the Association's Director, Projects and Practice Development regarding the strategic planning work being done by the Bar Association regarding targeting in-house counsel to ensure a properly co-ordinated approach.

Finally, towards the end of the reporting year the Committee commenced work on a Business Plan to implement its responsibilities under the new New South Wales Bar Association Strategic Plan 2021-25. This work will continue in the second half of 2021.

Marketing and promoting the work of barristers

Alternative Dispute Resolution Committee

The New South Wales Bar Association Alternative Dispute Resolution Committee has continued its work in Alternative Dispute Resolution (ADR) over the last year through various initiatives including advocacy, education, and promotional efforts.

Consultation, Education and Ethical Guidelines

After presenting a Bar News Special ADR Edition highlighting developments and initiatives in ADR including articles by eminent jurists and practitioners in 2020, the ADR Committee focussed on seeking feedback from members. The ADR Committee hosted a Roundtable for barrister ADR practitioners via Zoom in order to consult with members about the contemporary challenges and opportunities that exist for the NSW Bar in the ADR field. The event provided a forum for members to share views, important issues and to discuss the future of ADR, ultimately emphasising the need to market ADR practice and to educate the legal profession, the public and clients about the value of ADR. The Hon Roger Gyles AO QC provided opening remarks for the event, the event was hosted by the Chair and facilitated by members of the ADR Committee. A Report of the Roundtable was prepared and circulated to participants and to Bar Council to assist with the implementation of the New South Wales Bar Association's Strategic Plan.

The Professional Development Department was assisted by the presentation of the ADR segment in the Bar Practice Course (BPC) and by reviewing the ADR reading list for the 2020 BPC, ensuring it was up to date for new readers. The Hon Justice Ward and the Hon Justice Henry of the Supreme Court of New South Wales, Senior Commissioner Susan Dixon of the Land and Environment Court, Deputy Chief Justice McClelland of the Family Court of Australia, Max Kimber SC and the Chair have recently participated or are participating in the current BPC. Members of the ADR Committee also assisted with presentations in the Regional CPD Seminars held in early 2021 participating in delivering ADR CPD presentations at the Regional CPD conferences in Ballina and Sydney in February and March 2021. Additionally, the ADR Committee also hosted a CPD in March with the Hon Brian Preston, Chief Judge of the Land and Environment Court, on 1 March 2021. The Chair also hosted a CPD with Justin Gleeson SC and Jonathon Redwood SC regarding ACICA and FTI Consulting's release of the 2020 Australian Arbitration Report which was held on 31 May 2021.

The Committee also seeks to advance barristers' skills and standing as advocates in ADR forums, through the provision of continuing professional development seminars and by expanding training through CPDs provided to junior barristers. The ADR Committee, in partnership with the Law Council of Australia International Law Section and the Federal Litigation and Dispute Resolution Section ADR Committee is hosting 'The Authors' Series'. Sessions were held by Professor Dianna Kenny, University of Sydney on 26 October 2020 on 'Insights into e-Legal & Mediation Processes', and will be held by Omer Shapira, Israel, on the title of his book, *A Theory of Mediators' Ethics, Foundations, Rationale, and Application* (Cambridge University Press) and by Professor Jean Sternlight, Saltman Professor of Law, William S Boyd School of Law, Nevada University, USA author of 'Psychology

for Lawyers, Understanding the Human Factors in Negotiation, Litigation and Decision Making' on 29 September 2021 focussing on issues arising in litigation and ADR.

The Committee also sought the approval and adoption of the Law Council of Australia's Trilogy of Mediation Guidelines by the Bar Council which were approved. The Guidelines for Parties in Mediations, Guidelines for Lawyers in Mediations and Ethical Guidelines for Mediators are a useful resource for ADR Barrister practitioners and their clients. The guidelines were adopted by Bar Council in December 2020.

ADR Accreditation

The Committee successfully held two rounds of ADR NMAS mediation accreditation in 2020 and is currently undertaking a further NMAS mediation accreditation process to be completed in September-October 2021. The Committee would like to acknowledge the work of Stephen Walsh QC, Neil Jackson, and Mary Rebehy (2020) and Greg Burton SC, Neil Jackson, Mary Rebehy and Philip Bambagiotti (2021). The Committee has also maintained and updated lists of relevantly qualified ADR practitioners and provided these lists to the Family Court of Australia and Federal Circuit Court of Australia during a pilot program in 2020 and again in 2021. The Committee has, with the Family Law Committee promoted arbitration, mediation and family law dispute resolution to the Family Court and Federal Circuit Court. The Committee continues to review the current accreditation guidelines for mediators, arbitrators, and expert determiners.

Project areas 2020-21

During the 2020-2021 committee year, the Committee has focussed on the following Project areas: Building and Construction and ADR, Domestic Arbitration, Online Dispute Resolution, and International Arbitration. The Committee continues to liaise through liaison officers with the Family Law Committee on ADR issues and with the newly formed International Committee on ADR issues and initiatives. The Committee looks forward to progressing matters raised in the Roundtable discussion and promoting ADR and barrister ADR practitioners through the Bar Association.

The ADR Committee seeks to advance barristers' skills and standing as advocates in ADR forums, through the provision of continuing professional development seminars and by expanding training through CPD's provided to junior barristers.

Contributing to public debate
and law reform

Criminal Law Committee

The Criminal Law Committee has, as in previous years, tirelessly responded to a high volume of requests for input on proposed policy and legislative changes in 2020/21 and has itself proactively advocated for law reform in NSW.

Active participation in policy development, law reform & stakeholder engagement

Over the last year, the Committee has commented on a wide range of policy and law reform issues and has actively responded to numerous requests for submissions on proposed legislative changes at a state and federal level.

While much of the Committee's policy work in 2020/21 has involved comment on confidential proposals, it can be confirmed that this year the Committee prepared, or was a key contributor to, submissions on:

- the Law Council of Australia's review of its policy on a Commonwealth Criminal Cases Review Commission;
- the Department of Communities and Justice's consultation paper entitled *Review into Animal Abuse and Domestic and Family Violence*;
- the Department of Communities and Justice's administrative review of the *Bail Act 2013* (NSW);
- the Department of Communities and Justice's review into whether the provisions of the *Foreign Evidence Amendment Act 2010* (Cth) should apply in New South Wales;
- the Parliamentary Joint Committee on Intelligence and Security's inquiry into the *Counter-terrorism Legislation Amendment (High Risk Terrorist Offenders) Bill 2020* (Cth);

- the *Mandatory Disease Testing Bill 2020* (NSW) and the Standing Committee on Law and Justice's review of the Bill;
- proposals for the development of a coercive control offence;
- Stage 2 of the Chief Judge's *Indictable Process Review*; and
- the NSW Government's statutory review of the majority verdicts provisions of the *Jury Amendment (Verdicts) Act 2006* (NSW).

In October 2020, Co-Chair Odgers SC testified before NSW Legislative Council's Portfolio Committee No.5 – Legal Affairs' [inquiry into the provisions of the Firearms and Weapons Legislation \(Criminal Use\) Bill 2020 \(NSW\)](#); his testimony followed the Committee's written submission to the inquiry.

In February 2021, Co-Chair Bashir SC gave evidence before the Standing Committee on Law and Justice's [inquiry into the Mandatory Disease Testing Bill 2020 \(NSW\)](#). Her testimony and the Association's written submissions on the Bill had a clear influence on the Standing Committee's report.

In addition to responding to legislative proposals, the Committee has also engaged in proactive law reform work, including:

- advocacy of drug decriminalisation and for the implementation of the recommendations of the Report of the Special Commission of Inquiry into Crystal Methamphetamine and other Amphetamine-type Stimulants; and,
- advocacy for the introduction of a reliability test for expert opinion evidence akin to US Federal Rule 702.

A particular area of interest for the Committee in 2020/21 was advocacy for an increase in the minimum age of criminal responsibility. The Committee's work in this area has continued in 2020/21 with its recent submission on the Department of Communities and Justice's consultation paper entitled *Framework to Prevent and Respond to Children with Problematic and Harmful Sexual Behaviours*.

In May 2021, the Association also provided a detailed, evidence-based policy submission to the Law Council of Australia on the lowering the minimum age of criminal responsibility and the commission of serious offences by children.

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The Association's submissions on the NSW Government's consultation paper and to the Law Council of Australia address some of the issues currently being considered by the Council of Attorneys General as part of its review of measures outside the criminal justice system to address juvenile offending and will undoubtedly assist the Committee in its future advocacy for the raising of the age of criminal responsibility in Australia.

Engagement with the courts and other agencies

Throughout the year, members of the Committee have actively represented the Association at key meetings with various stakeholders, including the courts.

Committee members continue to represent the Association on the Early Appropriate Guilty Pleas (EAGP) Working Group, on the NLAF Aboriginal Incarceration Working Group and at ad hoc stakeholder meetings such as the NSW Sentencing Council November 2020 roundtable discussion on sentencing for assaults on emergency services workers.

During 2020/21, the Committee has also:

- provided witness examination scenarios for use by Diverse Women in Law in its advocacy training programme;

- collaborated with the Law Society of New South Wales to advocate that the attorney-general recruit Aboriginal and Torres Strait Islander mental health practitioners for correctional centres and mental health facilities;
- written to the Chief Magistrate regarding proposed changes to the content of court attendance notices in the Local Court;
- assisted in the drafting of a letter to the attorney-general regarding the circumstances of the enactment of the Drug Supply Prohibition Order Pilot Scheme Act 2020 (NSW) and the abortive Portfolio Committee No 5 – Legal Affairs' inquiry on the *Drug Supply Prohibition Order Pilot Scheme Bill 2020* (NSW);
- made representations to the Chief Magistrate on proposed amendments to the domestic violence standard in Local Court Practice Note Crim 1; and,
- attended a recent briefing session with NSW Courts and Tribunals on the use of online courts in summary-only criminal proceedings.

Support and encouragement of the NSW Criminal Bar

The Committee has continued to monitor changes to court rules in response to the COVID-19 pandemic and to provide assistance when required to support members practising in criminal law.

Committee members also assisted the Bar News Committee in 2020/21 in the preparation of its well received criminal law and inquests special edition of *Bar News* (Autumn 2021).

In 2021/22, the Committee will host a series of CPD events aimed at barristers practising in criminal law on sentencing in proceedings relating to child sex offences and on changes to the rules governing criminal appeals in NSW.

Contributing to public debate
and law reform

Human Rights Committee

During the 2020/21 Committee year, the Human Rights Committee (the Committee) has continued to monitor areas of law reform and to provide support to members of the Association through its development of a comprehensive, human-rights focussed CPD programme.

Active participation in policy development, law reform & stakeholder engagement

In June 2020 the Committee drafted the Association's submission to the NSW Parliament's Regulation Committee inquiry into the making of delegated legislation, with the Committee conducting a hearing on 27 July 2020. One focus of the submission was the overuse of delegated legislation in COVID-19 related measures.

In September 2020, the Committee prepared the Association's submission to the Joint Select Committee inquiry on the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 (NSW) and contributed to the Law Council of Australia's submission on the same Bill. The Bill was not introduced during the life of the Committee.

The Committee also provided valuable comments to the President and Executive this year on:

- on the use of body-worn video camera systems by police;
- the Greens NSW's draft Law Enforcement (Powers and Responsibilities) Amendment (Drug Detection Dogs and Strip Searches) Bill 2020 and consultation paper; and,
- the Commonwealth Attorney-General's Department's review of the Privacy Act 1988 (Cth).

The Committee provided important contributions to cross-Committee submissions on a number of confidential consultations on legislative amendments in New South Wales and on the Mandatory Disease Testing Act 2021 (NSW).

In 2020/21, the Committee formed a sub-committee to consider implementation and updating of the Association's policy to support the introduction of a Human Rights Act for New South Wales. The sub-committee members provided comprehensive reviews of statutory developments in similar jurisdictions including Victoria, the Australian Capital Territory, Queensland and New Zealand. A sub-committee was also formed to consider whether the Association should support a statutory privacy tort.

Support and encouragement of the New South Wales Bar

The Committee played an active role in supporting members of the Bar by designing the following package of nine CPD events in the 2020/21 year:

- a series of three seminars on international human rights issues in China and Hong Kong delivered in 2020/21;
- a seminar on ways that human rights can assist members in their practice at the Bar, hosted on 1 June 2021;
- an event on victim representation and participation at international criminal tribunals, presented on 24 June 2021; and,
- seminars to be hosted in the 2021/22 year, including events on:
 - India's Citizenship (Amendment) Act 2019 and National Register of Citizens and their effect on minority rights;
 - defamation, human rights and public-interest publications following the enactment of sch 1[27] to the Defamation Amendment Act 2020 (NSW);
 - the rights of prisoners in New South Wales; and,
 - the development of an Australian Bill of Rights and New South Wales Human Rights Act.

The Committee's seminar programme has attracted panellists of international renown and was well attended by members.

Contributing to public debate
and law reform

First Nations Committee

The First Nations Committee has made significant contributions to the Association's submissions over the last year. The Chair worked closely with the Association's Joint Working Party on the Over-representation of Indigenous Peoples in the NSW Criminal Justice System to make a preliminary submission to the Inquiry into High Levels of First Nations People in Custody and Oversight and Review of Deaths in Custody. This submission focussed on key recommendations including implementing the recommendations set out in the Pathways to Justice Report, particularly establishing the Walama Court in the NSW District Court in order to reduce incarceration and recidivism rates of First Nations people. The Chair Tony McAvoy SC subsequently gave evidence to the Select Committee undertaking the Inquiry, appearing on behalf of the Association. The New South Wales Bar Association provided answers to questions taken on notice during the hearing and expanded upon the preliminary submission that was originally submitted. The Chair and members of the Committee were integral to the Association's submissions and responses.

Pursuant to its charter, the Committee also undertook a review of both internal and external New South Wales Bar Association policies to ensure that they were in line with best practice and were inclusive, particularly of First Nations peoples. At the time of writing the external Association policies have been amended to reflect recommendations by the Committee. Upon completion of the review of the internal policies of the Association, subject to consideration of any proposed changes by Bar Council, the relevant policies of the Association will be amended to reflect the changes suggested by the Committee.

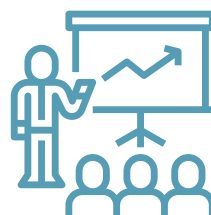
The Committee made a significant contribution to the Association's response to the five tranches of the Stronger Communities Legislation Amendment (Criminal Procedure) Bill 2020. The Committee's work commenting on and reviewing the proposed legislation heavily contributed to the Association's reply to the proposed amendments and made up a significant portion of the submission.

The Committee also made a lengthy submission to the Law Council of Australia for the Inquiry into the destruction of the Juukan Gorge Caves and the effectiveness/adequacy of state and federal laws with respect to Aboriginal and Torres Strait Islander cultural heritage. The submission drew on the expertise of the Committee and was an invaluable contribution. An important submission was also prepared by the Committee and forwarded to the Law Council of Australia to assist in its representations in respect of the Co-Design of the First Nations Voice.

The Committee was also involved in the ongoing provision of training and education including with respect to presentations to the readers at the Bar Practice Course of dealing with aboriginal clients and witnesses.

At the end of the reporting year, the Committee made a significant contribution to a substantial Association submission to the NSW Legislative Council Select Committee on the Coronial Jurisdiction in NSW.

The Committee will continue to review proposed legislation and comment on and draft submissions in reply. The Committee will also continue its activism to reduce the incarceration rates of First Nations peoples, establish the Walama Court in the NSW District Court and increase the representation of First Nations people in the judiciary.



The First Nations Committee was also involved in the ongoing provision of training and education including with respect to presentations to the readers at the Bar Practice Course of dealing with aboriginal clients and witnesses.



A special trust fund, the Indigenous Barristers' Trust The Mum Shirl Fund, was established in 2001 to create a pool of funds to provide financial assistance to First Nations barristers especially in their first five years of practice and to First Nations law students and lawyers. The fund has deductible gift recipient status as a public benevolent institution under the *Income Tax Assessment Act 1936 (Cth)*. There are four Trustees: the current President of the NSW Bar Association, Michael McHugh SC, Justice Michael Slattery QC, Tony McAvoy SC and Chris Ronalds AO SC.

Barristers and judges continue to make generous donations to the Trust so it can meet the special needs of First Nations barristers, law students and law graduates. A range of grants were made which included providing financial assistance for some students with housing, medical and other emergencies and help to transition to work from being a student.

A mentoring scheme was established in February 2009 and there are currently eight First Nations law students being mentored by NSW barristers. Both students and barristers are gaining significant benefits from these relationships, with the students reporting a significant increase in their understanding of the ways the legal system works and the role of barristers in that system. Some report an increase in confidence in dealing with legal issues through their discussions with their mentors.

An employment scheme for First Nations law students has been successfully run for the last 19 years.

An employment scheme for First Nations law students has been successfully run for the last 19 years. During that time, over 50 students have worked part-time, usually one day a week during term time, for individual barristers or chambers. They do administrative work and research. There are three students currently working for barristers. This scheme is designed to provide some experience for students who have no other connection with the law and show them the work of a barrister close up. It is hoped that this will encourage them to properly consider the Bar as a future career option. Another benefit has been access to a referee from within the profession when applying for jobs as solicitors after graduation.

Contributing to public debate
and law reform

Family Law Committee

The 2020–21 committee year was an important and extremely busy period for the Family Law Committee. The Committee has maintained its contribution to the Association's role as a facilitator of the administration of justice and an advocate for the public good.

Active participation in policy development, law reform and stakeholder engagement

The Committee has actively informed and contributed to public debate about the future of Australia's family law system, including by engaging in submissions and consultation about law reform with the Law Council of Australia (Law Council), the Australian Bar Association (ABA), the Courts and the Federal Parliament. The Committee has continued to provide critical evaluation of legal reform in the area of family law and consistently advocated for legal aid funding and proper resourcing of the family law system, including the family courts.

In conjunction with stakeholders from the broader legal profession, community, welfare, women's and First Nation's organisations, the Association maintained its consistent opposition to the Government's plan to merge the Family Court of Australia and the Federal Circuit Court, including at the time of the reintroduction of the merger bill into Parliament, and the expertise and experience of the Family Law Committee has informed the Association's advocacy on this issue. Following the passing of the merger bill in February 2021, the Committee remained committed to continuing its advocacy for proper resourcing of the family law system and welcomes ongoing consultation with the family law courts and Commonwealth Attorney-General's Department to ensure practitioners are both involved in and kept advised of changes to practice.

On 9 October 2020 the Association's then-Vice President and the Chair of the Committee appeared together at the public hearing of the Senate Legal and Constitutional Affairs Committee inquiry into the Federal Circuit and Family Court of Australia Bill 2019 and Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2019.

The Committee also contributed to the Association's joint supplementary submission with the Law Council of Australia to the Senate Legal and Constitutional Affairs Committee inquiry into the Federal Circuit and Family Court of Australia Bill 2019. This submission was sent to the Senate Committee on 4 November 2020.

On 6 August 2020, the Association provided its submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs Parliamentary inquiry into family, domestic and sexual violence. This submission was heavily informed by Committee members as was the Association's submission to the NSW Parliamentary Joint Committee on Coercive Control.

The Committee contributed to the Association's submission to the Senate Standing Committees on Foreign Affairs Defence and Trade inquiry into 'Issues facing diaspora communities in Australia'. Suzanne Christie SC, Claire Cantrall and the Director of Policy and Public Affairs appeared at the Senate hearing on 6 November 2020, advocating on behalf of vulnerable members of diaspora communities and their challenges accessing the legal system. The Association provided the Senate Standing Committees with Questions on Notice from the hearing, informed by members of the NSWBA's Family Law Committee, on 2 December 2020. Both Committee members' testimonies were quoted in the Senate Standing Committee's final report.

The Committee has informed several cross-committee collaborative submissions, such as to Treasury regarding the further 2020-2021 Pre-Budget Submissions, a confidential consultation with Legal Aid NSW and several confidential consultations with the NSW government.

Engagement with the courts

The Committee has continued its liaison with the Family Court of Australia and Federal Circuit Court of Australia, upholding the interests and needs of clients and practitioners at the NSW Bar. Peter Cummings SC and John Longworth have represented the Association at the Sydney Family Court and Federal Circuit Court Courts' User Groups meetings throughout the 2020 Committee year. Michael Weightman has provided the Committee with updates on the Newcastle registry and been updated by legal profession stakeholders in that region. Mary Rebehy and Sarwa Abdelraheem have updated the Committee on the Parramatta Family Court and Federal Circuit Court developments throughout 2020.

The Association has provided consistent and crucial feedback to the courts amidst the COVID-19 pandemic regarding the use of audio/visual technology during court events. The Association is committed to the administration of justice and aiding the courts during this unprecedented and challenging time.

The Association has liaised with the Association's ADR Committee, through Stephen O'Ryan QC. The Committee has facilitated communication between the courts and the public by updating and maintaining availability of its relevantly qualified ADR and family law barrister practitioners.

The Committee has also provided the Family Court of Australia and Federal Circuit Court of Australia with guidance and the benefit of its expertise on several confidential matters.

Support and encouragement of the NSW Family Bar

In November 2020, Michael Weightman presented on *The Evidentiary Position of Recorded Conversations in Family Law Proceedings*. This presentation discussed the evidentiary position of audio/visual recordings parties are increasingly seeking to rely upon as evidence at family law trials or interim hearings.

In March 2021, Committee member Mary Rebehy organised and chaired a discussion with Dr Lucia Vardanega from Western Sydney University and Rhondra Matthews from The Family Relationship Network titled *Family Therapy in a Family Law Context*. The presentation allowed members to gain insight into family therapy in practice and was well received.

Mark Anderson presented the informative and interesting CPD *Latest and Greatest in Care and Protection* in March 2021, which was chaired by Peter Cummings SC. This CPD discussed important precedents arising from decisions made within the jurisdiction exercised by the Children's Court, District Court and Supreme Court including the NSW Court of Appeal in recent years.

The Committee's Suzanne Christie SC chaired the Diversity and Equality Committee's discussion panel CPD *Understanding Coercive Control in Practice* in June 2021 and skilfully facilitated this engaging and remarkable discussion which provided members with the insight into identifying coercive control in practice.

The work of the Committee over recent years has been considerable as the practice of family law has faced significant challenges and changes. The contributions of the Committee to law reform, structural reform of the Courts and to the securing of further resourcing for the beleaguered family law system ought not be underestimated.

Contributing to public debate and law reform

Common Law Committee

A major priority for the Common Law Committee during 2020–21 has been its advocacy in relation to the compulsory third party scheme established under the *Motor Accidents Injuries Act 2017*, and in particular the effects of the broad definition of minor injury in the CTP scheme and the increasing discrepancy between monies generated by insurance premiums and the amounts paid out to the injured.

Over the reporting year it became increasingly apparent that the original actuarial projections which underpinned the provisions of the 2017 CTP scheme had greatly over-estimated the number of claims that would be made under the scheme and the legal costs incurred in the scheme.

As a result, the 2017 scheme as adopted substantially restricted the ability to recover common law damages. Based on the most recent data, 60% of not at fault claims are assessed as minor, whereas the stated intended level of claims considered to be minor was 50%. The effect of capturing too many claims as minor on delivery of benefits to the most seriously injured is profound, with the result that CTP insurers have retained over 90% of premiums.

These considerations were part of the focus of the Committee's comprehensive submission to the 2020 Standing Committee on Law and Justice Inquiry into the Compulsory Third Party Insurance Scheme. The Association's submission argued that the focus of the scheme should be upon delivering both the stated objectives and the legislative objectives relating to the payment of benefits under the Scheme, including:

- a. To provide the fairest compensation regime possible consistent with maintaining the present premium;
- b. To ensure that the majority of premium is paid to the injured with an emphasis on the most seriously injured;
- c. To ensure that the restriction on claims for damages be confined only to injuries which are genuinely minor in nature without restricting or removing the right to claim damages for those with moderate or serious injuries;
- d. To equip the regulator with sufficient resources to monitor insurer behaviour so that claims for statutory benefits are not rejected unreasonably and that unrepresented claimants are not discouraged from exercising their rights to claim compensation or damages because of that insurer behaviour. Currently 73% of claimants do not have legal representation;

- e. That CTP insurers, as receivers of public money that is compulsorily levied, should be required to act in all cases in a way which promotes the quick, cost effective and just resolution of disputes;
- f. That the regulator in performing its statutory functions promotes genuine and open consultation for the purpose of the three-year review of the MAI Act and is equipped with sufficient resources to undertake a widespread consultation seeking feedback particularly from non-legally represented claimants who have left the Scheme.

The Committee's Chair Robert Sheldon SC and Deputy Chair Elizabeth Welsh appeared before the Standing Committee on 25 May 2021 as part of a panel of legal profession representatives and gave evidence in support of the Association's submissions. At the time of writing the Standing Committee was yet to publish its Report.

The Committee also played a constructive role in relation to the establishment of the new Personal Injury Commission, which consolidated the workers compensation scheme and CTP insurance scheme dispute resolution systems into a single jurisdiction.

The Deputy Chair and Ross Stanton of the Committee served on the new Commission's user groups during the reporting year and were able to provide input into the development of the new Commission's processes during that time.

In the course of the reporting year the Committee also prepared a detailed advice from the Association to the Chief Judge of the District Court regarding a draft Practice Note DC (Civil) No 1, along with a submission to the President of the Personal Injury Commission regarding electronic hearings in the Commission.

The Committee liaises with Court user groups and rule committees, supplying members and providing input to issues of practice and procedure. Consultation in the last year has involved consideration of the difficulties created by COVID-19 for the preparation and presentation of cases.

Representatives of the Committee also served throughout the year on various NSW Government consultative forums including the State Insurance Regulatory Authority's Legal Practitioners Group and stakeholder consultations with the Workers Compensation Independent Review Office.

The Committee will continue its ongoing advocacy for a fairer personal injury compensation system in NSW which properly recognises the rights of injured persons during the coming year.

Contributing to public debate
and law reform

Industrial Employment Health and Safety Committee

The Industrial Employment Health and Safety Committee's (the Committee's) priorities for 2020/21 included monitoring developments in industrial law and policy and to continue to support, and advocate on behalf of, members of the industrial bar.

Active participation in policy development and law reform

During the 2020/21 year, the Committee continued its participation in law reform by, among other activities, assisting the Criminal Law Committee in drafting a submission to the Department of Communities and Justice on **confidential** proposals involving proceedings under the *Work Health and Safety Act 2011* (NSW) (WHS Act).

Supporting members of the New South Wales Bar

At the start of the 2020/21 reporting year, the Committee provided valuable advice to Bar Council on the contents of the Association's best practice guidelines as they relate to sexual and other forms of harassment.

The Committee is currently considering the question of whether barristers are required to provide a declaration as service providers under the modern slavery legislation.

Engagement with courts and tribunals

The Committee's Chair Bruce Hodgkinson AM SC and Deputy Chair, Yaseen Shariff SC, continued to participate in Federal Court and Federal Circuit Court Industrial Law user groups as well as user groups for the Fair Work Commission and Industrial Relations Commission. These user groups provide an important forum where the views of the industrial bar can be expressed on a variety of issues in these jurisdictions.

Industrial Bar Function

A very successful and well-attended function was held at the Hotel CBD Club Bar on 15 August 2019. Sadly, the COVID-19 pandemic prevented the Committee from holding its annual function in 2020. The Committee considers the ordinarily annual function to be important in fostering collegiality at the industrial bar and plans are underway for an event to take place in 2021/22.

Contributing to public debate
and law reform

Legal Aid Committee

During 2020–21, the Legal Aid Committee's priorities were advocating for access to justice and legal aid funding. The Committee continued its ongoing liaison with Legal Aid NSW and advocating to government for sustained and adequate legal aid funding.

Legal Aid funding

The pre-existing shortfall in secure funding for the legal assistance sector has been exacerbated by the COVID-19 pandemic, which further emphasises the need for consistent and adequate funding for Legal Aid to support those who require legal assistance.

The Committee has continued to advocate to State and Federal governments that chronic underfunding of the legal assistance sector impacts on access to justice for many members of the community. The Committee will continue its advocacy regarding the ongoing Legal Aid funding crisis.

Consultations with Legal Aid NSW

The Committee continues to maintain a consultative relationship with Legal Aid NSW, including providing assistance with Legal Aid NSW's panels.

Legal Aid NSW invited the Association to consult on and provide feedback in relation to the Appellate Barrister panel application process. The committee assisted in the drafting of the relevant submission which stated that the application process should involve applications directly to Legal Aid and the Association's role was to provide limited consultative assistance to Legal Aid NSW. This letter also strongly encouraged Legal Aid NSW to brief junior barristers at the earliest opportunity to enable sufficient time for preparation.

The Committee has continued to advocate for barristers affected by Legal Aid NSW's decision to exclude barristers from participation in the Local Court duty lawyer scheme (administered by the Law Society of NSW). The Committee assisted the President in writing to the President of the Law Society of NSW, requesting the Law Society reconsider its decision and amend the Scheme Guideline to involve barristers in the Scheme.

The matter was referred back to Legal Aid NSW and the Association has continued to advocate on this issue in 2021. The exclusion of barristers in the Scheme does not align with community needs and the significant pressures and backlogs facing the Local Court of NSW.

The Committee provided assistance on a number of the Association's cabinet-in-confidence submissions and confidential Legal Aid consultations. Michelle Swift, Rose Khalilizadeh and Thomas Liu provided invaluable contributions to cabinet-in-confidence requests. The Committee has continued to provide advice to the Association's Executive on matters relating to Legal Aid fee scales and other matters.

Engagement with the courts

The Committee assisted with the Association's response to the Chief Magistrate of the Local Court of New South Wales involving the amendment of Court Attendance Notices to assist the court in communicating with parties during the pandemic in a timelier matter.

Contributing to public debate
and law reform

Inquests and Inquiries Committee

The Inquests and Inquiries Committee has contributed significantly to the Association's advocacy work throughout the year.

Contribution to submissions

The Committee's expertise has informed the Association's submission to the Parliamentary Committee on the Independent Commission Against Corruption's inquiry into the reputational impact on an individual being adversely named in the ICAC's investigations. Donna Ward appeared on behalf of the Association before the NSW Parliamentary Committee in September 2020.

The Committee's members prepared a thorough submission to the Law Council of Australia regarding draft principles for the establishment of a Federal Judicial Commission.

Cross-committee collaboration has occurred with the assistance of the Committee, including input into a confidential project requested by the Law Council of Australia, NSW Government Cabinet in Confidence requests and confidential requests from the NSW Department of Communities and Justice.

Contribution to education and engagement with stakeholders

In September 2020 the Committee organised an address by the NSW State Coroner, Her Honour Magistrate Teresa O'Sullivan. Committee members benefited immensely from the Coroner's address which focussed on her plans for legislative review, compassionate practice and the jurisdiction's need to improve Indigenous experiences. Members were afforded the chance to meaningfully engage with the Coroner to inform their practice, which aligned with the Association's role of facilitating the administration of justice.

In February 2021 the Committee organised and hosted a panel discussion which was targeted towards assisting barristers undertaking advocacy in inquisitorial jurisdictions develop their skills. The panel was chaired by Donna Ward and consisted of Kristina Stern SC, the Committee's Chair, Jason Downing SC, Kirsten Edwards and Hugh Dillon, former Deputy New South Wales Coroner. An article deriving from this CPD seminar was later included in Bar News' Autumn 2021 edition.

Future activities

The Inquests and Inquiries Committee will continue to provide input into the Association's engagement with government and promote the work of the NSW Bar.

Promoting access to justice

Legal Assistance Referral Scheme

Overview

It has been a dynamic year for the Association's Legal Assistance Referral and Duty Barrister Schemes. We have continued in our work assisting unrepresented litigants and the courts throughout the continued challenges and disruptions that have been brought about by the COVID-19 pandemic. In some respects, the pandemic has enabled us to expand upon the services that we provide as the Bar and the courts have adapted to and increased their use of technology. A stand out benefit has been the increased ability to assist clients in regional settings and to conduct appearances remotely. This significant saving in time and cost has allowed some barristers to accept pro bono work that they otherwise would not have had the time to take on.

A further significant change was the farewell of Heather Sare from the Manager's role in September 2020. Heather served the Association and the Legal Assistance Schemes for 26 years since she joined us in 1995. Heather has left a significant legacy in promoting and supporting the Bar's involvement in pro bono work.

In the lead up to Ms Sare's retirement, the decision was taken that the new Legal Assistance Manager should be a solicitor who could instruct and appear in LARS matters that were unsuitable for referral on a direct access basis. The Association welcomed Ms Katie Green to the role in September 2020 and the 'in house' legal practice commenced operations in January 2021.

Ms Green has since instructed in a number of LARS matters that have been identified as exceptionally complex and requiring a solicitor, usually in situations whether the client is either vexatious or presents with a vulnerability such as a language barrier, disability or cognitive impairment. Two such matters have proceeded to judgment; *Goyal v West* [2021] NSWSC 526, expedited proceedings in which the clients suffered dementia and *Guha v Guha* (No 2) [2021] NSWSC 757, a property dispute between family

members, some of whom had physical and cognitive impairments and a young defendant. Ms Green has also provided increased support to barristers volunteering through the Duty Barrister Scheme and is able to fill in in the Duty Offices in situations where the rostered barrister is unable to attend.

The Legal Assistance Referral Scheme

This year the Legal Assistance Referral Scheme (LARS) received 292 applications for assistance, increased from the 239 applications that were received last year. This increase in referrals may be attributed, in part, to targeted outreach and promotion of the Scheme to Legal Aid NSW and to Community Legal Centres, from whom we received 16 and 44 referrals respectively.

Aside from these, the main source of referrals to LARS continue to come directly from the courts and from the NSW Civil and Administrative Tribunal (NCAT). There were 42 referrals made by Judges, 6 by Registrars, 1 by a Magistrate and 23 by NCAT members. The remaining referrals come directly from the community, word of mouth or upon advice from another referral service e.g. Law Access or Justice Connect.

Of the applications that we received, 98 were assessed as being eligible and appropriate for referral in accordance with our Guidelines.



The main source of referrals to LARS continue to come directly from the Courts and from the NSW Civil and Administrative Tribunal (NCAT).



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In 2020-21 barristers contributed an estimated **2,666** hours of work through LARS.



292 formal applications for assistance were received and processed in 2020-21.

The remaining 194 applicants were each provided with information and referrals to other services and private practitioners or, where appropriate were provided with brief advice by the Managing Solicitor. This occurred in situations where a matter was clearly time or statute barred, or where the available legal avenues had already been exhausted. Every single applicant receives a letter explaining the basis of our decision. We provide information and referral options where applicable.

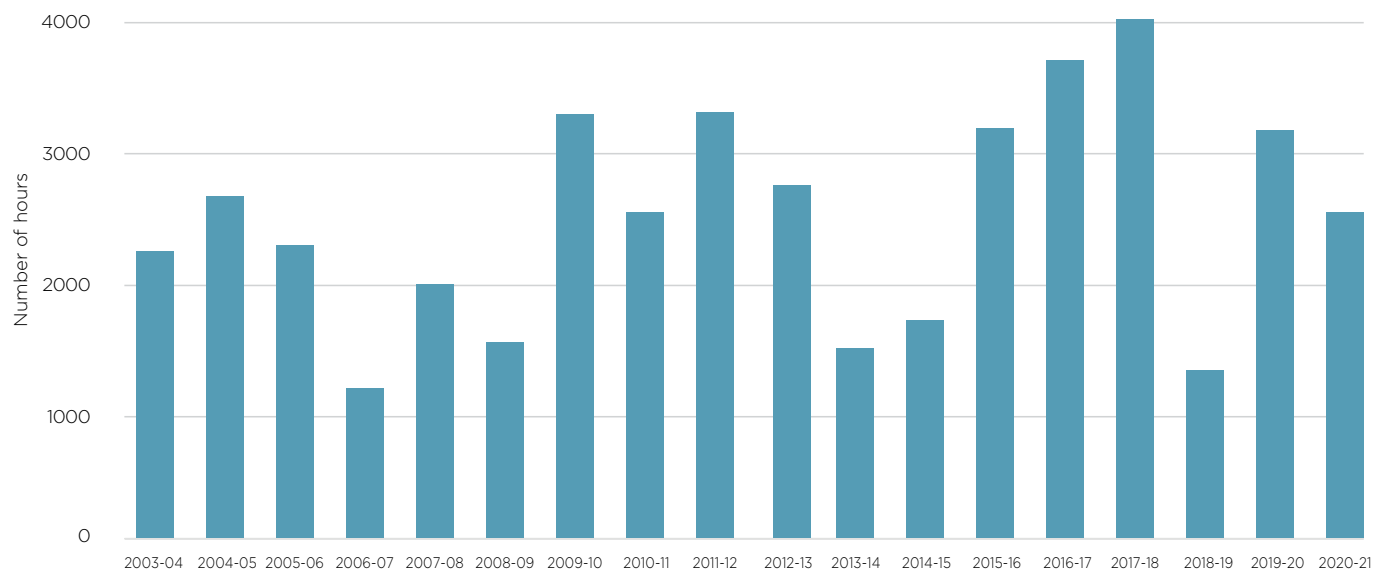
This year barristers contributed an estimated 2,666 hours of work through the Scheme, made up of 1,677 hours in the current period and a further 989 in matters that have continued from previous years. There are more than 30 referred matters that remain ongoing at the time of writing.

Since the Scheme commenced operations in 1996, our members have contributed more than 64,000 hours of work.

Noting the complex nature of matters that are referred, the assessment of applications involves the expenditure of considerable time and resources, with many applications containing multiple volumes of complex materials and court documents. The bulk of the work performed by Legal Assistance staff is taking care to make a thorough assessment of all applications to ensure that barristers only receive referrals that are appropriate. The majority of barristers that participated in interviews for this assessment period reported satisfaction that the matters that they were briefed in had merit, identified a genuine legal need and were appropriate for referral through the Scheme.

In February 2021, Bar Council reviewed the LARS Eligibility Guidelines and resolved to increase the income threshold for applicants from \$1,000 per week to \$1,600 per week. This has allowed us to increase our service provision to the 'missing middle' who are ineligible for Legal Aid but are unable to afford representation.

Hours of work contributed to LARS

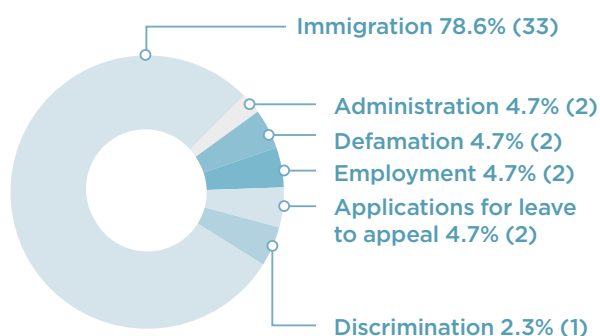


Court Appointed Referral Schemes

We continue to support the Federal Court, The Federal Circuit Court and the District Court of NSW with the administration of their referral Schemes. We do this by providing the Registrars of each Courts with up to date panels of barristers who agree to receive pro bono referrals directly from those jurisdictions.

This year, the Federal Court and the Federal Circuit Court made a total of 42 referrals through their Referral Scheme, with the bulk of referrals being made in immigration matters. The Court has provided us with the following limited data that summarises their referrals to the Bar for this financial year.

REFERRALS TO THE BAR THROUGH THE FEDERAL COURT SCHEME



The District Court do not ordinarily provide us with data on the outcome of referrals made to pro bono Counsel through that Scheme, however we understand that it continues to operate by way of registrar referral with our continued support in updating the list of panel members.



42 Court Appointed Referrals were received in 2020-21.

The Duty Barrister Scheme

The Duty Barrister Scheme has assisted unrepresented defendants in the Downing Centre since 1996. More recently, the Scheme has expanded to assist unrepresented parties in civil matters at John Maddison Tower. It is estimated that more than 4000 people are assisted through the Duty Barrister Scheme each year.

Without a doubt, the Scheme's operations have been impacted by COVID-19 and lockdown restrictions. Access to the court has been restricted for much of the past year, with the Chief Magistrate issuing memorandums prohibiting entry for people who do not have a matter in court that day. While legal practitioners and the Duty Barristers have been and continue to be exempt from the restrictions, fewer people are attending the court in person to seek assistance.

During periods of lockdown, including the most recent lockdown that was announced in June 2021, we decided to close the Duty Barrister Offices in the interests of the health of our volunteer barristers. We continue to offer advice by telephone where possible.



4,000+

people are assisted through the Duty Barrister Scheme each year.

Despite the difficulties presented by COVID-19, the Duty Barrister Scheme continues to be a popular volunteering opportunity for members who wish to get involved in the fast paced environment that is the Local Court. It offers Readers and Juniors a fantastic opportunity to get on their feet. It is an equally enjoyable diversion for more Senior members who enjoy getting out of Chambers and working directly with unrepresented defendants.

The Duty Barrister Scheme was featured in the March edition of *Bar News*, and included interviews with barristers Mahmud Hawila, Eva Buzo, Fiona Sinclair and Keith Francis. The following is an excerpt from our interview with Fiona Sinclair, who has volunteered for more than 17 years;

"It warms my heart to feel like I'm helping even in a small way, there are a lot of distressed people in the Local Court; sometimes you come away a little bit angry with the way the Court has dealt with a client but most of the time you come away feeling really warm and fuzzy. People are very grateful that somebody can appear for them in what is, to them an unknown and forbidding tribunal; they don't understand the rules, they don't understand how things work. It's a great service to the community, I think every barrister should be doing a few days a year as a Duty Barrister."

This year we have also implemented new initiatives that have aimed to increase our support to the Duty Barristers. Barrister Keith Francis has kindly volunteered to mentor new Duty Barristers and has also provided induction sessions for readers that signed up to the roster after the Bar Practice Course. The Managing Solicitor provides assistance to barristers by phone in situations where they encounter a difficult or distressed client or an unfamiliar area of law.

Tim Castle SC has also commenced an initiative that aims to promote the Scheme to more senior members and provide those barristers with adequate resources that may encourage them to sign up.

Mr Castle has formed a working party who have been drafting a Duty Barrister Guide. It is envisaged that the Guide will provide step by step advice to Duty Barristers on Local Court processes and the most common legal issues that arise in the Local Court. The Guide will be formally launched towards the end of 2021.

Finally, once lockdown restrictions have eased and we are able to return to providing assistance in person, we will be implementing a more formal data collection process from the duty offices in the coming financial year as we hope to report in more detail on the client and matter types that the Duty Barristers are assisting with.

Assisting unrepresented prosecution witnesses

In addition to assisting unrepresented defendants at the Downing Centre, the Duty Barristers also assist solicitors from the Office of the Director of Public Prosecutions (NSW) when a witness requires independent advice in relation to their rights under s18 or s128 of the *Evidence Act*.

In the spirit of facilitating access to justice, the Duty Barristers provide this advice on a pro bono basis. In situations where the Duty Barrister is busy attending to the court list, we attempt to arrange for another barrister to provide this advice by telephone from their Chambers.

This year we received approximately 20 requests for assistance from the ODPP directly to our office, and we understand that several others have been facilitated directly through the Duty Barristers Office.

We are working towards formalising our existing relationship with the ODPP in order to respond to the complex issues that sometimes arise in trials involving multiple witnesses, or require a barrister to be available to attend a hearing that spans a number of days.

Interaction with other legal assistance providers

LARS works closely with the Law Society Pro Bono Scheme and regularly accepts referrals from the Law Society for matters that require involvement of a barrister.

This year the Managing Solicitor spoke at the CLC NSW quarterly conference to promote the Scheme to solicitors working in Community Legal Centres. Arising from that presentation, we have had further discussions and received referrals from Warringa Baiya Aboriginal Women's Legal Centre, Kingsford Legal Centre, Redfern Legal Centre and Shoalcoast Legal Centre. We have continued to work with and receive referrals from Salvos Legal and have formed a relationship with new provider Everyday Justice, which was launched in January 2021.

We further met with solicitors from the Civil Law Division of Legal Aid NSW and agreed to receive warm referrals from the Disaster Response Legal Service, the Mental Health Advocacy Service, and the

NDIS Appeals Legal Service. In accordance with our Guidelines, we only accept referrals from Legal Aid in situations where the client is not eligible for a full grant of aid.

The Bar Association is a member of the NSW Legal Assistance Forum (NLAF). The Deputy Executive Director attends Board meetings with the Managing Solicitor attending 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, attends on behalf of the Executive Director at Law Access board meetings and at meetings of the Trustees of the Pro Bono Disbursement Trust Fund.

Conclusion

We anticipate that we will continue to see increased requests for assistance in the coming years, as existing funding for Legal Aid and Community Legal Centres remains unable to meet legal need in the community. In this context, we will continue to support and promote the Bar's pro bono activities and we view pro bono work as being one of the finest traditions of the NSW Bar. It is clear that more resources will be required to administer our work and respond to demand. We are considering options and available technologies that will support us to modernise the delivery of our Schemes and reduce the amount of time spent on administration. We also wish to diversify our funding sources so we might increase our staff from the existing team of two.

Finally, we will continue to advocate through our involvement in NLAF and other forums for increased funding and support for the Legal Assistance sector as a whole.



CASE STUDIES

The Goulburn Dogs case

LARS received a referral from the Animal Defenders (ADO) Office in Canberra on behalf of their client, a young man who had been charged with a criminal offence following the escape of a fostered rescue dog during a bush fire in 2019. The ADO, who do not practice in criminal law, had been attempting to resolve the matter for many months without success. They contacted LARS requesting assistance with representation at the hearing in Goulburn Local Court.

Barristers Anthony Strik and Jeremy Holt accepted the referral and immediately set about negotiating with the police prosecutors. Fortunately, they succeeded in having the charges withdrawn at the 13th hour on the afternoon before the hearing was due to commence. When it was discovered that the big trip to the Big Merino would not be going ahead, we received this email from Mr Strik;

"After a bit of backward and forwards... all charges dropped. Client over the moon. Solicitor over the moon."

Shortly after, the ADO's Managing Solicitor sent LARS the following message;

"I wish to express my profound thanks to the New South Wales Bar Association and to the barristers for the assistance provided in relation to this matter. The client was able to achieve an outcome we had been trying to achieve for months without success. The client is extremely relieved at the outcome (criminal charges withdrawn and matter settled in client's favour out of court). We are very sure that we could not have achieved this outcome without the involvement [of Counsel]."

The Muswellbrook retirement village case

This urgent referral came from the Hon Justice Ward, Chief Judge in Equity on behalf of unrepresented defendants in proceedings related to the sale of the insolvent *Mount Providence* retirement village, which had gone into receivership. The defendants, who had been residents of the facility, risked losing all of their savings that were deposited as their accommodation fee to the mortgagees of the property.

Barrister Laina Chan accepted the court's referral and argued at the expedited hearing that the relevant sections of the *Retirement Villages Act 1999* ought to be construed so as to prioritise the residents of the Retirement Village over the mortgagees in accordance with the beneficial purpose and intention of the Act. This argument succeeded with judgment in favour of the defendants, who had their funds returned to them upon the sale of the Village.

The reported judgment is worth reading in full: *Goyal v West* [2021] NSWSC 526.

Justice Ward kindly extended her specific thanks to LARS at [14];

I here record my gratitude to the Pro Bono Panel and Counsel for accepting at such short notice the pro bono referral to represent the interests of the fourth and fifth defendants, each of whom suffers from dementia and had no funds to obtain legal representation.

The Defendant's daughter, whom the court had appointed as litigation tutor in these proceedings equally shared kind words of gratitude at the conclusion of the proceedings:

"We are so very appreciative of everything you have done for my parents, I don't think they really comprehended what has happened but do know that I can't thank you enough. If there is anything we can do for you just let us know."

Laina has also written a comprehensive case note, which was published in the June 2021 issue of the *Law Society Journal*.

Guha v Guha

Sometimes the success of LARS' involvement cannot be measured in terms of wins and losses. Many of our matters are about minimising the detriment that would otherwise come from prolonged litigation, especially where litigants are self-represented.

This was certainly the case in *Guha v Guha* (No 2) [2021] NSWSC 757, in which Justice Parker had referred the defendant to LARS for pro bono assistance. Jill Gatland accepted the court's referral. The plaintiffs in the proceedings had representation that was funded through Legal Aid.

These subject of the litigation arose following the death of the father and a subsequent family dispute that arose over the title and occupancy of the family home in Marayong. There was a string of alleged frauds, misrepresentations and Guardianship proceedings that had occurred along the way. By the time the defendant was referred to LARS, she had been estranged from her mother and her two sisters for a number of years.

Ms Gatland worked to assist the defendant and the court to bring these extremely messy proceedings to a final conclusion. Discussing the outcome and the benefit of the referral Scheme she provided the following comments;

"Sometimes the role of counsel is a mop up job. We protect the client from the excesses of the system. We are also here to ensure the system itself runs efficiently and fairly. In relation to access to justice, the client was a person with complex needs, low level education and complex mental health facing serious fraud allegations. She was being pursued by funded plaintiff."

"We were also able to conserve court resources by withdrawing and proceeding by making our submissions on the papers, this represented a huge time saving as the case had listed for a full three-day hearing."

Our client was ultimately protected from an overwhelming costs order, which was briefly commented upon in the judgment at [60]

"Since they [the defendant's lawyers] were retained, [the defendant's] defence and cross-claim have been, quite properly, withdrawn. The submissions presented on her behalf have been entirely reasonable. So far as I can there has been nothing which would justify the award of costs on an indemnity basis."

Supporting migrant workers

We received a request for assistance from the Transport Workers Union (TWU) for one of their members, Tim whose licence had been suspended following accumulation of demerit points.

Ordinarily, we would not consider referring this type of matter to a barrister, however the TWU advised us that Tim had been assisting the Union in its ongoing advocacy work in improving the working conditions of food delivery drivers working for companies including UberEats, Deliveroo and Hungry Panda. Tim was also a migrant worker who relied on delivery work for his income, the licence suspension would have meant that he would have been without work for at least three months.

By the time the matter had come to LARS, Tim and the TWU had sought advice from Community Legal Centres and from solicitors providing private pro bono assistance. The advice had been helpful, but what Tim really needed was representation in court for the suspension appeal, especially as Tim spoke very little English.

Barrister George Thomas accepted the referral and appeared for Tim in his appeal, which the court allowed. Tim was able to keep his licence (with conditions) and his livelihood. Following Mr Thomas' submissions, the court further commended Tim for his ongoing efforts to better the conditions for other delivery drivers.

We wish to share the following excerpts of an email exchange that occurred between the TWU and Mr Thomas upon the successful outcome of Tim's case;

TWU: *"This is a great outcome. Thank you for your time with this. No understating just how important this will be for some of the work which Tim* will continue to do."*

Mr Thomas: *"No mate. I just turned up and looked good. Your team and [LARS] did the work. Good on you for helping the downtrodden, dispossessed and voiceless."*

**A pseudonym has been used for the client.*

CASE STUDIES

The identity theft case

We were approached by a solicitor from Carroll & O'Dea Lawyers for assistance with this unusual case.

Their client was a very young adult who had been subject to identity theft. The client had been paid in cash to provide strangers with copies of his license and Medicare card. Unsurprisingly, those documents were subsequently used in the commission of a fraud, though the young man could not have guessed its complexity.

The identity documents were used to set up false companies, listing the young person as the director and subsequently committing offences that included tax evasion.

The Australian Taxation Office set about winding up these companies, and seeking judgments against the directors, this resulted in a default judgment being entered against the young man, requiring he repay tens of thousands of dollars to the ATO.

Barrister Andrew Martin accepted the referral and succeeded in having the default judgment set aside. The ATO was further persuaded to discontinue proceedings against the young person, in recognition of the unlikelihood of him having been involved in the commission of the frauds.

This case highlighted the value of the Scheme in pairing a vulnerable client with an experienced barrister who was able to achieve the best possible outcome. The solicitor from Carroll & O'Dea commented that it was the most enjoyable matter he had worked on for some time because they helping a client who really needed the support and representation.

Appealing Mandatory Visa Cancellations

We have assisted in many cases of refused or cancelled visas since the 2014 amendments that inserted s501 into the *Migration Act 1958*. This provision requires that the visa of a non-citizen be cancelled in situations where a visa holder fails to meet a 'character test' and is most commonly triggered in situations where a non-citizen is sentenced to a term of imprisonment.

Mr Brown was born in Scotland and came to Australia with his parents in August 1994. He had lived in the community without incident for more than 25 years. In 2018 he was notified that his visa was cancelled on character grounds, following a period in which he was incarcerated for a series of driving offences.

Barrister Mr David Burwood accepted the referral and assisted in writing representations to the Department in the hope that Mr Brown would not be deported to Scotland, where he had no family, and would have left behind his mother, father, siblings and five teenage children in Australia. Mr Burwood's representations discussed the close relationship that Mr Brown had with his family, including the caring responsibilities that he had for his father and the importance of maintaining the relationship with his children and further provided evidence that Mr Brown was rehabilitated and no longer a threat to the community.

In what was a fantastic outcome for the client, Mr Brown's visa was reinstated. Mr Burwood wrote us the following;

"Today I learned from that [Mr Brown's] visa has been re-instated and that he is now a free man. His mother is overjoyed and the family relieved. The bagpipes have been returned to the bottom of his wardrobe apparently. Very nice news indeed. It is rare in this profession to be described as 'wonderful' but it has happened after 20 years at the Bar!"

The Western Sydney Bunnies case

We receive a lot of requests to assist in matters involving pets and livestock, evidently as there is no specialist service that attends to these matters. This year we have assisted in referrals that have involved dogs, alpacas, cattle studs and chickens.

We were approached by Everyday Justice to assist their client with her appeal against a decision made by the local council. The client had been ordered to remove and reduce the number of pets living on her property, the council alleged that the animals were impacting on the amenity and wellbeing of neighbouring properties. This was despite the fact that no neighbours had complained about the pets and by all accounts the area was kept clean and the animals were well cared for.

The barrister who accepted the referral worked with Everyday Justice to represent the client in a conciliation conference that included a site visit to the property.

Through conciliation, they achieved an outcome that allowed the client to keep all of her pets but two birds, which was a significant outcome as the order made by council would have required the removal of far more pets.

Ip v Chiang [2021] NSWSC 822 (6 July 2021) **...‘I ain’t saying she’s a gold digger’ – but.....**

The below case note was written by barrister Kirralee Young, who accepted the brief in this matter when it was referred from Kingsford Legal Centre in 2018. We will report on the final outcome of this matter when it is determined later this year.

A significantly younger wife who appears from nowhere; a high stakes gamble; an elderly, uneducated and illiterate man with dementia- a quick marriage and even quicker family law settlement which results in the loss of his home and only asset of 40 years and his convenient ‘disposal’ to a nursing home a week later with instructions that he had no family so visitors were not allowed -is not on.

In short, the marriage, the divorce, the transfer of property, the family law settlement (which was orchestrated with the assistance of lawyers) were set aside today after a three year battle by the deceased’s immediate family. The result cannot be doubted and after a 13 day hearing by the family before the Equity Division of the Supreme Court, they were successful. This case also demonstrates the huge negative impact which problem gambling can cause in the community and the ugly side of desperation.

However, the difficulties and the significant costs and risks to litigate these types of matters for ordinary people does raise the question of how predatory marriages in Australia are treated and whether legislative reform is required?

Ms Kirralee Young was briefed from start to finish of the matter; the second part which is set for hearing in October 2021.

Fighting age discrimination

We received a referral from NCAT to assist a man aged 61 with his complaint of age discrimination against a potential employer. The gentleman had a long history of working in the construction industry and made telephone enquiries in response to an advertised position.

During that discussion, upon learning the client’s age, the employer had laughed down the line and stated that the ‘young ones’ run away from the workload and that he ‘would have a heart attack’. It was further stated that and the employer ‘didn’t want that on [his] site.’

Determined to take a stand against age discrimination, the applicant complained to the Anti-Discrimination Board, who unable to conciliate the complaint, referred it to the Tribunal for determination.

The referral was accepted by barrister Larissa Andelman.

The dispute proceeded to a contested hearing where there was conflicting evidence presented on the content of the telephone conversation. Ms Andelman’s efforts during cross-examination of the respondent were ensured that the information extracted was relevant, succinct and assisted the Tribunal to identify and respond to the real issues in the proceedings.

After accepting the complainant’s recollection of the telephone conversation, the Tribunal was satisfied that age was one of the reasons why he was subject to less favourable treatment in consideration of his employment. Senior Member Ludlow commented at [35] in her judgment;

[The employer] conveyed to [the applicant] that he was too old effectively to be considered for the job. This was less favourable treatment as it meant that he would not be considered if he applied, and discouraged him from applying.

Exemplary damages were ordered, which is exceptionally rare in discrimination matters.

The decision is reported at *Galstaun v Adept Underpinner Pty Ltd* [2021] NSWCATAD 75.

STATISTICS

JURISDICTION AND TYPE

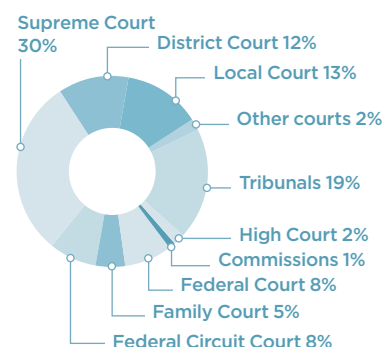
LARS received a total of 292 complete applications² for assistance during the reporting period. The below tables provide a summary of the applications which had an identifiable cause of action or jurisdiction. Of those applications, most are in the jurisdiction of the Supreme Court, with 73 matters and a further 14 in the Courts of Appeal and Court of Criminal Appeal. This is followed by 48 in the jurisdiction of NCAT and 45 in the combined Federal Court and Federal Circuit Courts.

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
High Court						
Immigration	0	0	0	0	0	1
Special leave application	2	3	11	5	5	4
Original jurisdiction	0	0	1	0	2	0
Total	2	3	12	5	7	5

Federal Court						
Full bench appeals	0	2	3	1	3	0
Immigration	2	5	10	4	6	7
Administrative	0	0	1	3	1	9
Civil	0	0	0	0	0	1
Discrimination	0	0	0	0	1	1
Family law – property settlement	0	0	0	0	0	1
Industrial relations	0	0	0	0	0	1
Intellectual property	0	0	0	1	0	0
Trade practices	0	0	0	0	0	0
Native title	2	1	1	0	0	0
Bankruptcy	2	2	0	2	1	2
General	0	1	1	0	0	1
Total	6	11	16	11	12	23

Family Court						
Full bench appeals	0	0	0	0	0	0
Access	3	6	4	6	8	3
Care proceedings	0	0	0	0	0	1
Child support	0	2	2	1	0	0
Family provision	0	0	0	0	0	1
Property settlement	1	5	0	9	4	7
Residency	2	5	1	9	6	4
Spousal maintenance	0	0	1	1	0	0
Total	6	18	8	26	18	16

Federal Circuit Court						
Administrative	0	0	0	0	0	2
Discrimination	1	0	0	1	0	1
Family law – access	4	2	3	4	1	3
Family law – child support	2	0	0	0	0	0
Family law – residency	1	1	1	5	3	1
Family law – property settlement	2	3	3	3	5	5
Family law – spousal maintenance	1	0	0	0	0	0
Intellectual property	0	1	0	0	0	0
Industrial relations	0	0	2	5	1	1
Immigration	11	9	12	9	10	7
Bankruptcy	2	3	1	2	1	2
General	1	1	1	0	1	0
Total	25	20	23	29	22	22



² Incomplete applications and enquiries from the public are not counted in this dataset. LARS responds to approximately 300 of these types of enquiries annually.

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Supreme Court						
Court of Appeal	13	12	12	13	8	7
Court of Criminal Appeal	9	5	4	3	3	7
Administrative	7	7	29	0	3	1
Adoptions list	0	3	0	2	1	0
Civil	0	0	0	0	0	1
Criminal	4	7	7	12	8	7
Corporations List	0	0	11	0	0	1
Commercial	1	2	0	0	3	0
Common Law	38	27	27	27	23	25
Defamation	4	7	1	1	1	1
Equity	28	28	8	22	24	34
Family Provisions	8	8	0	3	3	2
Professional Negligence	4	1	1	0	1	1
Total	116	107	100	83	78	87
District Court						
Criminal	12	28	38	40	23	24
Civil	10	18	17	15	8	10
Care proceedings	6	0	0	0	2	0
Defamation	2	1	0	0	1	0
Discrimination	0	0	0	0	0	1
Professional negligence	0	0	0	0	0	0
Total	30	47	55	55	34	35
Local Court						
Administrative	0	0	0	0	0	1
Criminal	18	10	12	21	6	30
Civil	7	7	9	10	11	7
Coronial inquest	0	0	0	1	0	0
Family law - residency and access	1	0	0	0	0	0
Total	26	17	21	32	17	38
Other courts						
Land and Environment Court	4	5	4	4	4	4
Children's Court	1	1	2	1	0	2
Coroner's Court	3	1	1	0	1	1
Total	8	7	7	5	5	7
Tribunals						
Administrative Appeals Tribunal	1	2	-	4	6	7
NCAT	13	25	26	38	35	48
Workers' Compensation Commission	1	-	-	0	1	0
Total	15	27	26	42	42	55
Commissions						
Fair Work / NSW Fair Work Commission	9	4	4	3	4	3

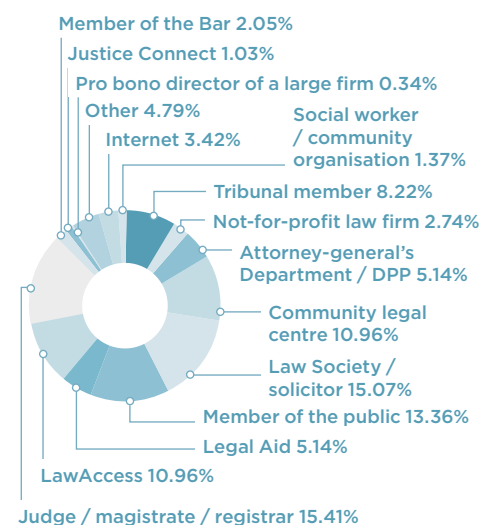
STATISTICS

REFERRAL SOURCE

Judges and Tribunal members continue to make up the majority of formal referrals to LARS. This is followed closely by referrals made by solicitors from The Law Society, law Access, Community Legal Centres and Legal Aid NSW.

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Community legal centre	20	25	25	23	25	32
Law Society / solicitor	35	51	37	46	27	44
Member of the public	66	47	51	51	51	39
Legal Aid	20	22	27	19	14	15
LawAccess	18	17	15	23	18	32
Judge / magistrate / registrar	62	61	61	73	60	45
Tribunal member	-	-	-	-	-	24
Member of the Bar	13	16	22	11	15	6
Member of parliament	2	0	2	1	0	0
Justice Connect	3	2	0	1	2	3
Pro bono director of a large firm	3	2	1	2	1	1
Social worker / community organisation	-	6	4	9	0	4
Not-for-profit law firm^	-	-	-	-	-	8
DPP	2	22	35	32	26	15
Internet	-	-	-	-	-	10
Other	-	-	-	-	-	14
Total	244	271	280	291	239	292

^ E.g. Salvos Legal, Everyday Justice

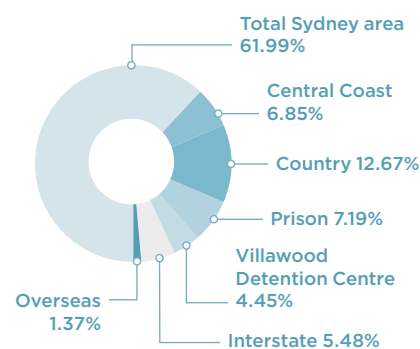


CLIENT LOCATION

We are pleased to note that assistance provided through the Scheme is evenly distributed across metropolitan and regional locations. We continue to assist vulnerable applicants held in prison and in immigration detention facilities.

Sydney Metropolitan Area

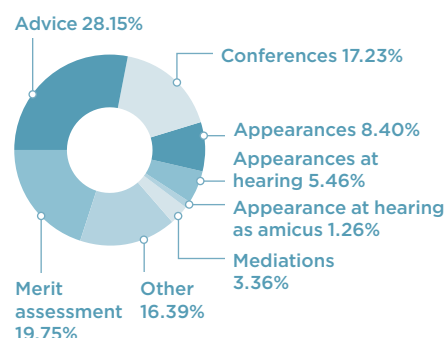
West	63	89	64	80	72	92
North	30	22	29	32	28	35
South	40	40	44	40	19	22
East	21	12	25	17	11	15
Inner City	12	7	29	18	37	17
Central Coast	9	17	23	24	9	20
Country	32	31	15	35	16	37
Prison	14	28	10	14	18	21
Villawood Detention Centre	2	4	17	16	16	13
Interstate	15	10	16	13	12	16
Overseas	4	1	1	2	1	4
Total	242	261	273	291	239	292



REFERRED MATTERS

Of the 292 applications received, 98 matters were ultimately referred to a barrister for further advice and/or representation. Barristers usually provide more than one type of assistance, e.g. advice and appearances, as reflected in the below totals.

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Merit assessment – no fee	111	142	83	77	56	47
Advice (over and above initial merit assessment)	67	113	107	106	82	67
Conferences	31	74	55	45	31	41
Appearances	22	40	30	30	22	20
Appearances at hearing	2	24	27	19	11	13
Appearance at hearing as amicus	0	0	0	21	3	3
Mediations	1	13	10	10	9	8
Other (inc. 2nd opinion and prep.submission)	26	37	38	29	33	39
Total	260	443	350	337	247	238



194

out of the 292 applications received, were assessed as unsuitable for referral. Five were under assessment at the time of reporting.



There is often more than one reason for refusing an application, for example an application might be submitted too close to a hearing date and the matter is outside of our referral Guidelines.

INELIGIBLE APPLICATIONS

Of the 292 applications received, 199 were assessed as unsuitable for referral. All applicants that are not referred to a barrister receive assistance from the Managing Solicitor, usually in the form of a referral, advice and information.

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Outside guidelines	70	54	58	77	62	86
No further contact from client	36	36	61	64	50	40
No longer requires LARS assistance	4	6	7	6	4	11
Subject to Federal Court RRT LAS	0	0	0	0	0	0
Subject to Federal Court Pro Bono Scheme	0	0	7	0	0	2
Subject to Supreme Court LAS	0	0	2	0	0	0
Referred to community legal centre	0	2	1	0	0	8
Briefed barrister privately	4	6	0	1	4	2
Briefed solicitor privately	4	6	2	3	5	1
Matter discontinued	1	0	0	0	0	0
Insufficient resources	1	0	1	1	1	12
Unavailability of barristers	0	0	0	0	0	3
Referred to Find a Barrister	0	0	0	0	0	3
Referred to solicitor	0	0	0	0	0	2
Refused on a discretionary basis	0	0	0	0	0	11
Too late notification	6	8	7	13	6	7
Matter dismissed	1	0	0	0	0	1
Matter settled	0	0	0	2	0	4
Conflict of interest	1	1	0	1	0	1
Total	128	119	146	168	132	194

BASIS ON WHICH REFUSED LEGAL AID

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Merit	23	21	19	21	19	26
Financial	35	46	36	32	29	13
Other	184	194	218	238	191	39
Total	242	261	273	291	239	78

* E.g. the matter type falls outside of Legal Aid NSW eligibility guidelines

Assisting in matters of professional discipline

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.

The department also participates on behalf of the Bar Council in consultations regarding amendments to the *Legal Profession Uniform Law*. 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 in NSW are made to the NSW Legal Services Commissioner. The Commissioner refers most disciplinary matters concerning barristers to the Bar Council for assessment, investigation and determination.

All such matters are assessed and investigated by one of the four professional conduct committees established by the Council. The committees report to the Bar Council, which makes a determination in respect of each complaint.

In 2020-2021 the majority of complaints were dealt with under the *Legal Professional Uniform Law (NSW)*, although there are still a very small number must be considered under the *Legal Profession Act 2004*.

In the course of 2020-2021 the Bar Council investigated 160 complaints – 58 complaints made during the year and 102 complaints made in previous years but still ongoing.

The Bar Council made a determination in 69 matters during the year.

- 47 were dismissed under the *Legal Profession Act 2004* or closed under the *Legal Profession Uniform Law (NSW)*;
- 9 resulted in the barrister being cautioned or reprimanded;
- 3 were referred to the New South Wales Civil and Administrative Tribunal;

- 5 complaints were withdrawn, and
- 5 were referred to the Office of the Legal Services Commissioner (due to conflict of interest or jurisdictional issues).

In 2020-2021 there were no reviews by the Legal Services Commissioner of Bar Council decisions made under the Legal Profession Uniform Law (NSW).

An analysis of the 58 complaints received in 2020-2021 shows:

- 21 were made by the barrister's client or former client and 14 by the opposing party or opposing solicitor, 2 by the instructing solicitor and 7 by the Bar Council itself. The balance were made by witnesses, a government or statutory body or other persons unrelated to the original matter.
- Most complaints (31) were to do with ethical matters. 14 arose from issues about competence and diligence. Other significant issues were costs (6), communication (4) and personal conduct (3).
- In this year there were no complaints arising from matters in which the barrister was directly retained by the client.

The Professional Conduct Department continues to work closely with the Professional Development Department to develop training on the issues that arise most frequently in complaint matters and promote an educative approach.

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, 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 2020-2021 three 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 matters remain under investigation as at 30 June 2020.

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 lawyers of the Professional Conduct department serve as secretaries of the committees. The committees held their meetings by AVL technology during the reporting year.

The committees conduct the preliminary assessment and, where necessary, the 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.

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 these committees for their significant and ongoing contribution.

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

Ethical Guidance and information

The Bar Association Ethical Guidance Scheme enables members of the Association to seek ethical guidance from the senior counsel serving on the Association's professional conduct committees. Thirty senior counsel were available to assist members in 2020-2021. Most calls are initially directed to (and 'triaged' by) the Association's Professional Conduct department staff.

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, show cause events and practice issues. In 2020-2021 the department received over 600 calls seeking either ethical guidance or information.

In addition, the staff dealt with over 80 queries relating specifically to fees in advance and trust money accounts. As well as calls, the department also receives email enquiries on a daily basis.

STATISTICS

Number & type of complaints referred to the Bar Council during the year

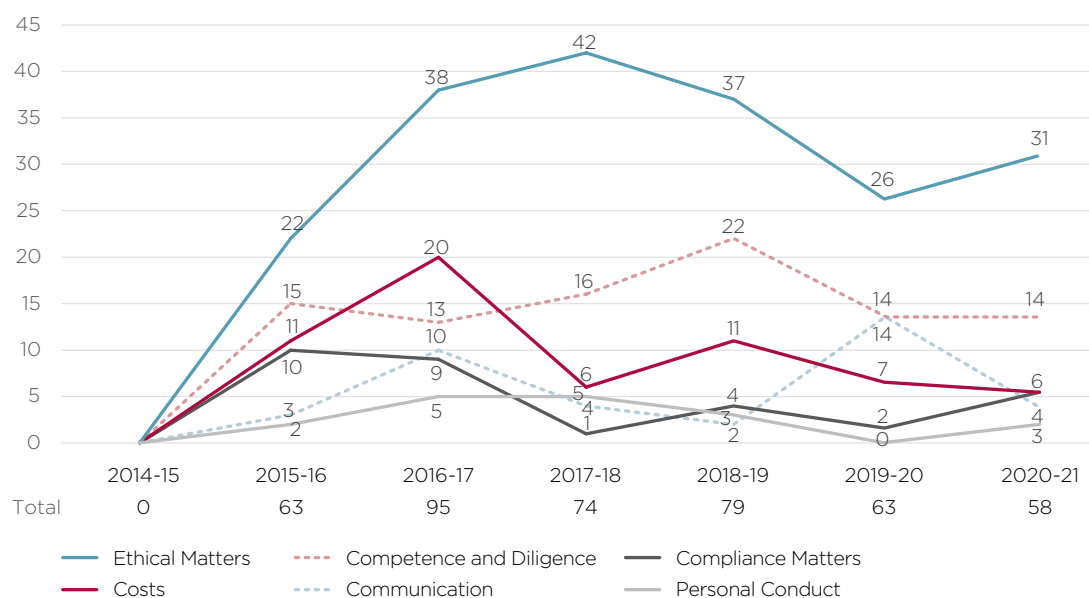
Complaint type	Number
Communication	4
Competence and diligence	14
Compliance matters	6
Costs	7
Ethical matters	31
Personal conduct	3
Total number of complaints	58

Figures comprise complaints referred by the LSC to the Bar Council for assessment, investigation and determination (including complaints made by the Bar Council).

Source of complaints referred to the Bar Council during the year

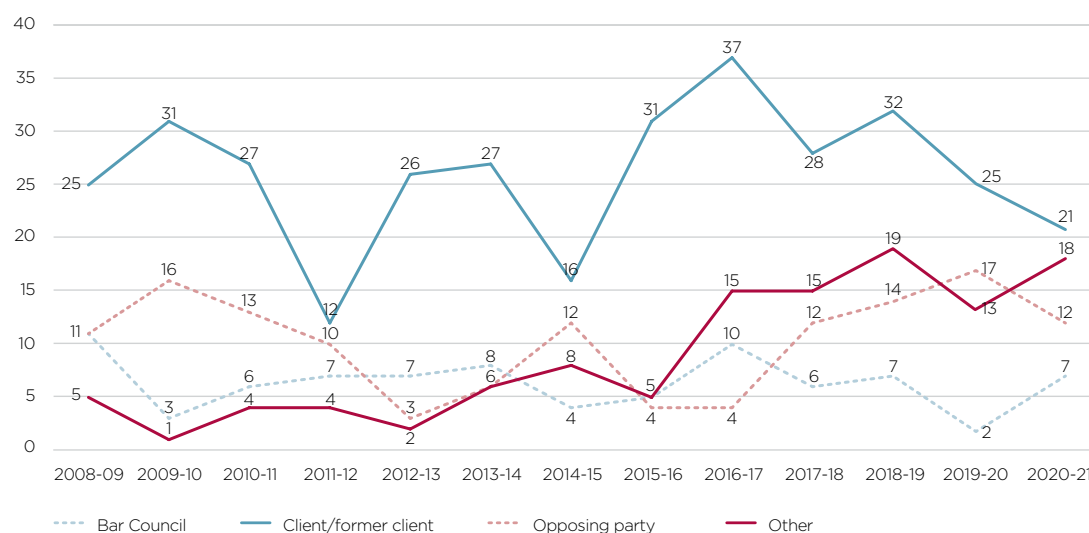
Source of complaints	Number
Bar Council	7
Client / former client	21
Government department / statutory body	1
Instructing solicitor	2
Opposing party	12
Opposing solicitor	2
Witness	1
Other	12
Total number of complaints	58

Type of complaint referred to the Bar Council



STATISTICS

Selection of complaints by source 2008-09 to 2020-21



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	12
Competence and diligence	13	27
Compliance matters	1	5
Costs	6	10
Ethical matters	31	46
Personal conduct	3	2
Sub-totals	58	102
Total number of complaints assessed/investigated		160

Figures include complaints remaining under investigation as at 30/06/2021, all complaints in respect of which the Bar Council made a decision & complaints that were withdrawn or referred to the during the year.

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	2	14
Compliance matters	0	0
Costs	0	3
Ethical matters	2	22
Personal conduct	0	0
Sub-totals	4	43
Total Number of complaints dismissed / closed		47

* In addition, 8 complaints were returned to the Office of the Legal Services Commissioner due to jurisdictional issues or conflict of interest.

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
Competence and diligence	0	1
Compliance	1	3
Costs	0	1
Ethical matters	0	3
Personal conduct	0	0
Sub-totals	1	8
Total Number of reprimands or cautions		9

Number & type of complaints withdrawn during the year

Complaint type	Complaints made during the year	Complaints made in previous years
Costs	0	1
Ethical matters	2	2
Sub-totals	2	3
Total Number of complaints withdrawn		5

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
Ethical matters	0	2
Ethical matters	0	1
Sub-totals	0	3
Total number of Complaints referred to Tribunal		3

Decisions made by NCAT during the reporting year are available on the Bar Association website at www.nswbar.asn.au

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
Ethical matters	1
Total number of complaints	1

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
Up to six months	29	2021
Between seven and twelve months	17	2020
Between thirteen and eighteen months	12	2020
Between nineteen and and twenty four months	11	2019
Up to three years	7	2019
Up to three years	4	2019
Up to four years	2	2018
Up to four years	1	2016
Total	83	

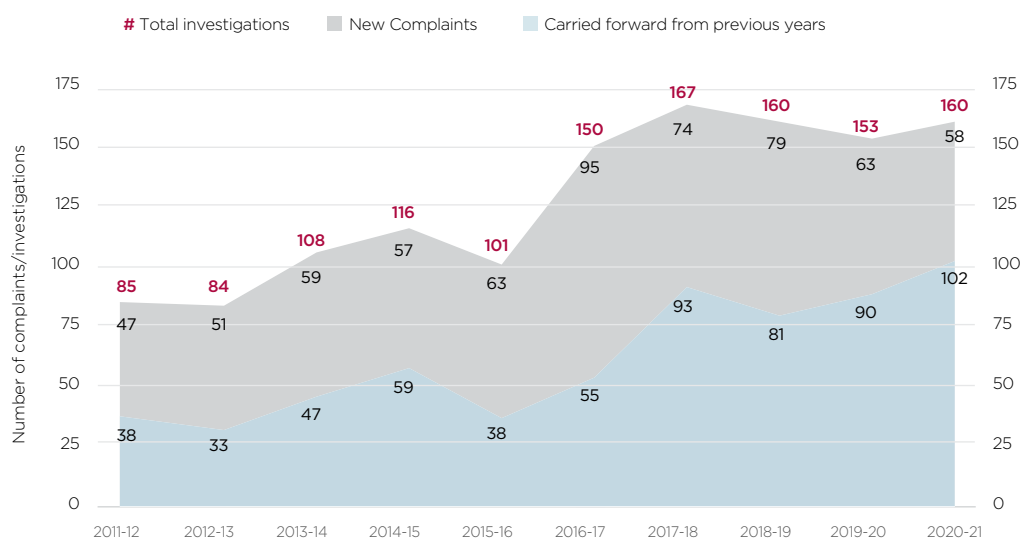
Note: These complaints remain under investigation

STATISTICS

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	13
Between seven and twelve months	16
Between thirteen and eighteen months	18
Between nineteen and twenty four months	11
Up to three years	14
Up to four years	5
Total	77

Complaints



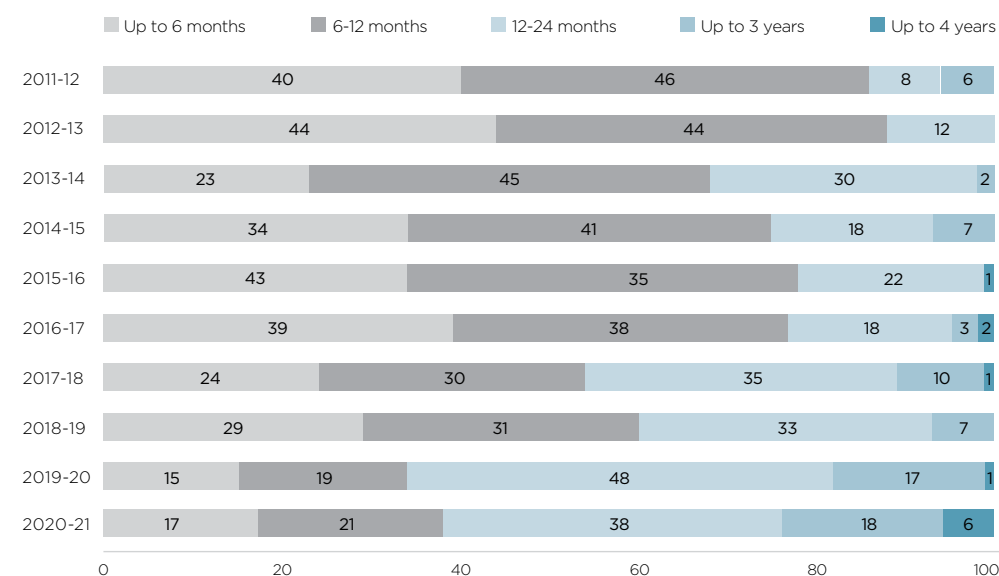
Complaint statistics - 10 year comparison

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Complaints										
New complaints	47	51	59	57	63	95	74	79	63	58
Carried forward from previous years	38	33	47	59	38	55	93	81	90	102
Total investigations	85	84	106	116	101	150	167	160	153	160
Matters finalised										
Dismiss /close	35	26	24	50	31	37	53	49	28	47
Caution	8	3	3	3	4	9	8	5	7	5
Reprimand	4	0	4	5	4	2	3	6	2	4
Refer to ADT	0	3	11*	12**	5	6	4	2	1	3
Withdrawn	5	4	3	6	2	3	7	4	6	5
Other	0	1	2	2	0	4	0	5	8	5
Total finalised	52	37	47	78	46	61	75	71	52	69
as a % of investigations	61%	44%	44%	67%	46%	40%	45%	44%	34%	43%

*6 of the complaints referred to the Tribunal concerned one barrister; 2 complaints related to another barrister

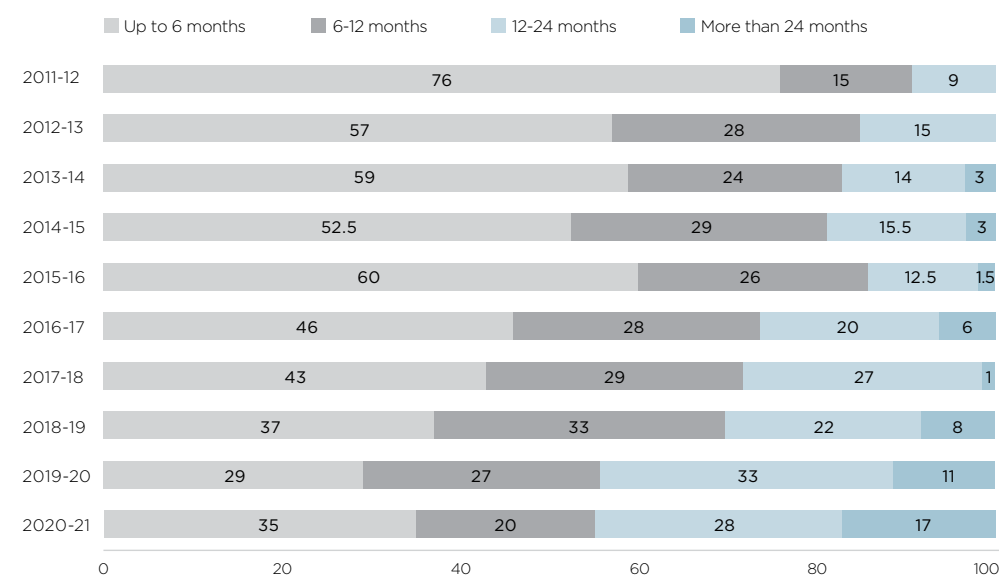
** 9 of these matters arose out of complaints which had been made in previous years.

Time interval between receipt of complaint and finalisation



	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
up to 6 months	40%	44%	23%	34%	43%	39%	24%	29%	15%	17%
6 – 12 months	46%	44%	45%	41%	35%	38%	30%	31%	19%	21%
12 – 24 months	8%	12%	30%	18%	22%	18%	35%	33%	48%	38%
up to 3 years	6%	0	2%	7%	0	3%	10%	7%	17%	18%
up to 4 years	0	0	0	0	0	2%	1%	0	1%	6%

Age of investigations carried forward



	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Number carried forward to following year	33	47	59	38	55	89	83	90	101	83
Up to 6 months	76%	57%	59%	52.5%	60%	46%	43%	37%	29%	35%
6 – 12 months	15%	28%	24%	29%	26%	28%	29%	33%	27%	20%
12 – 24 months	9%	15%	14%	15.5%	12.5%	20%	27%	22%	33%	28%
More than 24 months	0	0	3%	3%	1.5%	6%	1%	8%	11%	17%



A close-up, black and white photograph of a black abacus. The abacus has a grid of white lines forming diamond shapes. Various white numbers and symbols are visible, including '8', '4', '1', 'C', and a fraction '1/2'.

Financial Statements

Financial Report for The New South Wales Bar Association

ABN 18 526 414 014

Contents

Directors' Report	101
Auditor's Independence Declaration	105
Statement of Surplus and Other Comprehensive Income	106
Statement of Financial Position	107
Statement of Changes in Accumulated Funds	108
Statement of Cash Flows	109
Notes to the Financial Statements	110
Directors' Declaration	122
Independent Auditor's Report	123

These financial statements cover The New South Wales Bar Association as an individual entity (the "Association"). 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 10 September 2021. The directors have the power to amend and reissue the financial statements.

Directors' Report

For the year ended 30 June 2021

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 2021 and the auditors' report thereon.

Directors

The following persons were directors of the Association i.e. members of the Bar Council, during the financial year. All Directors are practising barristers.

Name	From	To
Tim Game SC	1/7/2020	6/11/2020
Michael McHugh SC	1/7/2020	
Gabrielle Bashir SC	1/7/2020	
Anna Mitchelmore SC	1/7/2020	
Yaseen Shariff	1/7/2020	6/11/2020
Kylie Nomchong SC	1/7/2020	
Ruth Higgins SC	1/7/2020	
Kate Eastman SC	1/7/2020	
Dominique Hogan-Doran SC	1/7/2020	6/11/2020
Ingmar Taylor SC	1/7/2020	6/11/2020
Catherine Gleeson	1/7/2020	
Callan O'Neill	1/7/2020	
James Mack	1/7/2020	6/11/2020
Sera Mirzabegian	6/11/2020	
Vanja Bulut	1/7/2020	6/11/2020
David Rayment	1/7/2020	
Georgina Westgarth	1/7/2020	
Sonia Tame	1/7/2020	6/11/2020
Sean Hughes	1/7/2020	
Sophie Callan SC	1/7/2020	
David Patch	1/7/2020	
Elizabeth Welsh	1/7/2020	6/11/2020
Paresh Khandhar SC	6/11/2020	
Kate Lindeman	6/11/2020	
Rose Khalilizadeh	6/11/2020	
Dominic Toomey SC	6/11/2020	
Nicholas Broadbent	6/11/2020	
Patrick Knowles	6/11/2020	
Clare Palmer	6/11/2020	

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 amongst 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 and finalised a 2021-2025 Strategic Plan which charts the Association's vision, mission, values and key initiatives over a five year period.

Review and Results of Operations

The Association continued to engage in its principal activities during the financial year. The comprehensive income of the Association for the year ended 30 June 2021 was \$1,111,720 (2020: loss of \$455,889).

Association Particulars

The New South Wales Bar Association, incorporated and domiciled in Australia, is a not-for-profit incorporated association. The address of the registered office and principal place of business is:

174 Phillip Street, Sydney NSW 2000

Meetings of Directors

From 1 July 2020 to 30 June 2021 there were 19 Meetings held.

Name	Meetings Attended	Meetings Held	Meetings Held by circulation
Tim Game SC	7	8	1
Michael McHugh SC	18	19	1
Gabrielle Bashir SC	18	19	1
Anna Mitchelmore SC	16	19	1
Yaseen Shariff	6	8	1
Kylie Nomchong SC	13	19	1
Kate Eastman SC	12	19	1
Ruth Higgins SC	12	19	1
Ingmar Taylor SC	7	8	1
Dominique Hogan-Doran SC	2	9	1
Catherine Gleeson	12	19	1
David Rayment	14	19	1
Georgina Westgarth	17	19	1
Sonia Tame	7	8	1
Sean Hughes	16	19	1
Sophie Callan	18	19	1
David Patch	17	19	1
Elizabeth Welsh	6	8	1
Callan O'Neill	15	19	1
James Mack	5	8	1
Sera Mirzabegian	10	11	0
Vanja Bulut	5	8	1
Dominic Toomey	8	11	0
Paresh Khandhar	10	11	0
Patrick Knowles	10	11	0
Nicholas Broadbent	11	11	0
Rose Khalilizadeh	9	11	0
Claire Palmer	8	11	0
Kate Lindeman	10	11	0

Meetings of the Finance, Investment and Audit Committee

From 1 July 2020 to 30 June 2021 there were 3 meetings.

Name	Meetings Attended	Meetings Entitled to Attend
Tim Game SC	1	1
Michael McHugh SC	3	3
David Rayment	2	3
Kylie Nomchong SC	1	1
Anna Mitchelmore SC, Chair	1	1
Ruth Higgins SC, Chair	2	2
Sera Mirzabegian	2	2
Catherine Gleeson	2	2

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 3,412 members at balance date, and the total that members are liable to contribute is \$13,648.

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 105.

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



M. McHugh SC
President



R. Higgins SC
Treasurer

Sydney, NSW
10 September 2021



RSM Australia Partners

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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 2021, 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.

RSM AUSTRALIA PARTNERS

C J Hume
Partner

Sydney, NSW

Dated: 9 September 2021

THE POWER OF BEING UNDERSTOOD

AUDIT | TAX | CONSULTING

RSM Australia Partners is a member of the RSM network and trades as RSM. RSM is the trading name used by the members of the RSM network. Each member of the RSM network is an independent accounting and consulting firm which practices in its own right. The RSM network is not itself a separate legal entity in any jurisdiction.

RSM Australia Partners ABN 36 965 185 036

Liability limited by a scheme approved under Professional Standards Legislation



Statement of Surplus and Other Comprehensive Income

For the year ended 30 June 2021

	Notes	2021 \$	2020 \$
Revenue	2	9,650,129	9,894,984
Employee benefits expense		(4,396,525)	(4,238,951)
Legal and professional fees		(1,379,107)	(1,856,572)
Subscriptions		(1,033,744)	(992,759)
Communications and information technology expense		(457,286)	(503,539)
Depreciation expense	3	(311,436)	(317,413)
Occupancy expense	3	(191,244)	(269,177)
Advertising and marketing expense		(217,183)	(299,686)
Financial expense	3	(456,804)	(406,286)
Seminar and function expense		(86,823)	(145,951)
Right-of-Use depreciation	3	(445,275)	(405,543)
Other expenses from ordinary activities		<u>(453,960)</u>	<u>(380,792)</u>
Surplus before investment revaluation to market		220,742	78,315
Profit on financial assets at fair value through surplus or deficit		<u>890,981</u>	<u>(534,204)</u>
Profit before income tax expense		1,111,723	(455,889)
Income tax benefit	4(a)	<u>-</u>	<u>-</u>
Net surplus / (loss)		<u>1,111,723</u>	<u>(455,889)</u>
Other comprehensive income for the year, net of tax		<u>-</u>	<u>-</u>
Total comprehensive income / (loss)		<u>1,111,723</u>	<u>(455,889)</u>

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

Statement of Financial Position

For the year ended 30 June 2021

	Notes	2021 \$	2020 \$
ASSETS			
CURRENT ASSETS			
Cash and cash equivalents	15	3,175,249	2,991,610
Receivables		16,717	305,767
Other financial assets	5	9,230,427	9,279,742
Inventories		2,461	4,303
Other assets	6	152,158	257,473
TOTAL CURRENT ASSETS		12,577,012	12,838,895
NON-CURRENT ASSETS			
Other financial assets	5	5,850,475	3,718,595
Deferred Tax Asset		230,489	-
Right-of-use assets	10	2,598,902	2,703,626
Property, plant and equipment	8	862,018	1,024,287
TOTAL NON-CURRENT ASSETS		9,541,884	7,446,508
TOTAL ASSETS		22,118,896	20,285,403
LIABILITIES			
CURRENT LIABILITIES			
Trade and other payables	11	752,840	1,204,318
Employee benefits		605,951	613,389
Lease liabilities	9	528,944	422,777
Contract liabilities	12	7,235,086	6,175,174
TOTAL CURRENT LIABILITIES		9,122,821	8,415,658
NON-CURRENT LIABILITIES			
Employee benefits		51,428	49,639
Deferred Tax Liabilities		230,489	-
Lease liabilities	9	3,227,747	3,472,881
Provisions		411,744	384,278
TOTAL NON-CURRENT LIABILITIES		3,921,408	3,906,798
TOTAL LIABILITIES		13,044,229	12,322,456
NET ASSETS		9,074,667	7,962,947
ACCUMULATED FUNDS			
Accumulated surpluses		9,074,667	7,962,947
TOTAL ACCUMULATED FUNDS		9,074,667	7,962,947

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 2021

	Accumulated Surpluses \$	Total Accumulated Funds \$
Balance at 30 June 2019	9,965,679	9,965,679
Adjustment (AASB 16)	(1,546,843)	(1,546,843)
Balance at 30 June 2019 (Restated)	8,418,836	8,418,836
Loss after income tax expense for the year	(455,889)	(455,889)
Other comprehensive income for the year, net of tax	-	-
Total comprehensive loss for the year	(455,889)	(455,889)
Balance at 30 June 2020	7,962,947	7,962,947
Profit after income tax expense for the year	1,111,720	1,111,720
Other comprehensive income for the year, net of tax	-	-
Total comprehensive income for the year	9,074,667	9,074,667
Balance at 30 June 2021	9,074,667	9,074,667

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 2021

	Notes	2021 \$	2020 \$
Operating activities			
Receipts from operating activities		11,482,719	9,425,741
Payments to suppliers and employees		(9,498,667)	(9,343,409)
Dividends received			161,484
Interest received		201,780	210,205
Income tax paid		-	-
Net cash inflow from operating activities		<u>2,220,939</u>	<u>445,596</u>
Investing activities			
Proceeds from sale of plant and equipment		-	-
Payments for plant and equipment		(149,166)	(74,534)
Proceeds from sale of investments		49,315	560,513
Payment for purchase of investments		<u>(1,240,899)</u>	<u>(801,962)</u>
Net cash outflow from investing activities		<u>(1,340,750)</u>	<u>(315,983)</u>
Financing activities			
Interest payments on lease liabilities		(244,498)	(261,580)
Principal payments on lease liabilities		<u>(452,052)</u>	<u>(376,076)</u>
Net cash outflow from financing activities		<u>(696,550)</u>	<u>(637,656)</u>
Net increase/(decrease) in cash and cash equivalents		183,639	(508,043)
Cash and cash equivalents at the beginning of the financial year		<u>2,991,610</u>	<u>3,499,653</u>
Cash and cash equivalents at the end of the financial year	15	<u>3,175,249</u>	<u>2,991,610</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 2021

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.

Historical cost convention

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

Critical accounting estimates and judgements

The preparation of the financial statements requires the use of certain critical accounting estimates. It also requires management to exercise its judgement in the process of applying the Association's accounting policies. The areas involving a higher degree of judgement or complexity, or areas where assumptions and estimates are significant to the financial statements, are disclosed in note 1 (r).

(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

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.

(d) Leases

The Association assesses at contract inception whether a contract is, or contains, a lease. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

The Association applies a single recognition and measurement approach for all leases, except for short-term leases and leases of low-value assets. The Association recognises lease liabilities to make lease payments and right-of-use assets representing the right to use the underlying assets.

i. Right-of-use assets

The Association recognises right-of-use assets at the commencement date of the lease (i.e., the date the underlying asset is available for use). Right-of-use assets are measured at cost, less any accumulated depreciation and impairment losses, and adjusted for any remeasurement of lease liabilities. The cost of right-of-use assets includes the amount of lease liabilities recognised, initial direct costs incurred, and lease payments made at or before the commencement date less any lease incentives received. Right-of-use assets are depreciated on a straight-line basis over the shorter of the lease term and the estimated useful lives of the assets, as follows:

- Office buildings: over the remaining life of the lease – maximum 15 years

If ownership of the leased asset transfers to the Association at the end of the lease term or the cost reflects the exercise of a purchase option, depreciation is calculated using the estimated useful life of the asset.

The right-of-use assets are also subject to impairment. Refer to the accounting policies in section (e) Impairment of non-financial assets.

ii. Lease liabilities

At the commencement date of the lease, the Association recognises lease liabilities measured at the present value of lease payments to be made over the lease term. The lease payments include fixed payments (including in-substance fixed payments), variable lease payments that depend on an index or a rate and payments of penalties for terminating the lease, if the lease term reflects the Association exercising the option to terminate. Variable lease payments that do not depend on an index or a rate are recognised as expenses (unless they are incurred to produce inventories) in the period in which the event or condition that triggers the payment occurs.

In calculating the present value of lease payments, the Association uses its incremental borrowing rate at the lease commencement date because the interest rate implicit in the lease is not readily determinable. After the commencement date, the amount of lease liabilities is increased to reflect the accretion of interest and reduced for the lease payments made. In addition, the carrying amount of lease liabilities is remeasured if there is a modification, a change in the lease term, a change in the lease payments (e.g., changes to future payments resulting from a change in an index or rate used to determine such lease payments) or a change in the assessment of an option to purchase the underlying asset.

(e) Impairment of Non-financial Assets

Non-financial assets are reviewed for impairment whenever events or changes in circumstances indicated 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.

Recoverable amount is the higher of an asset's fair value less costs of disposal and value-in-use. The value-in-use is the present value of the estimated future cash flows relating to the asset using a pre-tax discount rate specific to the asset or cash-generating unit to which the asset belongs. Assets that do not have independent cash flows are grouped together to form a cash-generating unit.

(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) Trade and other receivables

Trade receivables are initially recognised at fair value and subsequently measured at amortised cost using the effective interest method, less any allowance for expected credit losses.

The entity has applied the simplified approach to measuring expected credit losses, which uses a lifetime expected loss allowance. To measure the expected credit losses, trade receivables have been grouped based on days overdue.

Other receivables are recognised at amortised cost, less any allowance for expected credit losses.

(h) Inventories

Inventories are stated at the lower of cost and net realisable value on a 'first in first out' basis. Costs of purchased inventory are determined after deducting rebates and discounts received or receivable.

Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.

(i) Financial Instruments

i. Investments and other financial assets

Investments and other financial assets, other than investments in associates, are initially measured at fair value. Transaction costs are included as part of the initial measurement, except for financial assets at fair value through profit or loss. Such assets are subsequently measured at either amortised cost or fair value depending on their classification. Classification is determined based on both the business model within which such assets are held and the contractual cash flow characteristics of the financial asset unless, an accounting mismatch is being avoided.

Financial assets are derecognised when the rights to receive cash flows have expired or have been transferred and the company has transferred substantially all the risks and rewards of ownership. When there is no reasonable expectation of recovering part or all of a financial asset, it's carrying value is written off.

ii. Financial assets at fair value through profit or loss

Financial assets not measured at amortised cost or at fair value through other comprehensive income are classified as financial assets at fair value through profit or loss. Typically, such financial assets will be either: (i) held for trading, where they are acquired for the purpose of selling in the short-term with an intention of making a profit, or a derivative; or (ii) designated as such upon initial recognition where permitted. Fair value movements are recognised in profit or loss.

(j) 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 Association'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 Association'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.

(k) Contract Liabilities

Contract liabilities represent the Association's obligation to transfer goods or services to a customer and are recognised when a customer pays consideration, or when the Association recognises a receivable to reflect its unconditional right to consideration (whichever is earlier) before the Association has transferred the goods or services to the customer.

(l) Finance costs

Finance costs attributable to qualifying assets are capitalised as part of the asset. All other finance costs are expensed in the period in which they are incurred.

(m) 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 over the remaining life of the lease - maximum 15 years
- Furniture, Computers, Computer Software, Office Machines and Equipment 3 to 10 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.

An item of property, plant and equipment is derecognised upon disposal or when there is no future economic benefit to the incorporated Association. Gains and losses between the carrying amount and the disposal proceeds are taken to profit or loss.

(n) 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.

(o) Provisions

Provisions are recognised when the Association has a present (legal or constructive) obligation as a result of a past event, it is probable the Association will be required to settle the obligation, and a reliable estimate can be made of the amount of the obligation. The amount recognised as a provision is the best estimate of the consideration required to settle the present obligation at the reporting date, taking into account the risks and uncertainties surrounding the obligation. If the time value of money is material, provisions are discounted using a current pre-tax rate specific to the liability. The increase in the provision resulting from the passage of time is recognised as a finance cost.

(p) 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.

(q) 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.

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.

(r) New or amended Accounting Standards and Interpretations adopted

New and amended standards adopted by the Association

The Association 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.

Accounting standards and interpretations issued but not yet effective

Certain Australian Accounting Standards and Interpretations have recently been issued or amended but are not yet effective and have not been adopted by the Association for the annual reporting year ended 30 June 2021. The directors have not early adopted any of these new amended standards and interpretations. The directors are in the process of assessing the impact of the applications of the standard and its amendment to the extent relevant to the financial statement of the Association.

(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.

(t) Comparatives

Where necessary, comparative information has been re-classified to achieve consistency in disclosure with current financial amounts and other disclosures.

(u) Critical Accounting Estimates and Judgements

The directors make estimates and judgements during the preparation of these financial statements regarding assumptions about current and future events affecting transactions and balances.

These estimates and judgements are based on the best information available at the time of preparing the financial statements, however as additional information is known then the actual results may differ from the estimates.

The significant estimates and judgements made have been described below:

Estimation of useful lives of assets

The Association determines the estimated useful lives and related depreciation and amortization charges for its property, plant and equipment and finite life intangible assets. The useful lives could change significantly as a result of technical innovations or some other event. The depreciation and amortisation charge will increase where the useful lives are less than previously estimated lives, or technically obsolete or non-strategic assets that have been abandoned or sold will be written off or written down.

Determining the lease term of contracts with renewal and termination options

The Association determines the lease term as the non-cancellable term of the lease, together with any periods covered by an option to extend the lease if it is reasonably certain to be exercised, or any periods covered by an option to terminate the lease, if it is reasonably certain not to be exercised.

The Association has a number of lease contracts that include extension and termination options. The Association applies judgement in evaluating whether it is reasonably certain whether or not to exercise the option to renew or terminate the lease. That is, it considers all relevant factors that create an economic incentive for it to exercise either the renewal or termination. After the commencement date, the Association reassesses the lease term if there is a significant event or change in circumstances that is within its control and affects its ability to

exercise or not to exercise the option to renew or to terminate (e.g., construction of significant leasehold improvements or significant customisation to the leased asset).

COVID-19 pandemic

There are current uncertainties in the economy related to the COVID-19 outbreak that emerged since early 2020. These uncertainties have impacted the Association's operations and may create questions about the impairment or recoveries of certain assets. As the situation is still evolving, the full effect of the outbreak is still uncertain. It is however reasonably possible that COVID-19 will have an adverse impact on the Association's revenues and results for the next reporting year, the extent of which will depend on how long the outbreak lasts.

Incremental borrowing rate

Where the interest rate implicit in a lease cannot be readily determined, an incremental borrowing rate is estimated to discount future lease payments to measure the present value of the lease liability at the lease commencement date. Such a rate is based on what the Association estimates it would have to pay a third party to borrow the funds necessary to obtain an asset of a similar value to the right-of-use asset, with similar terms, security and economic environment.

Lease make good provision

A provision has been made for the present value of anticipated costs for future restoration of leased premises. The provision includes future cost estimates associated with closure of the premises. The calculation of this provision requires assumptions such as application of closure dates and cost estimates. The provision recognised for each site is periodically reviewed and updated based on the facts and circumstances available at the time. Changes to the estimated future costs for sites are recognised in the statement of financial position by adjusting the asset and the provision. Reductions in the provision that exceed the carrying amount of the asset will be recognised in profit or loss.

2. Revenue

	2021 \$	2020 \$
Operating revenue		
Subscriptions and practicing certificate fees	6,282,205	6,806,420
Bar Practise Course & Bar Examinations	<u>720,067</u>	<u>271,350</u>
	7,002,272	7,077,770
Other revenue		
Interest and dividends	216,599	337,321
Seminars	88,736	88,300
External funding	2,265,059	2,283,316
Other	<u>77,463</u>	<u>108,277</u>
Revenue from continuing operations	<u>9,650,129</u>	<u>9,894,984</u>

The disaggregation of revenue from contracts with customers is as follows:

Timing of revenue recognition		
Services transferred at a point in time	3,367,924	3,088,564
Services transferred over time	<u>6,282,205</u>	<u>6,806,420</u>
	<u>9,650,129</u>	<u>9,894,984</u>

3. Expenses

	2021 \$	2020 \$
Depreciation expense		
Depreciation Expense on property, plant and equipment	311,436	317,413
Depreciation Expense on right-of-use assets	445,275	405,543
Financial expense		
Interest expense on borrowings	-	11
Interest expense on lease liabilities	244,498	260,713
Bank charges	121,010	62,057
Insurance expense	<u>91,296</u>	<u>83,505</u>
	<u>456,804</u>	<u>406,286</u>
Lease expenses		
Minimum lease payments	694,579	637,655
Variable lease payments	-	-
Short-term lease payments	21,992	58,151
Low-value assets lease payments	-	-
Occupancy		
Occupancy costs	191,244	269,177
Right-of-Use depreciation	445,275	405,543
Interest expense on lease liabilities	<u>244,498</u>	<u>260,713</u>
	<u>881,017</u>	<u>935,433</u>

4. Income Tax Expense

	2021 \$	2020 \$
(a) Reconciliation of income tax expense to prima facie tax payable		
Net surplus/ (deficit) from continuing operations	1,111,723	(455,889)
Tax at the Australian tax rate of 26% (2020: 27.5%)	289,048	(125,369)
Decrease in income tax expense due to:		
- Net mutual income	(384,634)	(350,107)
Tax effect of amounts which are not deductible	(1,622)	11,634
Temporary Differences not brought to account	97,207	463,842
Income tax (benefit) / expense	-	-
(b) Deferred tax assets not recognised comprised of temporary differences attributable to:		
Tax Losses	(137,751)	-
Total	(137,751)	-

5. Other financial assets

	2021 \$	2020 \$
Current Financial Assets:		
Term deposit (i)	9,230,427	9,279,742
(i) The Association has classified all its Term deposits as other current financial assets in the current year given the investment term of these deposits are longer than 3 months.		
Non-current		
At cost		
Investments in associates	14	14
Financial assets at fair value through profit or loss		
Shares in Australian listed companies	4,633,844	2,794,751
Fixed interest securities - listed	1,216,617	923,830
	5,850,461	3,718,581
Total other financial assets - non current	5,850,475	3,718,595
Financial assets at fair value through profit or loss (Note disclosures)		
Opening fair value	3,718,581	3,450,822
Additions	1,240,899	801,963
Revaluation increments	890,981	(534,204)
Closing fair value	5,850,461	3,718,581
Note 45. Fair value measurement		

Fair value hierarchy (Note disclosures)

The following tables detail the Company's assets and liabilities, measured or disclosed at fair value, using a three level hierarchy, based on the lowest level of input that is significant to the entire fair value measurement, being:

Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities that the entity can access at the measurement date

Level 2: Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly

Level 3: Unobservable inputs for the asset or liability

	Level 1 \$	Level 2 \$	Level 3 \$	Total \$
30 June 2021				
Assets				
Financial assets fair value through profit or loss				
Fixed interest securities	1,216,617	-	-	-
Shares in Australian listed companies	4,633,844	-	-	-
	5,850,461	-	-	-
30 June 2020				
Assets				
Financial assets fair value through profit or loss				
Fixed interest securities	923,830	-	-	-
Shares in Australian listed companies	2,794,751	-	-	-
	3,718,581	-	-	-

Assets and liabilities held for sale are measured at fair value on a non-recurring basis.

There were no transfers between levels during the financial year.

The carrying amounts of trade and other receivables and trade and other payables are assumed to approximate their fair values due to their short-term nature.

The fair value of financial liabilities is estimated by discounting the remaining contractual maturities at the current market interest rate that is available for similar financial liabilities.

(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 association 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 association. The purpose of that Association 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.

6. Other assets

	2021 \$	2020 \$
Prepayments	147,744	232,771
Accrued interest	4,414	24,702
	<u>152,158</u>	<u>257,473</u>

7. Intangibles

	2021 \$	2020 \$
Database & website		
At cost	304,665	304,665
Accumulated amortisation	<u>(304,665)</u>	<u>(304,665)</u>
Net carrying amount	<u>-</u>	<u>-</u>

8. Property, plant and equipment

	Refurbishments \$	Furniture, computers, computer software, office machines and equipment \$	Kitchen equipment \$	Total \$
At 30 June 2020				
Cost	3,258,836	1,496,212	3,511	4,758,559
Accumulated depreciation and impairment	<u>(2,463,930)</u>	<u>(1,266,988)</u>	<u>(3,354)</u>	<u>(3,734,272)</u>
Net carrying amount	<u>794,906</u>	<u>229,224</u>	<u>157</u>	<u>1,024,287</u>
At 30 June 2021				
Cost	3,258,836	1,608,178	3,511	4,870,525
Accumulated depreciation and impairment	<u>(2,615,686)</u>	<u>(1,389,311)</u>	<u>(3,511)</u>	<u>(4,008,508)</u>
Net carrying amount	<u>643,150</u>	<u>218,867</u>	<u>-</u>	<u>862,017</u>
Movements:				
Year ended 30 June 2021				
At 1 July 2020, net carrying amount	794,906	229,224	157	1,024,287
Additions	-	149,165		149,165
Disposals	-	-	-	-
Write off	-	-	-	-
Depreciation/ amortisation charge for the year	<u>(151,756)</u>	<u>(159,522)</u>	<u>(157)</u>	<u>(311,435)</u>
At 30 June 2021, net carrying amount	<u>643,150</u>	<u>218,867</u>	<u>-</u>	<u>862,017</u>

9. Lease liabilities

	2021 \$	2020 \$
Current		
Lease liabilities	528,944	422,777
Non-current		
Lease liabilities	3,227,747	3,472,881
Total	3,756,691	3,895,658

10. Right-of-use assets

	Leased Premises \$	Total \$
At 30 June 2021		
Cost	6,423,708	6,423,708
Accumulated depreciation and impairment	3,824,807	3,824,807
Net carrying amount	2,598,902	2,598,902
Movements:		
Year ended 30 June 2021		
At 1 July 2020, net carrying amount	2,703,626	2,703,626
Additions	340,553	340,553
Disposals	-	-
Write off	-	-
Depreciation/ amortisation charge for the year	(445,277)	(445,277)
At 30 June 2021, net carrying amount	2,598,902	2,598,902

The Association leases premises under a non-cancellable lease with 2 to 15 years, in some cases, options to extend. On renewal, the terms of the leases are renegotiated.

11. Trade and other payables

	2021 \$	2020 \$
Trade and other payables	752,840	1,204,318

12. Contract liabilities

	2021 \$	2020 \$
Current		
Subscriptions, practicing certificate fees & other revenue received	7,235,086	6,175,174

13. 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:

G Westgarth	S Tame	M McHugh SC	I Taylor SC
S Callan	D Rayment	K Lindeman	J Mack
P Khandhar SC	D Hogan-Doran SC	S Hughes	V Bulut
T Game SC	G Bashir SC	K Nomchong SC	R Higgins SC
Y Shariff	C Gleeson	R Khalilizadeh	A Mitchelmore SC
D Patch	C Eastman SC	C O'Neill	E Welsh
S Mirzabegian	D Toomey SC	N Broadbent	P Knowles
C Palmer			

(b) Key management personnel

Key management personnel compensation for the years ended 30 June 2021 and 30 June 2020 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 2021 and 30 June 2020 are as follows:

Greg Tolhurst	Alastair McConnachie	Andreas Heger	Kim Kemp
Lisa Allen	Bali Kaur	Chris Winslow	Elizabeth Pearson
Suanne Colley	Basil Catsaros	Jocelyn Sparks	

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.

	2021 \$	2020 \$
Employee benefits	2,193,445	2,049,168

(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 \$887,991 (2020: \$900,291) 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.

(d) 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.

14. Cash and cash equivalents

	2021 \$	2020 \$
Cash at bank	1,174,348	2,594,372
Term deposits	2,000,001	396,338
Petty cash	900	900
	<u>3,175,249</u>	<u>2,991,610</u>

15. 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 2020-2021 amounted to \$ 2,054,934 (2020: \$2,073,192).

16. Events occurring after the reporting date

Other than the ongoing COVID-19 pandemic, no matter or circumstance has occurred subsequent to year end that has significantly affected, or may significantly affect, the operations of the Association, the results of those operations or the state of affairs of the Association.

17. Contingent liabilities

The Association had no contingent liabilities as at 30 June 2021 and 30 June 2020.

Directors' Declaration

In the directors' opinion:

- a. the financial statements and notes set out on pages 106 to 121 are in accordance with the *Corporations Act 2007*, 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 2021 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.



M. McHugh SC
President



R. Higgins SC
Treasurer

Sydney, NSW
10 September 2021



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INDEPENDENT AUDITOR'S REPORT To the Members of New South Wales Bar Association

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 2021, 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 2021 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 2021 but does not include the financial report and the auditor's report thereon.

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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.

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. This description forms part of our auditor's report.

A handwritten signature in blue ink, appearing to read "RSM", is positioned above the printed name.

RSM Australia Partners

A handwritten signature in blue ink, appearing to read "C J Hume", is positioned above the printed name.

C J Hume
Partner

Sydney, NSW
Dated: 10 September 2021

Financial Report for the Barristers' Benevolent Association of NSW

ABN 18 466 736 745

Contents

Statement of Surplus and Other Comprehensive Income	126
Statement of Financial Position	127
Statement of Changes in Accumulated Funds	128
Statement of Cash Flows	128
Notes to the Financial Statements	129
Committee of Management Declaration	135
Independent Auditor's Report	136
Contributors to the Barristers' Benevolent Fund	138

The financial statements cover Barristers' Benevolent Association of NSW (the "Association") as an individual Association, incorporated and domiciled in Australia. Its registered office and principal place of business is 174 Philip St, Sydney NSW 2000.

The principal activities of the Association is the receipt of donations for investment in order to provide assistance to eligible persons.

The financial statements were authorised for issue by the Committee of Management on 10 September 2021. 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 2021

	Notes	2021 \$	2020 \$
Revenue	3	313,419	328,964
Interest income		11,047	30,438
Profit / (loss) on sale of investments		-	(70)
Auditor's remuneration		(5,385)	(6,255)
Bar care costs		(40,172)	(37,492)
Employee benefits expense		(85,465)	(77,651)
Gifts		(85,000)	(120,000)
Impairment of loans - write back		800	-
Other operating expenses		(18,793)	(3,766)
Surplus before fair value gains		90,451	114,168
Net gains/(losses) on non-current assets held at fair value through surplus or deficit		798,443	(450,364)
Surplus/(deficit) before income tax		888,894	(336,196)
Income tax expense	1 (c)	-	-
Net Surplus/(Deficit)		888,894	(336,196)
Other comprehensive income		-	-
Total comprehensive income/(deficit)		888,894	(336,196)

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

Statement of Financial Position

For the year ended 30 June 2021

	Notes	2021 \$	2020 \$
CURRENT ASSETS			
Cash and cash equivalents		35,527	112,224
Financial assets	5	1,211,639	1,693,731
Trade and other receivables	4	54,792	56,327
TOTAL CURRENT ASSETS		<u>1,301,958</u>	<u>1,862,282</u>
NON-CURRENT ASSETS			
Other financial assets	7	4,978,182	3,523,058
TOTAL NON-CURRENT ASSETS		<u>4,978,182</u>	<u>3,523,058</u>
TOTAL ASSETS		<u>6,280,140</u>	<u>5,385,340</u>
CURRENT LIABILITIES			
Trade and other payables	6	14,169	16,747
Employee benefits		20,824	12,344
TOTAL CURRENT LIABILITIES		<u>34,993</u>	<u>29,091</u>
TOTAL LIABILITIES		<u>34,993</u>	<u>29,091</u>
NET ASSETS		<u>6,245,147</u>	<u>5,356,249</u>
ACCUMULATED FUNDS			
Accumulated surpluses		6,245,147	5,356,249
TOTAL ACCUMULATED FUNDS		<u>6,245,147</u>	<u>5,356,249</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 2021

	Accumulated Surpluses \$	Total Accumulated Funds \$
At 30 June 2019	5,692,445	5,692,445
Total comprehensive deficit	(336,196)	(336,196)
At 30 June 2020	5,356,251	5,356,251
Total comprehensive income	888,894	888,894
At 30 June 2021	6,245,145	6,245,145

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 2021

	2021 \$	2020 \$
OPERATING ACTIVITIES		
Receipts from members, sponsorship and general activities	123,964	128,785
Payments to suppliers	(228,109)	(246,249)
Interest and dividends received	202,037	222,453
Net cash inflow from operating activities	97,892	104,989
INVESTING ACTIVITIES		
Proceeds from financial assets	482,092	36,836
Payments for other financial assets	(656,681)	(509,582)
Net cash outflow from investing activities	(174,589)	(472,746)
Net decrease in cash and cash equivalents	(76,697)	(367,757)
Cash and cash equivalents at the beginning of the year	112,224	479,981
Cash and cash equivalents at the end of the year	35,527	112,224

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 2021

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 association for the purpose of preparing the financial statements.

Historical cost convention

These financial statements have been prepared under the historical cost convention except for other financial assets which are measured at fair value.

Critical accounting estimates and judgements

The preparation of financial statements requires the use of certain critical accounting estimates. It also requires management to exercise its judgement in the process of applying the Association's accounting policies. There are no estimates and judgements 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. *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) 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 Association'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 Association'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.

(e) Cash and Cash Equivalents

Cash and cash equivalents include cash on hand and cash at bank.

For the statement of cash flow presentation purposes, cash and cash equivalents comprises the above.

(f) Trade and Other Receivables

Trade receivables are initially recognized at fair value and subsequently measured at amortised cost using the effective interest method, less any allowance for expected credit losses.

The Association has applied the simplified approach to measuring expected credit losses, which uses a lifetime expected loss allowance. To measure the expected credit losses, trade receivables have been grouped based on days overdue.

Other receivables are recognised at amortised cost, less any allowance for expected credit losses.

(g) Financial Instruments

i. Investments and other financial assets

Investments and other financial assets, other than investments in associates, are initially measured at fair value. Transaction costs are included as part of the initial measurement, except for financial assets at fair value through profit or loss. Such assets are subsequently measured at either amortised cost or fair value depending on their classification. Classification is determined based on both the business model within which such assets are held and the contractual cash flow characteristics of the financial asset unless, an accounting mismatch is being avoided.

Financial assets are derecognised when the rights to receive cash flows have expired or have been transferred and the company has transferred substantially all the risks and rewards of ownership. When there is no reasonable expectation of recovering part or all of a financial asset, it's carrying value is written off.

ii. Financial assets at fair value through profit or loss

Financial assets not measured at amortised cost or at fair value through other comprehensive income are classified as financial assets at fair value through profit or loss. Typically, such financial assets will be either: (i) held for trading, where they are acquired for the purpose of selling in the short-term with an intention of making a profit, or a derivative; or (ii) designated as such upon initial recognition where permitted. Fair value movements are recognised in profit or loss.

For trade receivables, the Association applies the simplified approach permitted by AASB 9, which requires expected lifetime losses to be recognised from initial recognition of the receivables.

(h) 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.

(i) 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 that match, as closely as possible, the estimated future cash outflows.

(j) 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.

(k) Changes in accounting policies, disclosures, standards and interpretations

The Association 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.

(l) 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, maximizing the use of relevant observable inputs, and minimizing the use of unobservable inputs.

2. Critical accounting judgements, estimates and assumptions

(a) Impacts of COVID-19

There are current uncertainties in the economy related to the COVID-19 outbreak that emerged since early 2020. These uncertainties have impacted the Association's operations and may create questions about the impairment or recoveries of certain assets. As the situation is still evolving, the full effect of the outbreak is still uncertain. It is however reasonably possible that COVID-19 will have an adverse impact on the Association's revenues and results for the next reporting year, the extent of which will depend on how long the outbreak lasts.

3. Revenue

	2021 \$	2020 \$
Contributions	125,177	136,722
Distribution and dividend income	188,242	192,015
Membership	-	227
	<u>313,419</u>	<u>328,964</u>

Disaggregation of revenue

The disaggregation of revenue from contracts with customers is as follows:

Geographical regions

Australia	<u>313,419</u>	<u>328,964</u>
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4. Trade and other receivables

	2021 \$	2020 \$
Current		
NSW Bar Association	37,833	51,964
Accrued interest	706	3,454
Interest free loans	15,000	3,500
Allowance for impairment of interest free loans	-	(3,500)
Tax receivable	1,253	909
	<u>54,792</u>	<u>56,327</u>

5. Financial assets

	2021 \$	2020 \$
Term Deposits		
Current	<u>1,211,639</u>	<u>1,693,731</u>

6. Trade and other payables

	2021 \$	2020 \$
Current		
Trade Payables	7,800	10,040
Other Payables	6,369	6,707
	<u>14,169</u>	<u>16,747</u>

7. Other financial assets

	2021 \$	2020 \$
Non-Current		
Designated at fair value through surplus or deficit		
- Fixed interest securities	991,041	733,961
- Shares in Australian listed companies	3,987,141	2,789,097
	<u>4,978,182</u>	<u>3,523,058</u>

8. Financial assets at fair value through profit or loss (Note disclosures)

	2021 \$	2020 \$
Opening fair value	3,523,058	3,566,410
Additions	656,680	696,183
Disposals	-	(289,100)
Revaluation increments	798,444	(450,365)
Closing fair value	4,978,182	3,523,058

Note 45. Fair value measurement

Fair value hierarchy (Note disclosures)

The following tables detail the Company's assets and liabilities, measured or disclosed at fair value, using a three level hierarchy, based on the lowest level of input that is significant to the entire fair value measurement, being:

Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities that the entity can access at the measurement date

Level 2: Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly

Level 3: Unobservable inputs for the asset or liability

	Level 1 \$	Level 2 \$	Level 3 \$	Total \$
30 June 2021				
Assets				
Financial assets fair value through profit or loss				
Fixed interest securities	991,041	-	-	-
Shares in Australian listed companies	3,987,141	-	-	-
	4,978,482	-	-	-
30 June 2020				
Assets				
Financial assets fair value through profit or loss				
Fixed interest securities	733,961	-	-	-
Shares in Australian listed companies	2,789,097	-	-	-
	3,523,058	-	-	-

Assets and liabilities held for sale are measured at fair value on a non-recurring basis.

There were no transfers between levels during the financial year.

The carrying amounts of trade and other receivables and trade and other payables are assumed to approximate their fair values due to their short-term nature.

The fair value of financial liabilities is estimated by discounting the remaining contractual maturities at the current market interest rate that is available for similar financial liabilities.

9. 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:

T Game SC	G Westgarth	R Khalilizadeh	N Broadbent
K Eastman SC	M McHugh SC	K Nomchong SC	G Bashir SC
I Taylor SC	R Higgins SC	S Hughes	A Mitchelmore SC
P Khandhar SC	D Hogan-Doran SC	D Patch	P Knowles
E Welsh	S Tame	D Toomey SC	D Rayment
S Mirzabegian	S Callan	Y Shariff	C Palmer
C Gleeson	K Lindeman	C'Oneill	J Mack
V Bulut			

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.

10. Contingent liabilities

The Association had no contingent liabilities as at 30 June 2021 and 30 June 2020.

11. Commitments

The Association had no commitments as at 30 June 2021 and 30 June 2020.

12. Events occurring after the reporting date

Other than the ongoing COVID-19 pandemic, no matter or circumstance has occurred subsequent to year end that has significantly affected, or may significantly affect, the operations of the Association, the results of those operations or the state of affairs of the Association.

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 126 to 134 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 2021 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.



M. McHugh SC



R. Higgins SC

Sydney, NSW
10 September 2021



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INDEPENDENT AUDITOR'S REPORT To the Members of Barristers' Benevolent Association of NSW

Opinion

We have audited the financial report of Barristers' Benevolent Association of NSW, which comprises the statement of financial position as at 30 June 2021, 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 2021 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 2021 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.

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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.

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. This description forms part of our auditor's report.

A stylized blue ink signature of the firm RSM Australia Partners.

RSM Australia Partners

A blue ink signature of C J Hume.

C J Hume
Partner

Sydney, NSW
Dated: 10 September 2021

Contributors to the Barristers' Benevolent Fund

Mr J Abernethy
Justice W Abraham
Mr Sam Adair
Mr J Adamopoulos
Chief Commissioner
Michael Adams QC
Mr P G Aitken
Ms Sandrine
Alexandre-Hughes
Ms C J Allan
Mr P Allport
Ms J Ambikapathy
Mr M W Anderson
Mr K W Andrews
Mr Nic Angelov
Mr G Antipas
Mr B A Apfelbaum
Mr I G A Archibald
His Honour Judge
C J Armitage
Mr J A Arnott
Mr M Ashhurst SC
Mr G E Babe
Mr Eli Ball
Ms D M Bampton
Mr Conor Bannan
The Hon C J Bannon QC
Mr Darrell Barnett
Mr D Barrow
Mr G M Barter
Mr A J Bartley SC
Mr J Bartos
Ms G A Bashir SC
Mr E H Baskerville
Mr M J Bateman
Mr P W Bates
Mr P Batey
Ms Emma Bathurst
Mr Paul Batley
Mr P A Beale
Mr R C Beasley SC

The Hon Justice
R Beech-Jones
His Honour H H Bell
Ms C Bembrick
Mr David Bennett AC QC
Mr D R Benson
Mr Duncan Berents
Mr D A Bertini
Dr S Berveling
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Mr Craig Bolger
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Her Honour Judge E Boyle
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Mr Luke Brasch
Mr W P Brewer
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Mr Campbell Bridge SC
Ms Madeleine Bridgett
Ms Victoria Brigden
The Hon J E Brownie QC
Mr P Bruckner
The Hon J P Bryson QC
Mr D A Buchanan SC

The Hon T Buddin QC
Mr A J Bulley
Mr S Burchett
Mr Michael Burke
Mr Gregory Burton SC
Mr I F Butcher
Mr L J Byrne
Ms Melanie R Cairns
Mr P Callaghan SC
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Mr Benjamin Cameron
The Hon J C Campbell QC
Mr G Carolan
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Mr D Carroll
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Mr Charles H Cassimatis
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Mr J R Clarke SC
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His Honour Richard
Cogswell SC
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Cooper-Hackman
Ms A Cotter-Moroz

The Hon D Cowdroy AO QC
Mr G P Craddock SC
The Hon M G Craig QC
His Honour Judge
C Craigie SC
Mr M Cranitch SC
Mr M G Crowley
Mr M Dalla-Pozza
Mr M J Darke SC
Mr I E Davidson SC
Mr T J Davie
The Hon Justice
D L Davies SC
Mr W Dawe QC
Magistrate D Day
Mr Sebastian M De Brennan
Ms Maureen De Vere
Mr P J Deakin QC
Ms K Deards SC
Mr Dominic Delany
Mr M Dempsey SC
Mr Tony Di Francesco
Mr Richard Di Michiel
Mr R A Dick SC
Mr T J Dixon
Mr Alexander Djurdjevic
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Mr A Doig
Ms M Dolenec
Mr Guy Donnellan
Mr James Douglas
Mr P F Doyle
Mr P. Doyle Gray
Mr J Doyon
Mr R Driels
Mr I C Duane
The Hon J R Dunford QC
Mr J R Dupree
Mr D Dura
Mr P Dwyer

Ms Kate Eastman SC	Mr G J Graham	Mr W D Hosking QC	Mr D D Knoll AM
Mr David Edney	Ms R Graycar	Tom Howard SC	Mr Patrick Knowles
Mr M Einfeld QC	Mr Michael Green SC	Mr Slade Howell	Mr Peter Kondich
Mr L S Einstein	Mr R P Greenhill SC	His Honour Judge C Hoy SC	Mr G Kumarasinhe
Ms E Elbourne	Mr G M Gregg	Mr T Hughes	Ms J Layani Ellis
Mr El-Choufani	Mr Charles Gregory	Ms L E Hulmes	Mr G Levick
The Hon Justice M A Elkaim	Mr L T Grey	Mr R Hussey	Mr Matthew Lewis
Mr D W Elliott	Mr Mark Gunning	Mr M Hutchings	Mr D Liebhold
Mr L Ellison SC	Mr L V Gyles SC	Ms Aleksandra Ilic	Ms Ye Catherine Lin
Ms Talia R Epstein	Ms S T Hall	Mr Bill Ilkovski	Ms Constantina Lioumis
Ms Tania Evers	The Hon Justice P Hallen	Mrs C Ingenito	Mr P J Livingstone
Ms Mary Falloon	Mr J M Hallion	Ms Emily Ito	Mr Phillip Lonergan
Mr Geoff Farland	His Honour Judge S Hanley SC	Mr D F Jackson AM QC	Mr J Longworth
Ms Stephanie Fendekian	Mr S J Harben SC	Mr Sydney Jacobs	The Hon I J Loughnan
Mr Lester Fernandez	Mr Roger Harper	The Hon P Jacobson QC	The Hon Justice C Loukas-Karlsson
Mr J J E Fernon SC	Mr J M Harris	The Hon G R James AM QC	Mr W P Lowe
Mr S G Finch SC	Mr Christian Hart	Mr Ryan K Jameson	Mr J A Loxton
Mr M J Finnane RFD QC	Ms V A Hartstein	Mr R Jankowski	Mr G Lucarelli
Mr J M Fitzgerald	Mr M Hassall	Mr Russ Johnson	Dr Juliet Lucy
Mr James Foley	Ms Jo Haughton	Mr E J Johnston	Mr Terrence Lynch SC
Mr M J Fordham SC	Ms Dymphna Hawkins	Mr Thomas Jones	Mr Angus Macauley
Ms D Forrester	The Hon Wayne Haylen QC	Mr D K Jordan	The Hon Justice R Macfarlan
Mr K M Francis	Ms S Hayward	Ms T Jowett	Mr D J A Mackay
Ms R Francois	Mr David Healey	Ms L E Judge	Mr R H Macready
Mr Ian Fraser	Mr M J Heath	Mr S D Kalfas SC	The Hon R N Madgwick QC
Mr Glenn Fredericks	Mr G R Heathcote	Mr M A Karam	Mr C Magee
Mr Mark Friedgut	Mr John F Heazlewood	Mr Leonard Karp	Ms G F Mahony
Mr Neal Funnell	Mr Stephen Hegedus	Mr Anthony Kaufmann	Mr Tamir Maltz
Mr M J Gallagher	Ms Zelig Heger	The Hon Dr Tricia Kavanagh	His Honour Judge N Manousaridis
Mr J M Galluzzo	The Hon Justice L Henderson	Mrs J Kearney	Dr Christos Mantziaris
Mr R Gambi	Mr John Henness	Mr Michael Keene	His Honour Acting Judge M C Marien SC
Mr T A Game SC	Mr G J Hickey	Mr J Kellaway	Mr D A Marr
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Ms J Gatland	The Hon P J Hidden AM	Mr D P Kelly	Ms Louise Mathias
Mr G P Gee	Dr Ruth C A Higgins SC	Mr P Kennedy-Smith	Ms L McBride
Mr G Gemmell	Ms S Hill	Mr G M Kenny	Mr J A McCarthy QC
Mr I D George	Ms JA Hillier	Dr John Keogh	Dr C McConaghy
Ms S German	Mr J S Hilton	Mr E Kerkyasharian	Mr R D McCrudden
Mr James T G Gibson	Mr D Hirsch	Mr S M Kettle	Mr M F McDermott
Ms M A Gillies SC	Mrs Michelle Hirschhorn	Mr D Keyte	Ms Janet McDonald
Mr Kieran D Ginges	The Hon Justice C Hoebein AM RFD	Dr P D Keyzer	Mr I J McGillicuddy
Mr A Givney	Mr T L Hollo	Ms R Khalilizadeh	Mr Chris McGorey
Ms Catherine Gleeson	Mr R W Hood	Mr P N Khandhar SC	Dr F R McGrath AM OBE
Ms C R Goodhand	Mr David Hooke SC	Mr N J Kidd SC	Mr M J McGrowdie
Mr J F Gormly	Ms J S Hopper	Mr M J Kimber SC	Mr M McHugh SC
Mr G M Gould	Mr P A Horobin	Mr L King SC	Mr R S McIlwaine SC
Mr R Gowenlock		Mr Nic Kirby	
Mr M R Gracie		Mr I Kirgiz	
Mr R J Grady		Mr P M Kite SC	

Mr A J McInerney SC	Mr Anthony N Parsons	Mr S J Roulstone	Mr Timothy Studdert QC
Ms Jill McIntosh	Ms S Patterson	Ms Leah J Rowan	Ms E Sullivan
Ms Janet McKelvey	Mr P J Pearsall	Mr P A Rowe	Mr G J Sundstrom
Mr J K McLaughlin AM	Ms A Perigo	Mr T M Rowles	Ms Rebecca Suters
Magistrate L McManus	Mr R J Perrignon	Ms T Harris-Roxas	The Hon R N Talbot
Mr S J McMillan	The Hon Justice M Perry	Mr R Royle	Ms Sonia Tame
Mr G P McNally SC	Mr E Petersen	Mr Geoffrey Rundle	Mr J O Tancred
Ms Jennifer K Mee	Miss Meredith Phelps	Mr Peter Russell	Mr B Taylor
Mr M K Meek SC	Ms S Phillips	Mr J J Ryan	Mr M Thangaraj SC
Mr T M Mehigan SC	Mr Andrew Pickles SC	Mr J R Sainty	Mr G M Thomas
Ms T Z Messner	Mr K J Pierce	Ms K Sant	Mr J Cranston Thompson
Mr Andrew Metcalfe	Mr I H Pike AM	Mr F Santisi	Ms Mandy Tibbey
Mr Meyerowitz-Katz	Mr H Pintos-Lopez	Mr S H Scarlett OAM RFD	Miss L Ticehurst
Mr Constantine Miralis	Mr B Pluznyk	Mr S A Schaudin	Mr A G Todd
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Mr A W Mooney	Mr J Poulos QC	Mr Michael Seck	Mr John Travassaros
Mr C A Moore SC	Ms T M Power	Ms Rashelle L Seiden SC	Mr J A Trebeck
Mr T J Morahan	The Hon L J Priestley QC	Mr Tim Senior	Mr J Trevallion
His Hon Judge D Morley	Mrs Margaret Pringle	Mr J P Sewell	Ms B J Tronson
Mr Hugh Morrison	Mr D R Pritchard SC	Mr J E Sexton SC	Her Honour Judge R C
Mr K Morrissey	Mr A F Puckeridge QC	Mr Mark Seymour	Tupman
Mr Charles Moschoudis	Mr Colin Purdy	Mr Jayneil Shandil	Mr Spiro Tzouganatos
Mr A R Moses SC	Mr R E Quickenden	Mr Yaseen Shariff SC	Mr Bret Walker AO SC
Mr P R Munro AM	Mr M C Ramage QC	Mr Phillip G Sharp	Mr Philip Wallis
Commissioner J Murphy	Mr Robert Ranken	Mr J C Sheahan QC	Mr W J Walsh
The Hon J A Nader RFD QC	The Hon Justice S D Rares	Mr J Sheller SC	Dr C S Ward SC
Mr Andrew P L Naylor	Mr B W Rayment QC	Mr Lucas Shipway	Mr E Wasilenia
Ms J Needham SC	Mr J P Redmond	Mr Nikolaos Siafakas	Mr G J Watkins
Mr I M Neil SC	Mr J Redwood SC	Mr C M Simpson	Ms Watson Keesing
Mr C R C Newlinds SC	The Hon Justice A Rees	Mr R Skiller	Mr O G Watt
Mr Nicholas Newton	Mr P A Regattieri	Mr D A Smallbone	Dr R J Webb
Mr Gerald Ng	Mr M Rennie	The Hon Greg Smith SC	Ms C A Webster SC
Mr L W Nicholls	Dr J G Renwick CSC SC	Mr B Snelling	Mr Michael J Weightman
Mr J Nicholson	Mr S Reuben	Mr Hakan Sonmez	His Honour Judge R H
His Honour Judge	Mr Garry Rich SC	Mr M S Spartalis	Weinstein SC
S Norrish QC	Mr P A Rickard	Mr C Sperling	Mr S A Wells
Mr M Oakes SC	Mr Scott Robertson	Mr D G Staehli SC	Mr J N West QC
Mr Rhys O'Brien	Mr Bryan Robinson	Mr Ashley Stafford	Ms J Wilcsek
Mr Blake A O'Connor	The Hon Justice J E	Mr R A Stanton	Mr S W Wilkinson
Mr B A Odling	Robson	Mr N Steel	Mr Adrian Williams
Her Honour Judge	Mr Declan Roche	Mr C Steirn SC	Mr Dennis Wilson
E Olsson SC	Mr Daniel S Roff	Ms A Stenmark SC	Mr M J Windsor SC
The Hon J L O'Meally AM RFD	Mr C S Rogers	Mr M J Stevens	Mr Christopher H Withers SC
Mr R N O'Neill	The Hon R Rolfe	Mr D C P Stewart	Mrs L G Wong
Mr Seyi Onitiri	Mr E G Romaniuk SC	Mr H W M Stitt	Ms D A Woods
Ms Tahn O'Rourke	Mr D Ronzani	Mr P G W Stitz	The Hon Justice R J Wright
Ms M Painter SC	Mr Patrick Rooney	Mr J Stoljar SC	Mrs K J Young
Mr David Palmer	Mr K Roser	Mr Hugh Stowe	
Mr David Parish	Ms F T Roughley	Mr P Strasser	

Financial Report for The Indigenous Barristers' Trust – The Mum Shirl Fund

ABN 53 124 431 831

Contents

Statement of Surplus and Other Comprehensive Income	142
Statement of Financial Position	143
Statement of Changes in Accumulated Funds	144
Statement of Cash Flows	144
Notes to the Financial Statements	145
Trustees' Declaration	148
Independent Auditor's Report	149

The financial statements cover the Indigenous Barristers' Trust - The Mum Shirl Fund (the "Trust") as an individual entity, incorporated and domiciled in Australia. Its registered office and principal place of business is at 174 Philip Street, Sydney NSW 2000.

The principal activities of the trust is the receipt of donations for distribution as grants.

The financial statements were authorised for issue by the Trustees on 23 August 2021. 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 2021

	Notes	2021 \$	2020 \$
Revenue	3	161,053	164,682
Interest received		3,258	7,272
Audit and accounting		(6,170)	(8,470)
Bank charges		(70)	(5)
Conference expenses		-	(55,728)
Grants made		(15,911)	(29,600)
Surplus before income tax expense		142,160	78,151
Income tax expense	1(c)	-	-
Net surplus		142,160	78,151
Other comprehensive income		-	-
Total comprehensive income		142,160	78,151

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

Statement of Financial Position

For the year ended 30 June 2021

	Notes	2021 \$	2020 \$
CURRENT ASSETS			
Cash and cash equivalents		117,994	225,301
Financial Assets	5	610,934	337,823
Other receivables	4	36,891	60,435
TOTAL CURRENT ASSETS		<u>765,819</u>	<u>623,559</u>
TOTAL ASSETS		<u>765,819</u>	<u>623,559</u>
CURRENT LIABILITIES			
Trade and other payables		<u>6,250</u>	<u>6,150</u>
TOTAL CURRENT LIABILITIES		<u>6,250</u>	<u>6,150</u>
TOTAL LIABILITIES		<u>6,250</u>	<u>6,150</u>
NET ASSETS		<u>759,569</u>	<u>617,409</u>
ACCUMULATED FUNDS			
Accumulated surpluses		<u>759,569</u>	<u>617,409</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 2021

	2021 \$	2020 \$
As at 1 July - opening	617,409	539,258
Total comprehensive income	142,160	78,151
As at 30 June - closing	759,569	617,409

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 2021

	2021 \$	2020 \$
Operating Activities		
Receipts from sponsorship and general activities	184,076	143,536
Interest received	3,779	7,272
Payments to suppliers and grantees	(22,051)	(91,403)
Net cash inflow from operating activities	165,804	59,405
Investing Activities		
(Repayment of)/Proceeds from term deposits	(273,111)	69,424
Net cash (outflow)/inflow from investing activities	(273,111)	69,424
Net (decrease)/increase in cash and cash equivalents	(107,307)	128,829
Cash and cash equivalents at the beginning of the year	225,301	96,472
Cash and cash equivalents at the end of the year	117,994	225,301

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 2021

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 convention

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

Critical accounting estimates and judgements

The preparation of financial statements requires the use of certain critical accounting estimates. It also requires management to exercise its judgement in the process of applying the Trust's accounting policies. There are no estimates and judgements 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.

(c) Income Tax

The Trust is exempt from income tax.

(d) 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 Trust'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 Trust'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.

(e) Cash and Cash Equivalents

Cash and cash equivalents include cash on hand and cash at bank.

For the statement of cash flow presentation purposes, cash and cash equivalents comprises the above.

(f) Financial Assets

- i. *Classification*
The Trust classifies its financial assets in as:
 - those to be measured at amortised cost.The Trust reclassifies debt investments when and only when its business model for managing those assets changes.

ii. Recognition and derecognition

Regular way purchases and sales of financial assets are recognised on trade-date, the date on which the Trust commits to purchase or sell the asset. Financial assets are derecognised when the rights to receive cash flows from the financial assets have expired or have been transferred and the Trust has transferred substantially all the risks and rewards of ownership.

iii. Measurement

At initial recognition, the Trust measures a financial asset plus transaction costs that are directly attributable to the acquisition of the financial asset.

iv. Impairment

For trade receivables, the Trust applies the simplified approach permitted by AASB 9, which requires expected lifetime losses to be recognised from initial recognition of the receivables.

(g) Other Receivables

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

(h) 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.

(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 taxation authority are presented as operating cash flows.

(j) Changes in Accounting Policies, Disclosures, Standards and Interpretations

The Trust 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.

2. Critical accounting judgements, estimates and assumptions

(a) Impacts of COVID-19

There are current uncertainties in the economy related to the COVID-19 outbreak that emerged since early 2020. These uncertainties have impacted the Trust's operations and may create questions about the impairment or recoveries of certain assets. As the situation is still evolving, the full effect of the outbreak is still uncertain. It is however reasonably possible that COVID-19 will have an adverse impact on the Trust's revenues and results for the next reporting year, the extent of which will depend on how long the outbreak lasts.

3. Revenue

	2021 \$	2020 \$
Contributions received	161,053	164,682
Revenue from continuing operations	161,053	164,682
<i>Disaggregation of revenue</i>		
The disaggregation of revenue from contracts with customers is as follows:		
<i>Geographical regions</i>		
Australia	161,053	164,682

4. Other receivables

	2021 \$	2020 \$
Current		
NSW Bar Association	36,043	54,431
GST receivable	568	5,203
Accrued interest	280	801
	<u>36,891</u>	<u>60,435</u>

5. Financial assets

	2021 \$	2020 \$
Current		
Term Deposits	<u>610,934</u>	<u>337,823</u>

6. Related party disclosures

(a) Trustees

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:

Chris Ronalds SC	Tim Game SC	M. McHugh SC
Justice Michael Slattery AM QC	Tony McAvoy 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 Trustees of the Trust.

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

7. Contingent liabilities

The Trust had no contingent liabilities as at 30 June 2021 and 30 June 2020.

8. Commitments

The Trust had no commitments as at 30 June 2021 and 30 June 2020.

9. Events occurring after the reporting date

Other than the ongoing COVID-19 pandemic, no matter or circumstance has occurred subsequent to year end that has significantly affected, or may significantly affect, the operations of the association, the results of those operations or the state of affairs of the Trust.

Trustees' Declaration

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 142 to 147:
 - i. have been drawn up in accordance with Accounting Standards - Reduced Disclosure Requirements and other mandatory professional reporting requirements in Australia; and
 - ii. presents fairly the Trust's financial position as at 30 June 2021 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:



C Ronalds AO SC

Trustee

Bawley Point, NSW

23 August 2021



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INDEPENDENT AUDITOR'S REPORT

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 2021, 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 2021 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 2021 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.

THE POWER OF BEING UNDERSTOOD

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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.

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. This description forms part of our auditor's report.

A stylized blue ink signature of the firm RSM Australia Partners.

RSM Australia Partners

A stylized blue ink signature of C J Hume.

C J Hume
Partner

Sydney, NSW
Dated: 23 August 2021



NEW SOUTH WALES
BAR ASSOCIATION