

24

LEGAL REGULATION DEPARTMENT ANNUAL REPORT 2024



**PROFESSIONAL
STANDARDS**
THE LAW SOCIETY
OF NEW SOUTH WALES

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Senior Vice President: J. Ball

Junior Vice President: R. MacSweeney

Immediate Past President: C. Banks

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Professional Conduct Committee (as at 30 June 2024)

J. Dawson (Councillor and Chairperson)

A. Yazdani (Councillor and Deputy Chairperson)

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Ethics Committee (as at 30 June 2024)

D. Miller (Chairperson)

K. Bailey, D. Captain-Webb, V. Chan, L. Chee, S. Cohen, N. Commins, W. Dixon, A. Ferguson, E. Hoile, K. Iles, A. Maisano, A. McGarrigle, D. Miller, J. Moller, D. Pearson, C. Robinson, T. Russell, N. Scanlon, J. Sheen, N. Silfani, T. Stern, M. Tangonan, R. Tumeth, S. Yigit

Costs Committee (as at 30 June 2024)

M. Macken (Chairperson)

S. Butcher, J. Dobson, A. Halstead, M. Macken, C. Lehmann, M. Lo, R. May, B. Musry, R. Nicholas, S. Robey, K. Rosati, R. Walker, C. Wall

Disclosure Committee (as at 30 June 2024)

A. Biliass (Councillor and Chairperson)

R. MacSweeney (Councillor and Deputy Chairperson)

R. Benzie, L. Blackstone, L. Chee, S. Heron, E. Hoile, N. Kroesche, C. McCusker, D. Miller, J. Patterson, J. Pope, T. Russell, A. Sarmed, J. Sutton, A. Tattersall, A. Tiedt

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INTRODUCTION

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

Utilising powers under the Legal Profession Uniform Law (NSW) (**Uniform Law**), and subordinate regulatory instruments, the Department advises the Law Society Council and its delegates. The Department undertakes a range of regulatory functions in relation to solicitors. Under the co-regulatory regime, it works closely with the Commissioner and the Office of the Legal Service Commissioner (**OLSC**) in relation to the complaints process and policy development.

Specifically, the Department:

- conducts preliminary assessments and investigations of complaints under Chapter 5 of the Uniform Law against solicitors who are referred to the Council of the Law Society of NSW (**Council**) by the Commissioner, and from Courts and Tribunals. It makes recommendations to the Professional Conduct Committee (**PCC**) about appropriate action under the particular circumstances of each case;
- assesses disclosures that are made by solicitors pursuant to the Uniform Law and recommends appropriate action to the Disclosure Committee or Council. This includes the assessment of Automatic Show Cause Events and Designated Show Cause Events. Where required disclosures are not made pursuant to the Uniform Law, those matters are assessed and recommendations made;
- advises Council on matters referred to it that identify significant 'fitness' issues in relation to solicitors. These include matters arising from trust account investigations, matters referred by other areas of the Law Society, and those referred by external parties. Action taken may include, but is not limited to, the following:
 - suspension, variation or cancellation of practising certificates;
 - making complaints to the Commissioner; or
 - recommending external intervention in a law practice.

The Department also conducts litigation on behalf of Council, including disciplinary proceedings in the New South Wales Civil and Administrative Tribunal (**Tribunal**) and various Courts.

The Department also investigates allegations about persons who engage in legal practice when they are not entitled to do so, referred to as Unqualified Legal Practice. These matters are criminal in nature and are prosecuted in the Local Court.

OUR MISSION

The mission of the Legal Regulation Department is to:

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

OUR VALUES

The Legal Regulation Department embodies the Law Society values in its work, namely:

- Integrity
- Personal and professional effectiveness
- Teamwork
- Achievement

Many Chapter 5 complaints dealt with by the Department involve serious and complex conduct issues. Complaints and other matters are reported to and considered by the PCC, the Disclosure Committee and Council. In undertaking its statutory functions, the Department acts objectively and impartially, ensuring that all complaints are dealt with as efficiently and expeditiously as possible.

In 2023, the Law Society released its Statement of Regulatory Approach. The document explains the risk-based, outcomes-focused approach to the exercise of regulatory functions. It describes the Department's decision-making process, with a focus on the importance of the administration of justice, and where there is a serious risk of harm posed to the public.

The work of the Department encompasses more than dealing with complaints and other regulatory matters. It also provides guidance, assistance and education to the legal profession through its Professional Support Unit (**PSU**).

This Annual Report is an overview of the work undertaken by the Law Society from 1 July 2023 to 30 June 2024 (2023/2024). Where relevant, comparative data for the period from 1 July 2022 to 30 June 2023 (the previous reporting period) as well as prior years may be provided. The statistical information set out in this report, in conjunction with the Law Society Annual Report, complies with the reporting requirements of the legal profession legislation.



PRESIDENT'S MESSAGE



The Law Society maintains an ongoing commitment to enhancing professional standards and ensuring public confidence in the integrity of the legal profession. The role of the Law Society has been, and always will be, to deliver effective regulation and support to the legal profession.

The Law Society and the Legal Regulation Department

In my role as President of the Law Society of New South Wales, it is with great pride that I present the Legal Regulation Department's Annual Report for 2024.

The Law Society maintains an ongoing commitment to enhancing professional standards and ensuring public confidence in the integrity of the legal profession. The role of the Law Society has been, and always will be, to deliver effective regulation and support to the profession.

The report provides a summary of the varied and important work that is undertaken by the Law Society.

These ongoing roles are undertaken in conjunction with the NSW Legal Services Commissioner and provide efficient, robust and transparent mechanisms for the investigation and review of solicitors.

The complaint process – mechanism and outcomes

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

The co-regulatory role that the Law Society shares with the Commissioner results in the referral of matters to the Law Society for further inquiry, investigation, and, potentially, disciplinary action. The statutory complaint function is a rigorous and thorough process that reflects the importance of each complaint, and balances the need to reach an appropriate resolution as quickly and efficiently as possible.

The outcomes of those processes involve careful observation of the requirements for natural justice and procedural fairness. Disciplinary action is necessary in relatively few cases, highlighting the diligent and professional attitude that the Law Society displays in seeking to resolve complaints pursuant to its Statement of Regulatory Approach.

Our traditional and ongoing role of partnership and guidance

The Law Society has a unique and ongoing partnership with the legal profession combining consultation, assistance and guidance. The Department's role is focused on the key areas of everyday practice, including the provision of assistance from the Professional Support Unit on costs, ethics and regulatory compliance. The unit's ongoing relationship with practitioners includes mentoring, guiding and teaching the profession through the skill and experience of our specialist professionals.

The Law Society strives for constant improvement in the delivery of its services. There has been an emphasis on emerging and challenging areas of law, including cyber-crime, security, artificial intelligence and anti-money laundering. This has resulted in a comprehensive suite of important resources made available to the legal profession by the Law Society. New digital technologies and concepts have been embraced and intertwined with traditional avenues of support for the profession. These include online guides, education courses, advisory services and Continuing Professional Development programmes.

The Annual Report is presented at a time when the Law Society is adopting innovative approaches to deal with future challenges.



Brett McGrath
President

THE LEGAL REGULATION DEPARTMENT

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

Key Activities

Management

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

Investigations

- Conduct timely and impartial preliminary assessments of complaints referred from the OLSC. Where appropriate, initiate investigations in relation to solicitors, unqualified practitioners and associates of legal practices.
- Prepare reports and make recommendations on conduct and fitness issues to the Director, PCC, the Disclosure Committee and/or Council.
- Resolve matters where appropriate.
- Conduct timely and efficient investigations of disclosure matters, including the making of recommendations.

Litigation

- Institute and conduct, on behalf of Council, proceedings before the Tribunal and Courts.
- Respond, on behalf of Council, to various applications made before the Tribunal and Courts.
- Provide regular and informative reports to PCC and Council concerning litigation matters.
- Recover costs from any successful disciplinary action taken against solicitors.

Education

- The PSU provides assistance and guidance to solicitors in relation to ethics, costs and regulatory compliance issues arising under the Uniform Law to ensure solicitors understand their obligations and rights pursuant to the legal profession legislation.

Costs

- Prepare matters for the Law Society's Costs Committee (**Costs Committee**).
- Assist the Costs Committee to identify and respond to policy issues associated with the legal profession legislation, including the effectiveness of the Costs Assessment Scheme and issues associated with legal costs.
- Provide continuing professional development sessions related to costs and billing obligations arising under the Uniform Law.
- Prepare educational materials, including articles for the *Law Society Journal*, on costs.
- Answer enquiries from the legal profession in relation to costs.

Ethics

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

Regulatory compliance

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

Administration

- Maintain accurate and timely information stored on the Law Society's databases.
- Provide administrative management and support to ensure the efficient running of the Department, including paralegal support, agenda preparation for the PCC and the Disclosure Committee, high level document and file management and financial records administration.
- Provide administrative support to the Director, Legal Regulation as well as the staff solicitors.

Disclosure

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

Work undertaken by the Legal Regulation Department

■ 2023/2024 ■ 2022/2023

Ethics Queries		2,831 2,556
Regulatory Queries		4,412 2,393
Cost Queries		930 399
Complaint Files		654 589
Disclosure Files Opened		566 584
Litigation/ Intervention		21 26
Unqualified Practitioner Enquiries		79 74



COMPLAINTS

The complaints process

A complaint may be made by any person or body, including the Commissioner and the Law Society.

Under Chapter 5 of the Uniform Law, all complaints must be made to or by the Commissioner, who may, among other things, refer the complaint to Council for assessment, and, if appropriate, investigate pursuant to a delegation issued by the Commissioner. The Law Society may also make complaints to the Commissioner (discussed below).

Complaints made on or after 1 July 2015 are dealt with in accordance with Chapter 5.

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

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

In dealing with disciplinary matters, the Department undertakes a preliminary assessment of the complaint. Following that preliminary assessment, a determination may be made to close the complaint, or to proceed with an investigation.

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

Referrals from the Legal Services Commissioner

In 2023/2024:

- The Commissioner received a total of 2,960 written complaints about solicitors.
- The Department was referred a total of 654 complaints.
- 20 findings of unsatisfactory professional conduct were made by the PCC and 10 matters were referred to the Tribunal for determination.
- 725 matters were closed in total, with 543 complaints closed by PCC during the year.
- At 30 June 2024, 568 Chapter 5 complaints remained open.

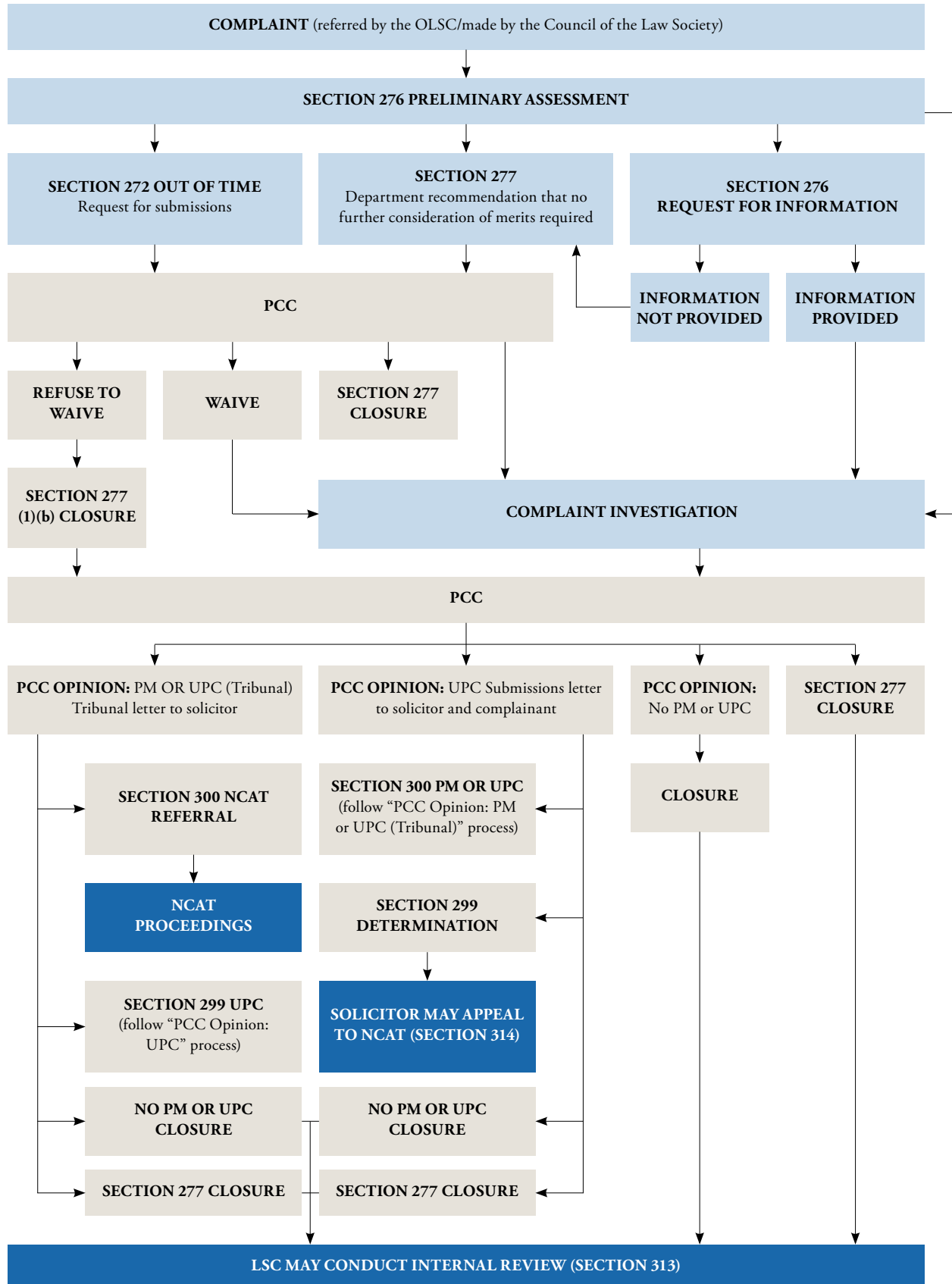
Complaints made by the Law Society

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

Generally, complaints made by the Law Society arise from the following types of matters:

- Matters identified by the Trusts team. These typically involve a solicitor’s mishandling of trust money or a solicitor’s failure to comply with trust accounting requirements.
- Matters referred to the Department by Registry, usually involving practising certificate issues.
- Matters referred to the Department by the Disclosure Committee typically involve misconduct arising outside the practice of law.
- Matters referred to the Department by judicial officers or court registrars, usually involving conduct of a solicitor arising in the course of proceedings before a Court or Tribunal.

Complaints investigation process



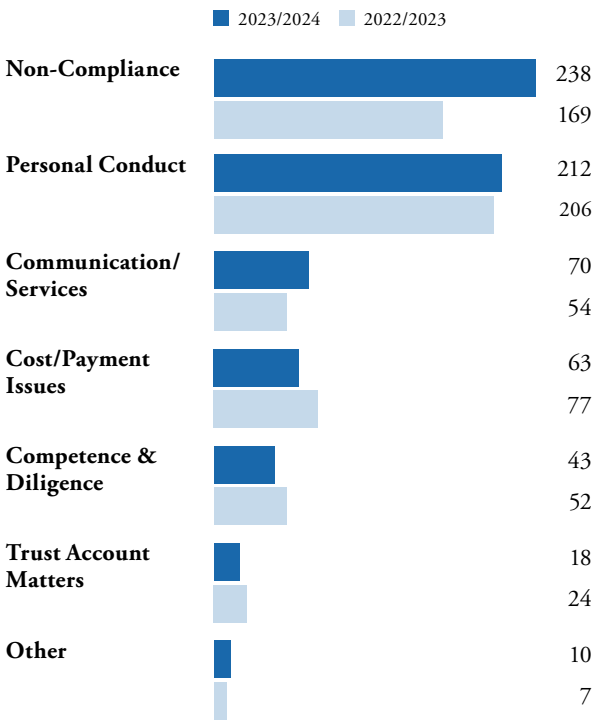
Categories of Complaints

The following section provides a snapshot summary of the type and nature of complaints opened by the Department in 2023/2024.

Conduct most complained about

In 2023/2024:

- “Non-compliance” (including, for example, the failure to comply with an undertaking and failing to comply with the legal profession legislation) was the major issue complained about, making up for 238 of the total complaints.
- “Personal Conduct” (including, for example, unethical conduct, misleading behaviour, borrowing from client and negligence) accounted for 212 of the total complaints.
- “Communication/Services” issues (including, for example, acting contrary to instructions, failing to carry out instructions and lack of communication) accounted for 70 of the total complaints.
- “Costs/Payment Issues” (including, for example, failure to pay a third party, overcharging, failure to provide a detailed account or costs disclosure) accounted for 63 of the total complaints.
- “Competence and diligence” issues (including, for example gross negligence, failure to meet deadlines, delay, failure to transfer files) accounted for 43 of the total complaints.
- “Trust Account Matters” (including, for example, a breach of the legal profession legislation in relation to trust money, failure to account and misappropriation) accounted for 18 of the total complaints.



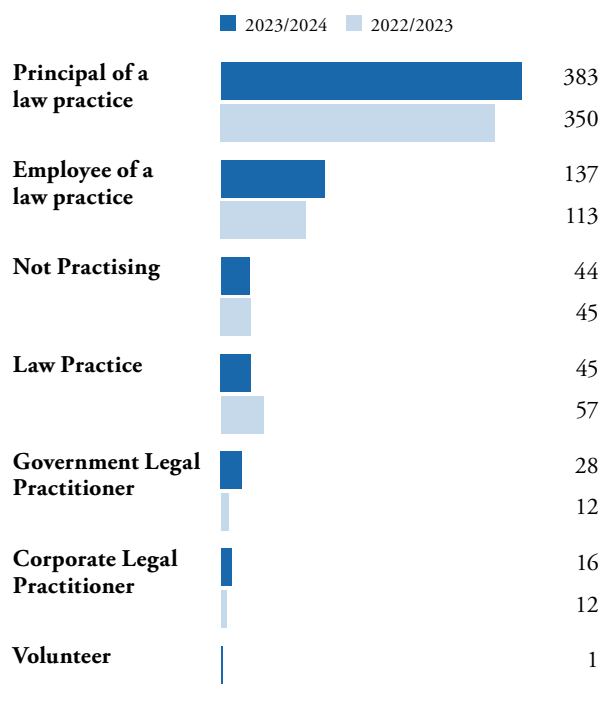
AREAS OF LAW WITH THE MOST COMPLAINTS			
Corporate / Commercial	148	Employment / Industrial Law	18
Conveyancing / Real Property	110	Personal Injury	8
No Area of Law	76	Wills & Estates Law	5
Criminal Law	71	Environmental Law	2
Commercial Litigation	50	Other	2
Administrative Law	67	Advocacy	2
Family Law	49	IT/ Telecommunications	1
Banking / Finance	23	Small Business	1
Litigation General	12	Taxation Law	1
Debts / Insolvency	7	Trade Practices Law	1

Complaints by solicitor type

In 2023/2024:

- 383 complaints were made against principals of a law practice (comprising 58.56% of the complaints made).
- 137 complaints were made against employees of a law practice (comprising 20.95% of the complaints made).
- From a geographical perspective, 50.30% of complaints made related to solicitors practising in suburban Sydney, 26.30% related to solicitors practising in Sydney's CBD, 1.07% were interstate and 18.80% were made against solicitors practising in rural New South Wales.
- 30.12% of complaints concerned female solicitors, 62.99% of complaints were made against male solicitors.

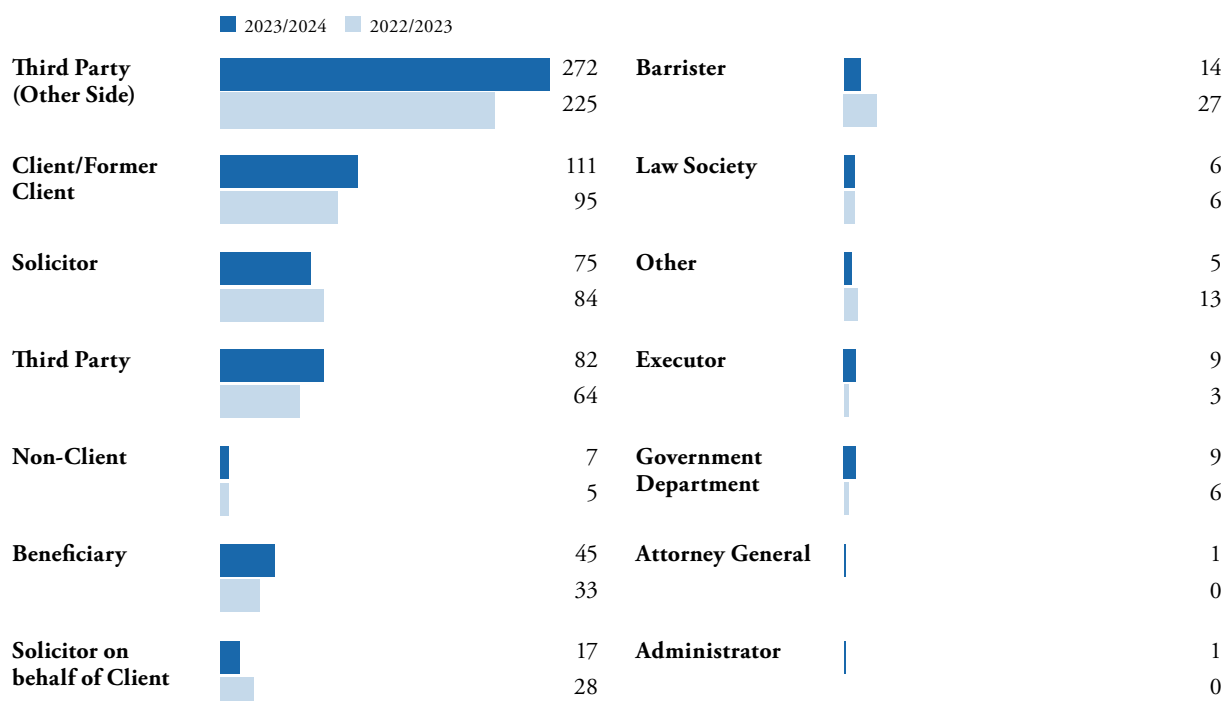
Note: Percentages quoted are based on all complaints received but one solicitor may generate several complaints, either separately or in the same matter.



Categories of Complainants

In 2023/2024:

- The largest number of complaints were made by third parties (as opposed to clients) who accounted for 41.59% of the total complaints.
- Complaints made by the client(s) or former client(s) of a solicitor or law practice accounted for 16.97% of the total complaints.
- Complaints made by a solicitor accounted for 11.47% of the total complaints.
- Complaints made by barristers accounted for 2.14% of the total complaints. These complaints often related to the non-payment of outstanding fees.



Finalisation of Complaints

In 2023/2024:

- The Department closed 725 complaints.

Complaints closed under the Uniform Law

Code	Outcome	Number
209	No Further Investigation Required Except Cm - S277(1)(H)	501
201	Misconceived/Lacking In Substance - S277(1)(A)	35
205	Complaint Already Has Been Investigated - S277(1)(D)	4
235	Referred Back to the Office of the Legal Services Commissioner	36
200	Complaint Withdrawn - S273(1)	42
206	Complaint Better Dealt With By Law Enforcement/Investigatory Body - S277(1)(E)	27
204	Failure/Inadequate Response To Request For Info - S277(1)(C)	34
224	D Reprimand - S299(1)(B)	13
211	Public Interest Closure - S277(1)(J)	7
202	Time Limit Not Waived Under S272(1) - S277(1)(B)	7
223	D Caution - S299(1)(A)	4
230	D Initiate Tribunal Proceedings - S300(1)	6
238	Closed Enquiry	1
210	No Power to Investigate Complaint - S277(1)(I)	2
131	Nfa-Sol Struck Off	6

Decisions of the Professional Conduct Committee

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

The PCC is one of the Law Society's largest committees and plays an essential role in relation to the regulatory functions of the Law Society. In 2023/2024, there were 37 members of the PCC, comprising 7 Councillors of the Law Society, 23 solicitors, 1 Australian Lawyer and 6 lay members.

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

Following its consideration of a complaint, the PCC may:

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

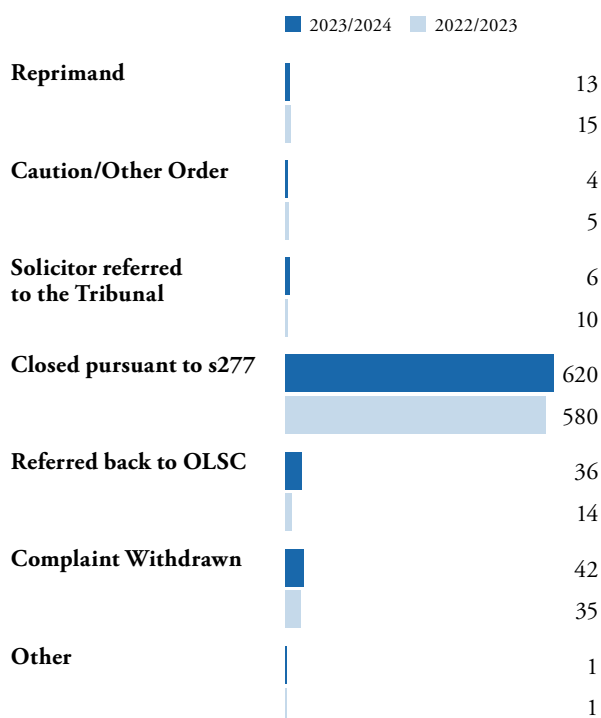
In 2023/2024:

- Of the 725 matters finalised by the Department, 543 complaints were closed by PCC.
- Of the complaints closed by the PCC:
 - 4 cautions and 15 reprimands were consequently ordered by the PCC.
 - 6 matters were referred to the Tribunal for the commencement of disciplinary proceedings.

- 85% were closed for one or more of the grounds provided under section 277 of the Uniform Law including that the complaint was misconceived or lacking in substance (277(1)(a)); the complainant had not responded, or responded inadequately to a request for further information (277(1)(c)); the subject matter of the complaint had already been investigated (277(1)(d)); or that it was otherwise in the public interest to close the complaint (for example, in circumstances where the solicitor's name may already have been removed from the roll) (277(1)(j)).

In September 2022, Council delegated the power to deal with complaints to the Director, Legal Regulation. In practice, the Director closes complaints only under those grounds specified in s 277. During the year the Director closed 77 matters.

Complaint outcomes



Complaints management

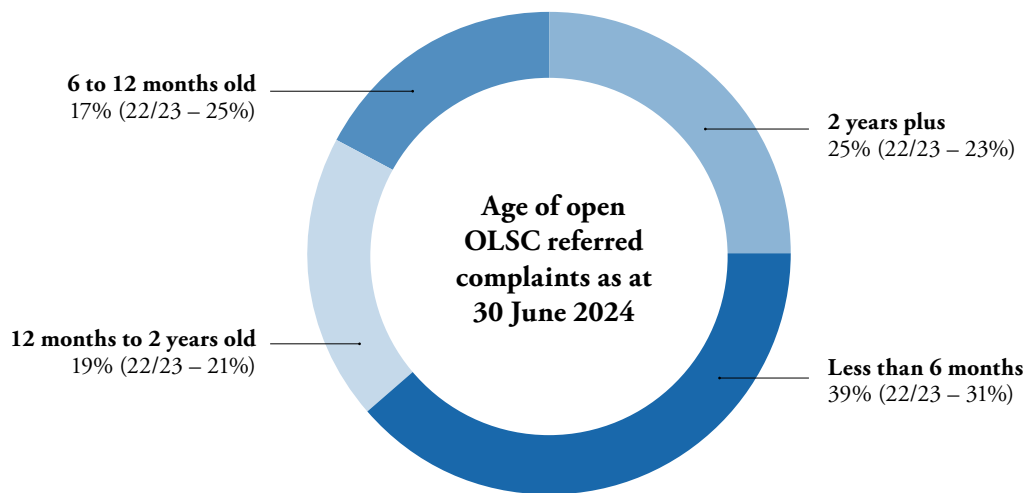
The staff practices and procedures of the Department are regularly reviewed and updated to ensure complaints are handled as efficiently and expeditiously as possible.

During the period there has been a substantial improvement in closure times.

The Department also liaises regularly with the Commissioner concerning the status and progress of all complaints referred to the Law Society.

During the reporting period, the Department has continued to review its procedures to improve the handling of complaints.

Progress of complaint investigations can be adversely impacted where the subject matter of the complaint is also involved in court proceedings related to the complaint. In some circumstances, the Law Society may close the complaint as more appropriately dealt with by the court. Closure may also occur where another body, agency or regulator (such as law enforcement) is more appropriately positioned to conduct the investigation.



Reviews by the New South Wales Legal Services Commissioner

The decisions and determinations of Council and its delegates in relation to complaints are subject to review. The avenue of review that may be available under the legal profession legislation will depend upon the type of decision or determination made.

For example, in relation to a complaint which has been closed by the PCC under s 277 of the Uniform Law, an application for review must be made to the Commissioner within 30 days of the date of notice of the decision.

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

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

In 2023/2024, the Commissioner received 182 requests for reviews.



LITIGATION AND INTERVENTION

New South Wales Civil and Administrative Tribunal

Once the PCC determines that the alleged conduct of a solicitor may amount to unsatisfactory professional conduct or professional misconduct, proceedings in the Tribunal may be initiated in relation to that conduct.

Proceedings are commenced in the Tribunal pursuant to section 300(1) of the Uniform Law. This is done on behalf of Council by the filing of an Application for Disciplinary Findings and Orders. Applications must be filed within six months of the PCC's decision.

Many of the matters referred to the Tribunal are complex and quite often involve multiple issues of alleged conduct. The table on page 16 sets out the types of conduct that the Tribunal considered in disciplinary proceedings that Council commenced, and the orders that it made in those proceedings in 2023/2024.

The Tribunal Orders for reprimands, fines or removal from the Roll – FY2024 (as at 30 June 2024)

See below the trend of disciplinary outcomes, namely, reprimands, fines, and removals from the roll/recommendations for removal from the Roll issued by the Tribunal over each financial year.

YEAR	REPRIMAND	FINE	REMOVAL / RECOMMENDATION FOR REMOVAL FROM THE ROLL
2023/2024	3	0	1
2022/2023	2	1	0
2021/2022	6	1	1
2020/2021	9	4	1
2019/2020	4	2	1
2018/2019	23	19	8
2017/2018	13	7	8
2016/2017	8	5	11
2015/2016	15	3	9

The Tribunal – Disciplinary proceedings

In 2023/2024:

- Council commenced five proceedings in respect of four respondent solicitors in the Tribunal pursuant to section 300(1) of the Uniform Law
- The Tribunal published decisions in relation to four disciplinary proceedings that Council had commenced in the Tribunal, in a previous period, pursuant to section 300(1) of the Uniform Law.

Number and type of proceedings instituted at The Tribunal

NAME OF SOLICITOR	CONDUCT	FINDING/S	ORDERS MADE	DATE OF ORDERS
James Feng	<p>Falsified documents and submitted the falsified documents to the Law Society claiming they were true documents.</p> <p>Intentionally deleted electronic copies of original documents to conceal the misrepresentations made to the Law Society.</p> <p>Misled the Trust Investigator by providing false information.</p> <p>Misled or attempted to mislead the Trust Investigator by providing false information in circumstances where he knew he had provided false information.</p> <p>Engaged in unethical conduct by producing backdated time sheets to the Trust Investigator.</p> <p>Made allegations pertaining to unethical conduct against another firm in circumstances where the solicitor knew the allegations were untrue.</p> <p>Provided information to a client in circumstances where the solicitor knew or ought to have known the information was false and/or misleading.</p> <p>Misled the Trust Investigator by providing extracts of bank statements purporting to show payments returned to clients in circumstances where the solicitor knew that those payments had failed to be remitted.</p> <p>Failed to comply with the requests made by the Trust Investigator.</p> <p>Breached an undertaking to the Trust Investigator that he would provide further information.</p>	Professional misconduct and unsatisfactory professional conduct	Roll removal recommendation Costs	20 July 2023 (decision published 30 August 2023)

Number and type of proceedings instituted at The Tribunal (continued)

NAME OF SOLICITOR	CONDUCT	FINDING/S	ORDERS MADE	DATE OF ORDERS
James Feng	Issued costs disclosures to client containing a contingency fees clause in breach of section 183 of the Uniform Law. Failed to comply with his obligations with respect to trust accounting and failed to keep trust records in accordance with the provisions of the Uniform Law and Uniform Rules.			
FZK (a pseudonym)	Procuring false attestations of two witnesses to a will of a late testator	Professional misconduct	Reprimand Fine Education course Costs	27 October 2023
David Downey	Failing to comply with an undertaking	Professional misconduct	Reprimand Fine Costs	10 November 2023
Vadym Malakhov	Threatened and/or intimidated a witness in breach of rules 34.1.1 and 5.1.2 of the <i>Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 (Conduct Rules)</i>	Professional misconduct	Reprimand Fine Education Course Costs	13 December 2023
George Sideris (Stage 1 Proceedings)	During the course of legal practice, sent correspondence directly to the client of another solicitor in breach of rule 33 of the Conduct Rules and which was discourteous contrary to rule 4.1.2 of the Conduct Rules	Professional misconduct	On 12 June 2024 the Tribunal heard the matter in relation to stage 2 (orders). On 9 August 2024, the Tribunal made orders including a Roll removal recommendation (Council of the Law Society of New South Wales v Sideris (No 2) [2024] NSWCATOD 121)	5 January 2024

Section 314 (appeal) proceedings

A person admitted to the legal profession against whom the PCC resolved to make disciplinary orders may, pursuant to section 314 of the Uniform Law, commence proceedings in the Tribunal against Council to seek review of that resolution.

In 2023/2024:

- Four matters were commenced in the Tribunal against Council by three solicitors pursuant to section 314. As at 30 June 2024, one matter was discontinued by the Applicant.
- The Tribunal published decisions in relation to proceedings that solicitors had commenced against Council, as follows:
 1. *Ndou v Council of the Law Society of New South Wales* [2023] NSWCATOD 111 – Decision published 26 July 2023 – The PCC found that Mr Lovemore Ndou had engaged in unsatisfactory professional conduct in respect of the following:
 - a. Mr Ndou breached a Local Court order made on 21 November 2019 by using information and/or document(s) produced in those proceedings in his client’s affidavit and filed in the Family Court (Local Court Orders Conduct); and
 - b. Mr Ndou acted contrary to the Harman Principle, as outlined in *Harman v Secretary of State for the Home Department* [1983] 1 AC 280, by using information and/or document(s) produced in the Local Court proceedings for a collateral purpose (Harman Principle Conduct).

The PCC made orders reprimanding Mr Ndou and requiring him to undertake and complete legal ethics training within six months from notification of the PCC’s determination.

The Tribunal made orders:

- a. affirming the PCC’s finding that Mr Ndou had engaged in unsatisfactory professional conduct;
 - b. affirming the PCC’s resolution to reprimand Mr Ndou; and
 - c. noting that Mr Ndou had already completed the legal ethics course as at the date of the hearing, and varying the PCC’s disciplinary orders requiring Mr Ndou to complete a legal ethics course by replacing it with an order requiring him to pay a fine in the sum of \$2,000 within 60 days of the Tribunal’s decision.
2. *Di Giovanni v Council of the Law Society of New South Wales* [2024] NSWCATOD 66 – Decision published 24 May 2024 – The PCC resolved that Ms Maria Di Giovanni had engaged in unsatisfactory professional conduct on the basis that she and/or her Law Practice acted in the sale of a property in circumstances where there was a conflict of interest between the vendor, the purchasers and the practitioner.

The PCC made orders reprimanding Ms Di Giovanni and requiring her to undertake within six months legal ethics training that deals with conflicts of interest.

The Tribunal made orders:

- a. affirming the PCC’s finding that Ms Di Giovanni had engaged in unsatisfactory professional conduct; and
- b. varying the PCC’s resolution by reprimanding Ms Di Giovanni, requiring her to complete an ethics course which deals with informed consent and how conflicts of interest may arise, and also required her to provide an apology to her former client.

Court of Appeal proceedings

Council may commence proceedings in the New South Wales Court of Appeal (**Court of Appeal**) against a person who has been admitted to the legal profession in New South Wales to seek:

1. a declaration that the person is not a fit and proper person to remain on the Roll of Australian Lawyers (**Roll**); and
2. an order removing the person's name from the Roll, pursuant to section 23 of the Uniform Law.

In 2023/2024:

- three matters were commenced by Council pursuant to section 23 of the Uniform Law.
- The Court of Appeal handed down the following decision in one set of disciplinary proceedings that Council had commenced:
 1. Council of the Law Society of New South Wales v Duncan [2024] NSWCA 147 – Decision published 17 June 2024 – The Court of Appeal made a declaration that Mr Nigel Duncan is not a fit and proper person to remain on the Roll and made orders removing his name from the Roll and requiring him to pay the Applicant's costs.

Other matters

In 2023/2024:

- one matter was commenced by a non-lawyer in the New South Wales District Court appealing the decision of the Local Court to convict him of contraventions of sections 10 and 11 of the Uniform Law (which relate to unqualified legal practice) and to sentence him in connection with those offences.
- one matter was commenced by a practitioner in the Supreme Court to seek a review of Council's decision in relation to a matter regarding his practising certificate.

- The Tribunal handed down the following decisions in proceedings involving Council:

1. *S121 Application by Joshua David Gale* [2023] NSWCATOD 125 - Decision published 23 August 2023 – The Tribunal made an order, under section 121 of the Uniform Law, approving Joshua Gale as a lay associate of Fourtree Lawyers under the supervision of Mr Kevin Vierboom, such approval being conditional upon Mr Gale being employed by that law practice.
2. *S121 Application by FXI* [2024] NSWCATOD 6 – Decision published 18 January 2024 – The Tribunal made an order, under section 121 of the Uniform Law, approving FXI (a pseudonym) as a lay associate subject to specified conditions.
3. *Council of the Law Society of New South Wales v Buckley* [2023] NSWCATOD 180 – Decision published 7 December 2023 – Council had commenced disciplinary proceedings in the Tribunal against Mr Nathan Buckley in a previous period. During the proceedings, Mr Buckley sought a finding that the Tribunal has no jurisdiction to hear and determine grounds in Council's Application. The Tribunal dismissed Mr Buckley's application.
4. *The Council of the Law Society v Grubisa* [2024] NSWCATOD 19 – Decision published 22 February 2024 – Council had commenced disciplinary proceedings in the Tribunal against Ms Dominique Grubisa in a previous period. During the proceedings, Ms Grubisa sought orders adjourning the proceedings until the completion of Federal Court proceedings to which she was a party. The Tribunal made orders refusing Ms Grubisa's adjournment application.
5. *Council of the Law Society of New South Wales v Buckley* [2024] NSWCATOD 44 – Decision published 15 April 2024 – Council had commenced disciplinary proceedings in the Tribunal against Mr Buckley in a previous period. During the proceedings, Mr Buckley sought orders dismissing the proceedings on jurisdictional grounds. The Tribunal made orders dismissing Mr Buckley's application.

Unqualified legal practice

The Law Society's role includes investigating queries about entities who are alleged to have breached sections 10(1) and/or 11 of the Uniform Law.

Where appropriate, the Department will take action, including commencement of criminal proceedings.

Section 10 of the Uniform Law prohibits unqualified entities from engaging in legal practice in New South Wales.

Section 11 prohibits entities from holding themselves, and other specified entities, out as entitled to engage in legal practice.

In dealing with queries about possible breaches of sections 10 and 11, the Law Society will typically, in the first instance, attempt to address any alleged issues without commencing legal proceedings by liaising directly with the entity subject of the enquiry.

In 2023/24:

- 79 enquiries about unqualified practice were reviewed, which constitutes an increase from 74 enquiries in the previous reporting period.
- 155 enquiries about unqualified practice were closed.
- The Law Society commenced two prosecutions in the Local Court alleging offences contrary to sections 10(1) and 11 of the Uniform Law.

In 2023/2024, the Local Court found a person guilty of unqualified legal practice, and imposed fines and a community corrections order.

The outcome of a separate successful prosecution in the Local Court is the subject of an appeal to the District Court.

Disqualification of individuals

Council may commence proceedings in the Tribunal to seek an order, pursuant to section 119 of the Uniform Law, which renders a person (other than a legal practitioner) a 'disqualified person' for the purposes of the Uniform Law.

Grounds for disqualification include the following circumstances:

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

In 2023/2024:

- Council commenced one set of proceedings in the Tribunal pursuant to section 119 of the Uniform Law.
- The Tribunal handed down the following decision:
 1. *Council of the Law Society of New South Wales v Ip* [2023] NSWCATOD 157 – Decision published 30 October 2023 – The Tribunal made an order disqualifying Mr Eric Ip indefinitely under section 119(1) of the Uniform Law.

External intervention

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

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

The facts and circumstances may warrant the appointment, by Council, of an external investigator.

Managers

Council may resolve to appoint a manager to a law practice under section 334 of the Uniform Law. Managers are generally appointed to ensure the orderly conduct of the matters of a law practice, for example, upon the death or ill health of a sole practitioner. A manager must hold a Principal of a Law Practice practising certificate and will take over all of the duties and responsibilities of a solicitor's law practice and dispose of the law practice appropriately.

In 2023/2024, Council appointed a total of 17 managers, re-appointed three managers and terminated the appointment of two managers.

During the same year, the Director, Legal Regulation, acting as Council's delegate, re-appointed two managers and terminated the appointment of one manager.

Supervisors

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

In 2023/2024, Council did not appoint any supervisors of trust money.

During the same year, the Director, Legal Regulation, acting as Council's delegate, re-appointed two supervisors of trust money.

Receivers

Council may resolve to apply to the Supreme Court of New South Wales for the appointment of a receiver to a law practice pursuant to the grounds set out in the Uniform Law, including where a solicitor has ceased to hold a practising certificate, is mentally or physically infirm, has abandoned his or her practice, or has died, or when a client cannot obtain trust property.

A receiver's powers are extensive and include taking possession of all trust property of the law practice.

In 2023/2024, Council did not resolve to apply to the Supreme Court of New South Wales for the appointment of a receiver to a law practice.

Investigators

Council may also appoint an external investigator if there is a suspicion of improper conduct or irregularity by a solicitor's law practice with their trust account obligations under Chapter 4 of the Uniform Law. The external investigator may be either a solicitor or an accountant and is tasked to examine the affairs of the law practice.

In 2023/2024, Council did not appoint any external investigators.



DISCLOSURE, COMPLIANCE AND FITNESS MATTERS

Disclosures

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

Relevantly, these are:

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

Applicants for the grant of a practising certificate are also required to make the same disclosures as those applying to renew their practising certificates, including for events occurring pre-admission such as convictions and other matters that may impact on their fitness.

The Uniform Law sets out various processes for Council to consider these disclosures.

Compliance matters

Compliance files are opened by the Department where:

- The Tribunal orders that a solicitor take certain steps (such as complete education or pay a fine)
- PCC makes orders that a solicitor completes certain obligations (such as provide an apology to a complainant, complete education or pay a fine)
- Conditions are placed on a solicitor’s practising certificate requiring their compliance (for example, further supervision, medical or financial reporting, further education). These can be imposed either by Council, a delegate, or in voluntary agreement with the solicitor.

Other fitness issues

Attention may be drawn to issues concerning whether or not a person is fit and proper to hold a practicing certificate and/or engage in legal practice, such as:

- Matters referred by Courts and Tribunals;
- Matters referred by another regulatory body or government department;
- Notifications under s 154 of Uniform Law of a trust account irregularity; and,
- From other parts of the Law Society, for example the Licensing Department.

These matters are assessed by the Department and if appropriate, recommendations are made to Council, the Professional Conduct Committee or the Disclosure Committee.



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

Disclosure Committee

The Disclosure Committee, under delegation of Council, deals with certain matters that solicitors are required to disclose to the Law Society. These matters include show cause events, matters involving convictions and bankruptcy-related events.

The Disclosure Committee does not have the power to make a determination to cancel or suspend a practicing certificate, or to refuse an application for a practicing certificate. That power is reserved for Council. The Disclosure Committee can, however, impose conditions on practising certificates.

In 2023/2024, there were 17 members of the Disclosure Committee, comprising 2 councillors of the Law Society, 11 solicitors, 1 Australian Lawyer and 3 lay members. The Disclosure Committee generally meets monthly to make decisions on the matters before it.

Disclosures received by the Law Society







This year, the Department's report separates the disclosures made by current solicitors from new applicants.

In 2023/2024, for current PC holders 228 solicitors disclosed 236 matters. Of the disclosures received:







- 38 involved serious offences which may include: aggravated break and enter, affray, larceny, destroying and damaging property, indecent assault, common assault (domestic violence related), stalking and intimidating, assaulting police and resisting/ hindering arrest, breaching domestic apprehended violence orders, recklessly dealing with the proceeds of crime, accessory after the fact to murder, child pornography offences, obtaining financial advantage by deception, fraud, conspiracy to defraud, breaching security regulation and participating in a criminal group.
- 62 involved Summary Offences consisting predominantly of: driving offences (such as drink-driving, negligent driving, driving without a licence, traffic infringements and parking infringements), possession of prohibited drugs, academic misconduct, Centrelink overpayments, disorderly behaviour, failure to attend jury duty, failure to vote, failure to leave licensed premises, drinking in public, public nuisance, jaywalking, possessing a knife in public, failure to submit to breath test, behaving in an offensive manner, breaching biotechnology regulations, breaching customs regulations and using false identification.
- three disclosures were notifications of bankruptcy
- one related to tax offences.
- three related to health issues of the practitioner.
- 129 other matters under Rule 13.

For new applicants, 347 disclosed 464 matters. These range from serious offences to minor matters such as Centrelink overpayments, parking fines and minor traffic offences. These are set out in the table below.

DISCLOSURES MADE TO THE LAW SOCIETY – SOLICITORS WITH PRACTISING CERTIFICATES

Summary Offence		62
Rule 13 – LPUL		129
Serious Offence		38
Bankruptcy		3
Tax Offence		1
Health		3

DISCLOSURES MADE TO THE LAW SOCIETY – NEW APPLICANTS

Summary Offence		247
Rule 13 – LPUL		151
Serious Offence		25
Tax Offence		10
Bankruptcy		4
Health		27

Compliance matters

During the year, the Department opened 50 compliance files, and 56 matters were closed. Most matters are closed because the solicitor has complied with their obligations. However, a small number result in further regulatory action being taken against the solicitor for non-compliance.

Other fitness matters considered by the Department

During the year, the Department opened 137 files to deal with fitness matters raised with it. The table below shows the source of the matters.

FITNESS MATTER	NUMBER
External referral	45
Licensing referral	17
Trust referral	68
Other	7

Regulatory actions

Council and its delegates can make a range of decisions in dealing with the above matters. The most serious actions involve refusal, suspension or cancellation of a practising certificate. Such decisions can only be made by Council. Other actions that may be taken include:

- Imposing conditions on a practising certificate
- Appointing a manager or supervisor
- Issuing warnings or advisory letters
- Making complaints to the OLSC.

The overwhelming majority of matters result in no further action. This is because the matters disclosed or identified do not raise an issue relevant to fitness to practice, or because another event has occurred (e.g. charges are withdrawn).

In 2023/24, the following significant regulatory actions were taken to respond to disclosures and suitability matters:

ACTION TAKEN	NUMBER
PC cancellation	2
PC suspension	1
PC refusal	4
Conditions imposed	1
Conditions by consent	4
Director's advisory letter	11
Manager appointed – no conduct	3
Director's warning letter	7
Complaint made	2
Manager appointed - conduct	-
Supervisor appointed - conduct	-



PROFESSIONAL SUPPORT ETHICS UNIT

The Ethics Unit of the PSU (**Ethics Unit**) and the Ethics Committee provide professional assistance and specialist services to the legal profession and help on a wide range of topics.

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

Overview

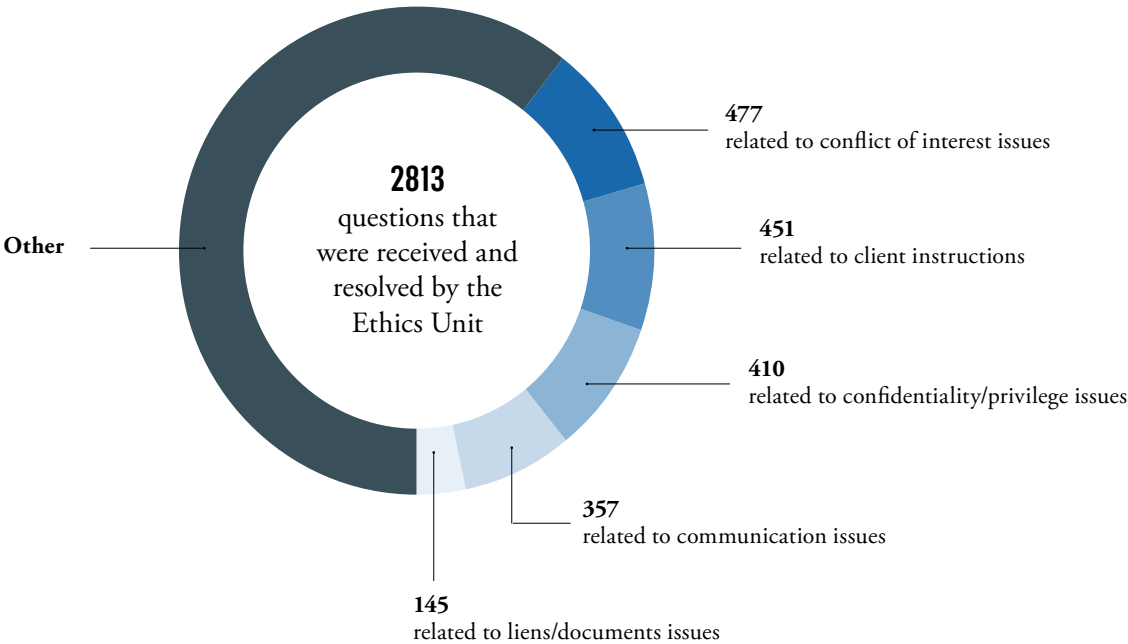
During 2023/24 the Ethics Unit was heavily utilized by legal professionals. They were provided with timely and practical information and guidance, assisting them to maintain ethical practices and avoid inappropriate conduct.

The Ethics Unit responded to all questions from the profession by telephone, in writing or by personal attendance. Additional matters were referred to the Ethics Committee when requested by enquiring solicitors.

The Ethics Unit received and resolved 2,813 questions arising from 2,574 individual enquiries. The number of enquiries remains steady from the previous reporting period. Of these 2,813 questions:

- 477 related to conflict of interest issues
- 451 related to client instructions
- 410 related to confidentiality/privilege issues
- 357 related to communication issues
- 145 related to liens/documents issues

The traditional services were maintained throughout the year by telephone enquiry line, an ethics email inbox and audio visual links to solicitors.



In addition to answering inquiries from the profession, the Ethics Unit contributed a number of new educational resources, primarily through the *Law Society Journal* and the *Ethics and Standards Quarterly*. Topics included:

- Practice note on *Sithakaul v Su* (2022) and *Eden King Lawyers v Makarai* (2022);
- Responsible use of AI: a guide for solicitors;
- What to do when a client dies;
- The benefits of doing your mandatory ethics hour CPD; and,
- Dealing with delay.

The Ethics Committee and its functions

The Ethics Committee formally obtains its role and function from the directives of Council, including the general delegation of power and discretion of the Ethics Committee. The activity of the Committee is also subject to review by Council each year to maintain and promote the high ethical standards of the legal profession.

The members of the Ethics Committee provide a diverse pool of practical skills, drawing on its membership of practitioners from government departments and private practice (large, medium and small) across a range of locations – city, suburban and rural. This provides a broad and comprehensive base of experience of specialist expert guidance on ethical issues for solicitors.

There are currently 24 members of the legal profession on the Committee.

Regular meetings of the Ethics Committee are held each month to review a broad range of ethical matters affecting the legal profession.

The year in review – service and guidance

The 2023/24 year continued to present interesting ethical issues for the legal profession. The growth of generative AI, changes to anti-money laundering legislation and new graduates entering the workforce who were trained during the COVID pandemic have continued to present challenges.

The education program has been an ongoing and essential component of the services provided to the legal profession. This financial year, 136 continuing professional development sessions were provided to assist lawyers in meeting their ethics learning requirements and deepening their understanding of this topic of central importance to the legal profession.

ETHICS ENQUIRIES	
Miscellaneous	428
Conflict Of Interest	477
Client Instructions	451
Confidentiality/Privilege	410
Communications	357
Lien/Documents	145
Costs	126
Termination of Retainer	97
Improper Instructions	81
Client Capacity	73
Trust Monies	72
Disclosure	24
Sol Material Witness	19
Misleading	16
Advertising	14
Sol Leaving Firm Contacting Clients	8
Undertakings	8
Unqualified Persons	7



PROFESSIONAL SUPPORT LEGAL COSTS UNIT

The Legal Costs Unit of the PSU (**Costs Unit**) provides specialist costs guidance and education to all solicitors in New South Wales, regardless of their membership status, to ensure compliance with the legislation. It promotes this service in the *Law Society Journal*, the *Law Society Members' Services Guide* and by writing regularly for the *Ethics and Standards Quarterly*.

This year, the Costs Unit has been busy promoting its services and providing costs guidance and education sessions to the legal profession. Over the 2023/2024 financial year, the Costs Unit has contributed the following educational articles to the *Ethics and Standards Quarterly*, including:

- What should I put in a costs agreement?
- Can a pro bono lawyers recover costs?
- The principles of proportionality; and,
- Latest development to the Chorley exception.

The Costs Unit, in conjunction with the Costs Committee, has also been reviewing and updating the Law Society's updated Costs Guidebook.

This year, the Costs Unit handled 967 questions arising from 567 inquiries. The most common problem faced by solicitors requiring assistance was on proper costs disclosure as required under the Uniform Law. Inquiries relating to costs disclosure amounted to 31% of all enquiries, followed by billing (20%) and costs recovery (15%).

Education

The Costs Unit continues to provide CPD seminars in the areas most frequently requested (namely, costs disclosure, agreements, assessment and recovery). This year, the Costs Unit provided 27 seminars specific to costs law.

The Costs Unit has also been involved in regulatory policy issues, including providing feedback to the Legal Service Council's review into costs disclosure thresholds.

Other work

The Costs Unit has a key role in providing legal and compliance information in relation to costs to the legal profession.

This year, the Costs Unit researched and provided seminars in person, online and on-demand interactive seminars on:

- The Uniform Law framework, definition of legal costs, costs disclosure, costs agreements and billing under the Uniform Law;
- Security on costs, costs disputes and resolving them through negotiation, costs assessments and/or court action; and,
- determinations by the Commissioner and compensation orders under the Uniform Law, and updates and analysis on recent cases on costs.



The Costs Committee

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

The Costs Committee:

- promotes understanding of costs among the legal profession;
- provides education and guidance to the profession on costs;
- monitors and reviews policy and legislation relating to costs; and,
- comments on cost issues.

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

The Costs Committee also produces a range of information resources such as the *Costs Guidebook*, and, where appropriate, provides guidance and handles inquiries from solicitors.

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

Cost enquiry topics for 2023/2024

TOPIC	NUMBER OF ENQUIRIES
Costs disclosure	301
Costs billing	192
Costs recovery	145
Costs agreement	103
Costs assessment	94
Costs trust account	44
Regulated costs	31
Liens	17
File transfer	12
Third party costs	12
Party party costs	8
Other	8



PROFESSIONAL SUPPORT REGULATORY COMPLIANCE

The Regulatory Compliance Unit (**Compliance Unit**) provides guidance to solicitors and other stakeholders on compliance issues related to the provision of legal services under the Uniform Law. The Compliance Unit also provides complimentary continuing professional development sessions and creates educational resources throughout the year for practitioners.

Overview

Over the course of 2023/2024, the Compliance Unit handled and resolved 3,580 enquiries.

The most common identifiable enquiry topics concerned:

- practice management;
- practice certificate;
- business development;
- establishment of an incorporated legal practice; and,
- matters relating to interstate and foreign legal practice.

REGULATORY COMPLIANCE TOPICS	
Practice management	910
Practising certificate	726
Law practice demands	396
Business development	287
Employment	227
Trust accounts	223
Establishment of an ILP	162
Interstate and foreign legal	138
Consultants	122
Closing/selling a business	72
In-house practice	67
Show cause event/disclosure	58
Transfer of a practice	47
Establishment of a non-ILP	43
Unqualified practitioners	36
Establishment of a ULP	32
Letterheads/business names	34

The Regulatory Compliance Unit often liaises with other departments within the Law Society and, where necessary, seeks the views of designated local regulatory authorities from other Uniform Law jurisdictions to provide thorough and consistent regulatory guidance.

Educational resources

This year, the Compliance Unit prepared a high volume of educational resources to support practitioners on their obligations under the Uniform Law, particularly in the management of their legal practice.

Educational resources produced by the Compliance Unit often reflect emerging issues and challenges faced by practitioners. This year, guidance material was created on the following topics:

- Setting up a virtual law practice: how to comply with your regulatory obligations;
- Your holiday season practice management checklist;
- Locum solicitors: how to find or become one;
- Be ready for cybercrime;
- Why foreign-qualified lawyers in NSW should obtain an Australian Registration Certificate;
- Removal of Supervised Legal Practice condition 2;
- What's in a name? Solicitor consultants and independent contractors;
- Solicitor's Undertakings; and,
- Guidelines on the responsible use of AI in legal practice.

Supporting solicitors' Continuing Professional Development

The Compliance Unit provided 56 CPD seminars for practitioners in both metropolitan and regional NSW. CPDs were delivered face-to-face and online, depending on the needs of the audience.

Collaboration on licensing issues

The Compliance Unit continued to work closely with Registry staff and Licensing solicitors on regulatory issues, including:

- Registration of business names;
- Incorporated Legal Practice;
- Interstate practice including interstate practice by ILPs;
- Supervised legal practice (including remote supervision);
- Pro bono practice;
- Registration of foreign lawyers; and,
- Conditional Admission of foreign lawyers

APPENDIX

Table 1 – Chapter 5 complaints referred by OLSC, by type of complaint

DISCIPLINARY MATTERS	15	16	17	18	19	20	21	22	23	24
Personal Conduct	226	284	202	260	228	228	236	272	250	254
Unethical Conduct	77	113	122	91	155	106	102	136	100	60
Negligence	24	20	44	23	31	45	17	29	52	45
Misleading	23	58	45	35	24	18	19	10	16	10
Conflict of Interest	16	12	31	18	27	18	22	32	22	43
Failure to Transfer Documents	3	2	4	6	4	6	3	3	1	11
Communicating with a Client of Another Solicitor	8	9	7	7	2	5	12	10	7	14
Breach Confidentiality	2	5	6	5	2	3	6	4	4	3
False Swearing of Documents	3	2	13	3	3	6	12	6	8	16
Undue Pressure	0	0	1	3	2	3	0	0	1	1
Threatening Behaviour	7	4	8	10	10	15	42	39	38	48
Failure to Assist Law Society	2	0	1	0	0	2	0	0	0	0
Borrowing from Client	0	1	2	1	0	1	1	3	1	3
Cost / Payment Issues	48	59	68	49	48	76	66	49	77	48
Failure to Pay Third Party	29	43	34	33	24	21	47	36	55	31
Overcharging	5	8	17	11	1	2	4	7	5	11
No Costs Disclosure	12	6	8	3	19	3	3	0	0	0
Failure to Provide a Detailed Account	1	0	5	1	1	9	7	5	17	2
Transfer Costs Without Authority	1	2	4	1	3	2	1	1	0	1
Liens	0	0	0	0	0	2	2	0	0	3
Unethical Conduct	0	0	0	0	0	37	2	0	0	0
Communication / Service	67	68	75	65	50	48	77	48	59	68
No Communication	10	11	14	13	12	11	4	1	4	0
Failure to Carry Out Instructions	18	11	15	13	6	10	6	4	3	11
No Client Advice	3	6	0	2	2	3	2	0	0	0
Discourtesy	13	6	8	13	9	11	15	5	15	13
Act Without/Contrary to Instructions	13	19	15	11	12	6	34	25	16	20
Delay	7	11	15	11	8	5	2	3	8	14
Lack of Supervision	3	3	7	0	0	1	0	0	5	0
No Advice on Progress	0	1	1	2	1	1	0	0	0	0
Failure to respond to correspondence	0	0	0	0	0	0	14	10	8	10

Table 1 – Chapter 5 complaints referred by OLSC, by type of complaint (continued)

DISCIPLINARY MATTERS	15	16	17	18	19	20	21	22	23	24
Non-Compliance	45	42	102	63	33	39	122	209	179	241
Not Complying with Undertaking	8	8	19	9	9	2	3	8	10	3
Practising without a Practising Certificate	11	7	36	15	1	4	3	3	6	8
Not Complying with a s.660 Notice	4	3	2	0	0	0	0	0	0	0
Not Complying with Legal Profession Act/Regulations	15	20	41	38	21	30	108	191	152	213
Not Complying with Fiscal Obligations	7	4	4	1	2	1	1	5	4	6
Practising contrary to practising certificate	0	0	0	0	0	2	2	1	5	4
Failure to disclose	0	0	0	0	0	0	5	1	2	7
Trust Account matters	47	40	57	33	15	52	41	22	24	22
Breach of Sections of Act / Regs relating to Trust Moneys	23	17	19	2	0	32	37	21	19	2
Failure to Account	11	10	22	23	8	6	0	0	0	15
Misappropriation	13	13	16	8	7	14	3	1	5	5
Intermingling Money	0	0	0	0	0	0	1	0	0	0
Other	6	13	14	69	92	7	8	6	0	21
OLSC Enquiry	0	0	0	0	69	7	8	0	0	0
TOTAL NUMBER OF DISCIPLINARY MATTERS	378	448	600	481	498	450	550	606	589	654
CONSUMER DISPUTES	30	1	0	0	0	0	0	0	0	0
TOTAL NUMBER OF COMPLAINTS OPENED	408	449	600	481	498	450	550	606	589	654

Table 2 – Number of complaints opened, by type of complainant

COMPLAINANT TYPE	15	16	17	18	19	20	21	22	23	24
Client/Former Client	116	115	179	134	115	116	80	83	95	111
Law Society	73	60	111	90	104	14	10	7	6	6
Solicitor	73	70	72	56	40	47	83	78	84	75
Third Party	69	70	69	80	103	74	152	63	64	82
Third Party (Other Side)	35	94	121	77	98	149	160	218	225	272
Barrister	22	20	22	16	9	14	23	20	27	14
Solicitor for Client	11	7	6	13	7	12	17	35	28	17
Legal Services Commissioner	4	7	11	3	2	0	1	1	0	0
Other ¹	2	6	5	9	16	24	24	8	19	16
Beneficiary	0	0	0	0	0	0	0	36	33	45
Non-Client	0	0	0	0	0	0	0	53	5	7
Trust Account Inspector	0	0	0	0	1	0	0	0	0	0
Executor	2	0	2	3	1	0	0	3	3	9
Attorney General	1	0	2	0	2	0	0	1	0	0
TOTAL NUMBER OF COMPLAINTS OPENED	408	449	600	481	498	450	550	606	589	654

Notes: 1 Other includes Legal Aid Commission, Government Department and Judge

Table 3 – Complaints opened, by solicitor type

SOLICITOR TYPE	NUMBER OF COMPLAINTS	COMPLAINTS AS % OF TOTAL ACTIVE SOLS	% OF TOTAL COMPLAINTS
Principal of Law Practice	383	0.906%	58.56%
Employee of Law Practice	138	0.326%	21.10%
Not Practising/Ceased Practising	43	0.101%	6.57%
Complaints Against Firms	45	0.106%	6.88%
Corporate Legal Practitioner	16	0.037%	2.44%
Government Legal Practitioner	28	0.066%	4.28%
Volunteer	1	0.002%	0.15%
TOTAL NUMBER OF COMPLAINTS OPENED	654		

Notes: At 30 June 2024 total active solicitors 42,228

Table 4 – Complaints opened, by practice region

REGION	NUMBER OF COMPLAINTS
Sydney City	172
Suburban	329
Regional/Rural	123
Interstate	7
Overseas	1
Other	22
TOTAL NUMBER OF COMPLAINTS OPENED	654

Table 5 – Number of complaints closed, by result

RESULT TYPE	2024
209 No Further Investigation Required Except Cm - (S277(1)(H)	501
201 Misconceived/Lacking In Substance - S277(1)(A)	35
205 Complaint Already Has Been Investigated - S277(1)(D)	4
235 Referred Back to the OLSC	36
200 Complaint Withdrawn - S273(1)	42
206 Complaint Better Dealt With By Law Enforcement/Investigatory Body - S277(1)(E)	27
204 Failure/Inadequate Response To Request For Info - S277(1)(C)	34
224 D Reprimand - S299(1)(B)	13
211 Public Interest Closure - S277(1)(J)	7
203 Time Limit Re Costs Dispute Not Waived Under S272(2) - S277(1)(B)	0
202 Time Limit Not Waived Under S272(1) - S277(1)(B)	7
223 D Caution - S299(1)(A)	4
230 D Initiate Tribunal Proceedings - S300(1)	6
208 Complaint Subject To Civil Proceedings - S277(1)(G)	0
238 Closed Enquiry	1
210 No Power To Investigate Complaint - S277(1)(I)	2
227 D Order Requiring Training, Education, Counselling Or Supervision - S299(1)(E)	0
131 Nfa-Sol Struck Off	6
TOTAL	725

Table 6 – Number of Complaints opened and Complaints closed within the 2023/2024 reporting period

COMPLAINT TYPE	OPENED	CLOSED
Act Without/Contrary Instructions	20	20
Borrowing From Clients	3	2
Breach Of Confidentiality	3	3
Breach Section 138 LPUL	2	6
Communication with another Solicitor's Client	14	6
Conflict Of Interest	43	32
Delay	13	14
Disclosure – Tax Offence	0	1
Discourtesy	11	15
Failure to Account	15	16
Failure to Carry Out Instructions	11	5
Failure to Disclose	7	7
Failure to Pay Third Party	31	35
Failure to Provide Detailed Account	2	2
Failure to Respond To Correspondence	10	8
Failure to Supervise	6	6
Failure to Transfer Documents	10	2
False Swearing Docs	16	10
Liens	3	1
Misappropriation	5	6
Misleading	10	24
Negligence	45	56
No Client Advice	0	0
No Communication	0	5
Non Compliance with Fiscal Obligations	6	4
Non Compliance with LPUL/Regs/Rules	213	228
Non-Compliance with Undertaking	3	8
No Costs Disclosure	0	3
OLSC Enquiry	0	2
Other	9	5
Other Trust Breaches	10	21
Overcharging	11	8
Practising Contrary to Practising Certificate (PC)	4	2
Practising Without A PC- Post Admission	6	3
Practising Without A PC - Pre Admission	2	0
Threatening Behaviour	48	45
Transfer Costs Without Authority	1	1
Undue Pressure	1	2
Unsupervised Practice – Contrary to PC	0	1
Unethical Conduct	60	110
Total	654	725

Table 7 – Practising solicitor statistics at 30 June 2024

GENDER OF SOLICITORS	
Female	23,384
Male	18,844
TOTAL	42,228

CATEGORY OF SOLICITORS	
Principal of a law practice	10,349
Employee of a law practice	18,485
Corporate legal practitioner	8,501
Government legal practitioner	4,800
Volunteer	93
TOTAL	42,228

LOCATION OF SOLICITORS	
City	20,482
Suburban (Sydney)	14,228
Rural	4,795
Interstate	496
Overseas	2,227
TOTAL	42,228

Table 8 – Amounts expended by the Public Purpose Fund and Fidelity Fund on Regulation, 2023/2024

EXPENSE DESCRIPTION	RECOVERABLE FROM	TOTAL
Legal Regulation Department/ General Regulatory Expenses	Public Purpose Fund	9,296,730
External Interventions	Public Purpose Fund	593,358
Trust Account Inspections / Investigations	Public Purpose Fund	3,186,949
Fidelity Fund Administration	Fidelity Fund	760,410
TOTAL REGULATORY COSTS		13,837,447
TOTAL PAID FROM PUBLIC PURPOSE FUND		13,077,037
TOTAL PAID FROM FIDELITY FUND		760,410



**PROFESSIONAL
STANDARDS**
THE LAW SOCIETY
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