

# Professional Standards Councils **Annual Report 2011-12**



Australian Capital Territory | New South Wales | Northern Territory | Queensland  
South Australia | Tasmania | Victoria | Western Australia



# PROFESSIONAL STANDARDS COUNCILS



## VISION

To be recognised as thought leaders in and influencers of professional standards and consumer protection, with demonstrable competence in setting liability caps.

As confidence grows in the positive impact of the legislation, we will be respected and trusted by all our stakeholders as we strive to broaden our relationships with current scheme holders and new occupational associations.



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## ACRONYMS, ABBREVIATIONS AND DEFINITIONS

ACT	Australian Capital Territory
ACS	Australian Computer Society
APIV	Australian Property Institute Valuers Limited
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
AVI	Australian Valuers Institute (formerly Institute of Consulting Valuers)
BPC	Bar practice course
CIRCEA	College of Investigative and Remedial Consulting Engineers of Australia
COAG	Council of Australian Governments
COE	Continuing Occupational Education
CPA	CPA Australia
CPD	Continuing Professional Development
DAGJ	Department of Attorney General and Justice
EA	Engineers Australia
FARMCs	Finance, Audit and Risk Management Committees
FOI	Freedom of information legislation
GIPA	Government Information (Public Access) Act 2009
ICAA	Institute of Chartered Accountants in Australia
IFAC	International Federation of Accountants
IPA	Institute of Public Accountants
IRMP	Internal Risk Management Plan
KPI	Key performance indicator
LIAG	Legal Issues Advisory Group
LIV	Law Institute of Victoria
LPLC	Legal Practitioners Liability Committee
LRSG	The Liability Reform Steering Group
LSC	Legal Services Commission
LSNSW	The Law Society of New South Wales
NIA	National Institute of Accountants
NSW	New South Wales
NSW Bar	New South Wales Bar Association
NT	Northern Territory
OPSC	The Office of the Professional Standards Councils – the operational headquarters of the Professional Standards Councils, providing Secretariat services to the Councils
PII	Professional indemnity insurance
PPQA	Public practice quality assurance
PSC	Professional Standards Council
PSL	Professional Standards Legislation
PSLWG	Professional Standards Legislation Working Group
PSOA	Professional Surveyors Occupational Association



Professional association

The terms professional association and occupational association (or simply “association”) are used interchangeably in this document

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Qld Queensland

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QLS Queensland Law Society

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RMP Risk Management Plan

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SA South Australia

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Schemes *Cover of Excellence*<sup>®</sup> schemes approved and gazetted under professional standards legislation

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SCAG Standing Committee of Attorneys General

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SCLJ Standing Council on Law and Justice

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Secretariat The staff of the Office of the Professional Standards Councils, within the NSW DAGJ

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Tas Tasmania

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The Councils

The Professional Standards Councils of the Australian Capital Territory, New South Wales, the Northern Territory, Queensland, South Australia, Tasmania, Victoria and Western Australia

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Vic Victoria

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Vic Bar The Victorian Bar Incorporated

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WA Western Australia

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# LETTER TO MINISTERS

Dear Ministers,

I have pleasure in submitting the 2011-12 Annual Report of the Professional Standards Councils of the Australian Capital Territory, New South Wales, the Northern Territory, Queensland, South Australia, Tasmania, Victoria and Western Australia.

This is a consolidated annual report, prepared in accordance with the Professional Standards Legislation in each State and Territory, in order to be presented to their parliaments.

During the reporting period, the Professional Standards Councils have worked with existing and new occupational associations in improving risk management standards for the professions and protecting consumers of professional services.

Additionally, the continuing benefit of *Cover of Excellence*<sup>®</sup> schemes for associations with long-term partnerships with the Councils has been demonstrated by associations applying for new schemes at the expiration of their current ones, and by prescription of existing schemes by the Commonwealth Government in multiple jurisdictions.

Yours faithfully



**Brian Rayment QC**

Chairman  
Professional Standards Councils

# CHAIRMAN'S REPORT



Brian Rayment QC

The functions of the Professional Standards Councils did not differ from the description provided in the 2010-11 Annual Report.

The Councils continued to receive high quality Secretariat supported from the Office of the Professional Standards Councils (OPSC), provided by the NSW Department of Attorney General and Justice.

During the 2011-12 reporting period, the Councils administered 11 schemes in NSW, together with another three schemes in force under mutual recognition, 23 schemes in other jurisdictions, and 33 schemes operating outside NSW under mutual recognition.

This reflects the end of a five-year period of transformative growth in the business and operations of the Councils. Consequently, the OPSC is now in the process of undergoing a major organisational restructure, including the creation of five new staff positions, to better assist the Councils in the realisation of their full functional mandate.

The Star Grants Program, which was fully restored in 2010-11, recently saw its second round close with applications totalling in excess of \$290,000. Approved grants will fund projects that improve risk management practices and raise professional standards across the various occupational groups that participate in *Cover of Excellence*<sup>®</sup> schemes.

Phases 3 to 6 of the Councils' 10-phase "Comprehensive Research Strategy: Assessment of the Impacts of Professional Standards Legislation" were completed in 2011-12.

Members of the Councils have continued to meet with State and Commonwealth Ministers and other stakeholders to advance the harmonisation of the legislation and its implementation nationally. The Councils' focus over the next 12 to 18 months will be to further the objects of the legislation by encouraging a greater diversity of professional bodies to participate in schemes.

Finally, the Councils would like to extend their thanks to Ms Madeleine Ogilvie, whose term as the Tasmanian member of Council ended in December 2011. Ms Ogilvie's sterling work for the Councils continues in her ongoing role as chairperson of the Star Grants Committee.

**Brian Rayment QC**

Chairman

Professional Standards Councils

## HIGHLIGHTS AT A GLANCE



Schemes now mutually recognised in every mainland State or Territory



Professional Standards Agreement 2011 signed, indicating the continuation of positive support from the Attorneys General and Commonwealth



Approved \$160,000 for four Star Grants Program recipients during 2011-12, along with four grants for 2012-13



Received pleasing anecdotal reports that indicated an improvement in the cost availability of professional indemnity insurance



Welcomed South Australian Bar Association and Law Society of South Australia with their new schemes



Made significant progress with three-year Comprehensive Research Strategy since last year, with six of the 10 planned phases completed

# ISSUES AND CHALLENGES

## THE COST OF PROFESSIONAL INDEMNITY INSURANCE IS LIKELY TO RISE

Australia's rate of inflation has fallen to its lowest level since the global financial crisis, giving rise to the expectation that the Reserve Bank will continue to cut the cash rate. Consequently, the cost of professional indemnity insurance (PII) has risen. Specialist advisers, such as private bankers, financial planners, engineers, accountants and lawyers, are required to carry PII insurance in the event a financial loss to a client occurs. The Councils continue to assess the impacts.

## CORPORATE INSOLVENCIES CONTINUE TO INCREASE

ASIC has reported that corporate insolvencies have increased by 9.2 per cent from the previous year. The problem appears to be so serious that ASIC has set up a new commission to deal with the issues.

What this means for the Councils is that the demands for and expectations on our schemes will be higher than before.

## FEDERAL TREASURY – REASONABLE AMOUNT

The Commonwealth Government has made the decision not to prescribe any professional standards schemes under the *Australian Securities and Investments Commission Act 2001* or the *Corporations Act 2001*. The Government made this decision due to the potential conflict of professional standards schemes' liability caps with the approach that the financial services regulatory regime has taken, particularly the requirement on financial services licensees to have adequate compensation arrangements in place, which includes having adequate PII.

The OPSC is still assessing the impact that this decision will have on its schemes.

## EXPANDING THE SCHEMES' COVERAGE

A key challenge in the future will be to expand the coverage of the schemes to a broader range of occupational bodies. A key focus over the next 12 to 18 months will be to maintain strong relationships with both existing and new stakeholders through increased communications activity and implementing business development strategies.

## PROCUREMENT AGREEMENT

Competing needs of a federated procurement arrangement continue to create challenges for the Councils in their attempt to meet State-specific requirements. The purpose of the Procurement of Services Agreement and the Inter-Departmental Services Agreement (see page 19) is to ensure that the Councils have the secretariat services and support they need to carry out their functions under the relevant professional standards legislation. The requirement to renew these agreements every two years will be considered as part of the next review of the agreements.

## PAPERLESS OFFICE HIGHLIGHTS ISSUES OF RAPID IT CHANGE

With Councils moving to a system of "electronic papers" (rather than hard copies), it highlights the need for a policy that minimises the security issues.

# PROFESSIONAL STANDARDS COUNCILS

## OUR VISION

Our vision is to be recognised as thought leaders in and influencers of professional standards and consumer protection, with demonstrable competence in setting liability caps. As confidence grows in the positive impact of the legislation, we will be respected and trusted by all our stakeholders as we strive to broaden our relationships with current scheme holders and new occupational associations.

## OUR MISSION

The Professional Standards Councils' mission is to promote consumer protection and excellence in professional standards by encouraging the self-regulation of occupational groups through *Cover of Excellence*<sup>®</sup> schemes.

*Cover of Excellence*<sup>®</sup> schemes are for members of occupational associations, and:

- recognise those who implement robust risk management strategies such as complaints and discipline systems, codes of ethics and continuing occupational education
- limit occupational liability for members of occupational associations who carry professional indemnity insurance and/or business assets to the limitation of liability amount
- entitle members of the occupational association to enjoy the reputation of the *Cover of Excellence*<sup>®</sup> trademark.



Council and secretariat members  
L-R: Naomi Degabriele, Rob Lawson, Monique Linssen, Julie Cameron, Robert Beaton, Terry Evans, Tiina-Liisa Sexton, Hugh Plaistowe, Esther Alter, Tom Karp, Brian Rayment QC, Iain Summers, Joanne Metcalfe and Philippa Seagrave  
Missing Council members: Ronald Farrell and Madeleine Ogilvie

# ABOUT THE PROFESSIONAL STANDARDS COUNCILS

## FORMATION OF THE COUNCILS

The 1980s culminated in the market crash of 1987, which caused a hardening of the Australian insurance market in the early 1990s. Reacting to the worsening situation, the NSW Government drafted ground-breaking legislation – the *Professional Standards Act 1994* – with the goal of balancing consumer protection by raising professional standards and limiting liability. It introduced this legislation with bipartisan government support.

The Professional Standards Council of NSW was established in 1995 under Section 39 of the *Professional Standards Act 1994* (NSW). The Council approved the first *Cover of Excellence*<sup>®</sup> schemes in 1996. Professional Standards Councils were then constituted in other jurisdictions over a period of 10 years.

In 2001, the collapse of Australian corporate giant HIH Insurance showed that issues of corporate governance and liability were still high profile and active in the national economy, giving further impetus to the gradual extension of the professional standards legislation regime.

The Commonwealth Government subsequently co-operated with complementary legislation, allowing occupational liability to be limited under the *Trade Practices Act 1974*, *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001*. However, during 2011-12, the Commonwealth did not prescribe any schemes under the Corporations and ASIC Acts.



L-R: Iain Summers, Terry Evans and Tiina-Liisa Sexton

The global financial crisis of 2008, which is still reverberating around the global economy and impacting Australia, has resulted in a challenging market.

It is significant to note that, in Australia, the enactment of professional standards legislation and the application of schemes approved under this legislation, has meant greater protection for consumers of some professional services in Australia than would otherwise have been the case.

## ROLE OF THE COUNCILS

The Councils play a key role in promoting the objects of the professional standards legislation, which are to:

- enable the creation of schemes to limit the civil liability of professionals and others
- facilitate the improvement of occupational standards of professionals and others
- protect the consumers of the services provided by professionals and others.

(Source: *Professional Standards Act 1994* (NSW))

## APPROVAL OF SCHEMES FOR OCCUPATIONAL ASSOCIATIONS

An occupational association may submit an application to the Professional Standards Councils for consideration of a *Cover of Excellence*<sup>®</sup> scheme for the benefit of its members, and consumers of their professional services. The application for a scheme would indicate the relevant jurisdictions in which it is intended to operate – which may include any of the eight States and Territories. The Professional Standards Councils must review a scheme proposal in accordance with the legislation before it can be recommended to the relevant State or Territory Minister for gazettal.

Amongst other things, the Councils will consider:

- all comments and submissions made to the Councils regarding the scheme
- the position of persons who may be affected
- the nature and level of claims relating to occupational liability made against members of the association
- the risk management strategies of the association and the means by which the risk management strategies are intended to be implemented
- the cost and availability of insurance and the standards determined by the association concerned in relation to insurance policies.

Prior to recommendation to the relevant Minister, the Councils will publicly notify the draft scheme. This allows members of the public, consumer groups, members of the association or any other interested parties to provide comments on the proposed scheme to the Councils for their consideration.

Once gazetted, the scheme will limit the occupational liability of members of that association, in the relevant State or Territory.

## IMPROVEMENT OF OCCUPATIONAL STANDARDS OF PROFESSIONALS

Apart from assessing and approving *Cover of Excellence*<sup>®</sup> schemes, the Councils are also responsible for monitoring the operation of schemes, including associations' implementation of risk management plans. Risk management reports make up a significant part of associations' statutory annual compliance reporting.

Amongst other things, the associations' annual risk management and compliance reports must include:

- the implementation and monitoring of their risk management strategies
- the effect of those strategies
- any changes made or proposed to be made to them.

Since the introduction of the professional standards legislation, the associations through working with the Councils, have improved the rigour of their risk management plans.

Councils have identified risk management as one of the areas where professionals can seek funding assistance under the Star Grants Program.



# OPERATIONS

All States and Territories have agreed to appoint the same members to each Council. The Professional Standards Agreement 2011 allows each State and Territory (other than NSW and Victoria) and the Commonwealth to nominate one member. NSW and Victoria are entitled to nominate two members each to the Councils, making a total of 11 members.

## ORGANISATIONAL STRUCTURE

The structure and reporting lines of the Professional Standards Councils Australia-wide are represented in Figure 1. This shows the Office of the Professional Standards Councils receiving *Cover of Excellence*<sup>®</sup> scheme applications on behalf of the eight Councils and providing secretariat support to them. Once a Council makes a decision to recommend or amend a scheme, the relevant Minister is informed. With the authorisation of the Minister, an approved scheme is then published or notified in the Government Gazette.

If an association seeks Commonwealth prescription of its scheme, under the *Competition and Consumer Act 2010* (Cth) (formerly the *Trade Practices Act 1974* (Cth)), *Corporations Act 2001* (Cth) or the *Australian Securities and Investments Commission Act 2001* (Cth), then a Council will co-operate with the Commonwealth Treasury during the application assessment stage, so that any such decision made by the Councils would be consistent with Commonwealth's policy in regard to prescription of such schemes at Commonwealth level.

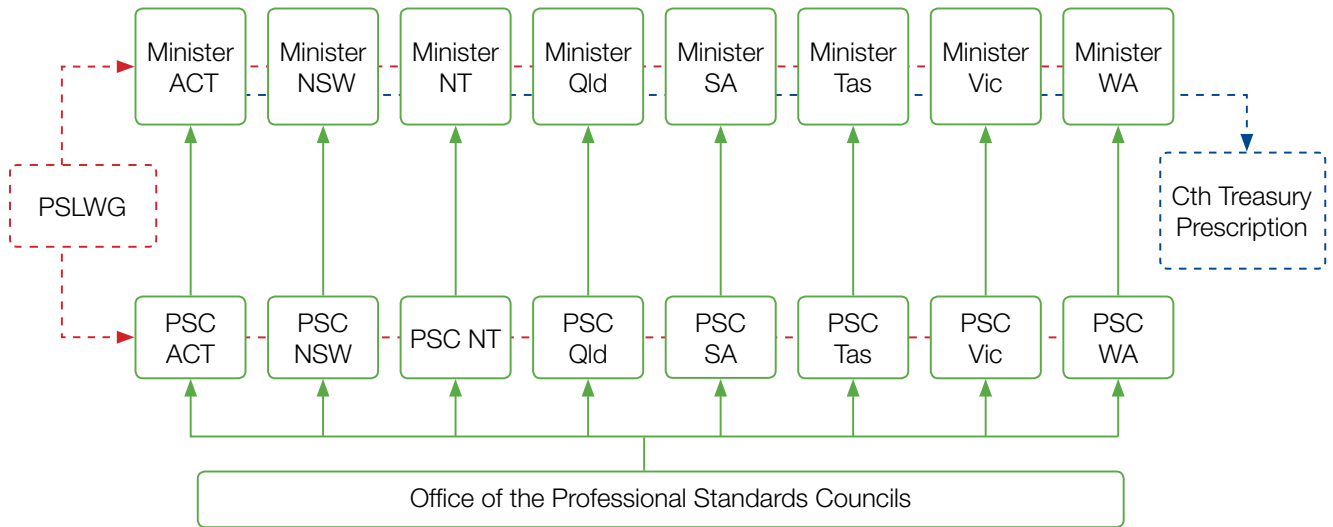


L-R: Brian Rayment QC, Esther Alter, Joanne Metcalfe and Hugh Plaistowe

Each Council consists of one chairperson, one deputy chairperson and a number of councillors. Other work of the Councils is delegated to the Finance, Audit and Risk Management Committee (FARMC), the Star Grants Committee, the Operations Committee (overseeing operational matters of the Secretariat), and the Legal Issues Advisory Group (LIAG).

The Professional Standards Legislation Working Group (PSLWG) comprises policy officers from each of the State and Territory departments of Attorney General and Justice where a Professional Standards Council is constituted. The PSLWG communicates to each of the Councils and to the relevant State and Territory Ministers about professional standards legislation reform, review and scheme issues.

Figure 1: Organisational structure and reporting lines on national level



### Corporate governance

The Professional Standards Councils members are appointed for a term not exceeding three years. They are eligible for reappointment at the expiration of their term.

At the commencement of each Council meeting, along with meetings of associated committees, Councillors must declare any conflict of interest to ensure transparency and probity in relation to each decision of the Councils.

The Councils have implemented a five-year strategic plan and an internal risk management plan, based on the Risk Management Standard AS/NZS ISO 31000:2009. The Councils update these plans bi-annually and review them at Council meetings to ensure they take into account any change to the strategic and risk landscapes.

### Terms of office and remuneration

As mentioned above, Council members are appointed for a term of up to three years, and are eligible for reappointment at the expiration of their term. During the reporting period, Madeleine Ogilvie retired from full Council duties and Tiina-Liisa Sexton was appointed in her place.

Table 1: Remuneration of Council members

	Meetings up to four hours	Each hour thereafter
<b>Chairperson</b>	\$593.00	\$125.00
<b>Council Member</b>	\$361.00	\$75.00

The Chairman is additionally paid a retainer of \$2,575 per annum for out-of-session work and Council-related activities.

The average sitting time of Council meetings during the period was approximately four hours.

Table 2 below shows the attendance of Council members at Council meetings during the reporting period.

Table 2: Attendance at meetings by Council members

Name of Council member	Council meetings entitled to attend	Number of meetings attended
Brian Rayment QC	5	5
Esther Alter	5	5
Robert Beaton	5	5
Julie Cameron	5	3
Terry Evans	5	4
Ronald Farrell	5	4
Tom Karp	5	3
Joanne Metcalfe	5	5
Madeleine Ogilvie [retired in December 2011]	2	2
Hugh Plaistowe	5	4
Tiina-Liisa Sexton [appointed on 31 January 2012]	3	2
Iain Summers	5	4

## COMMITTEES OF THE PROFESSIONAL STANDARDS COUNCILS

The internal structure of each of the eight Professional Standards Councils is represented in Figure 2 below. Each of the Councils has a chairperson, deputy chairperson and councillors (see “Members of the Professional Standards Councils” for more information about these members).

The Councils can establish committees and advisory groups to meet as required over the year. Each of these committees and advisory groups make recommendations to all eight Professional Standards Councils. Committee members are appointed on an annual basis and are eligible for reappointment at the expiration of their term.

Each of the eight Councils has a Finance, Audit and Risk Management Committee (FARMC), constituted by Council members. The FARMCs are answerable to each of the Councils.

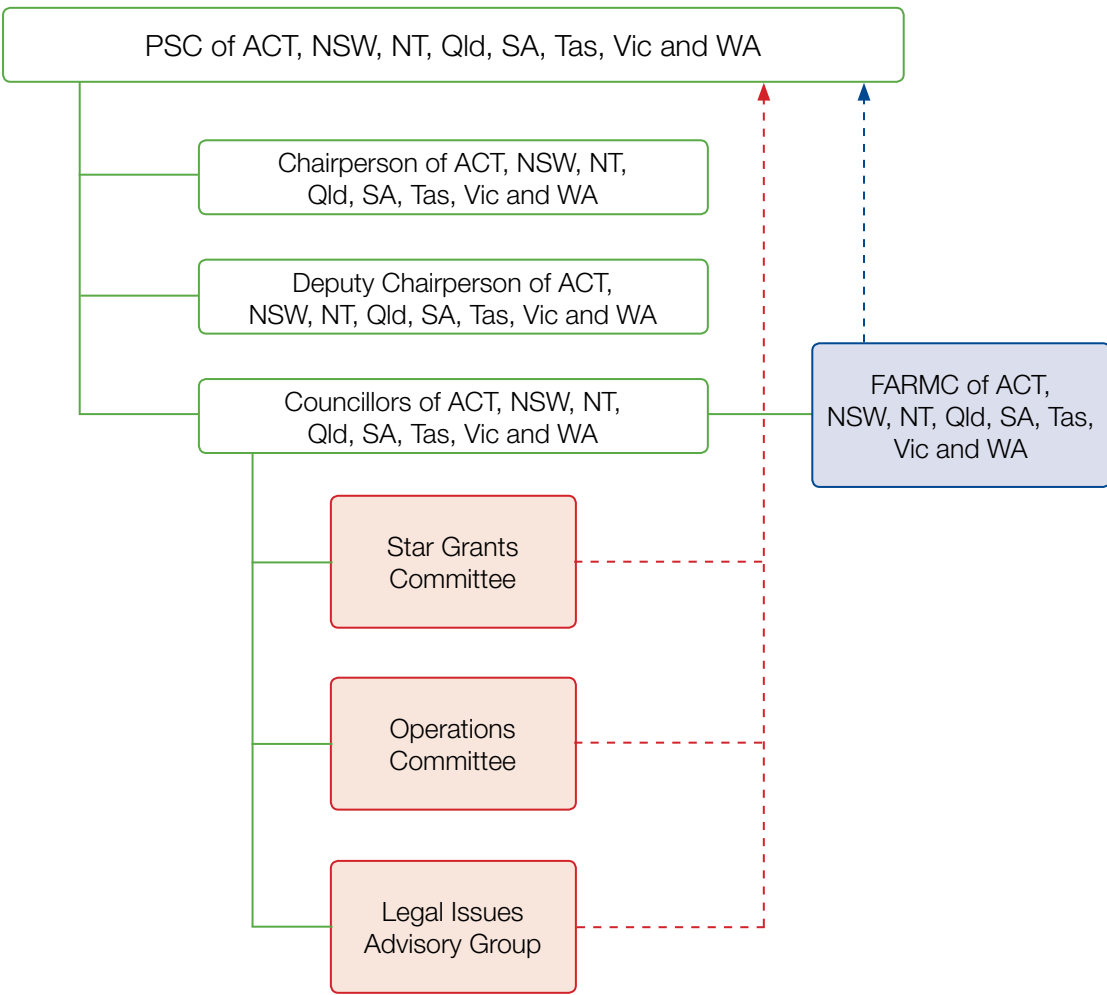
There are also two other committees and one advisory group, being:

- Star Grants Committee
- Operations Committee
- Legal Issues Advisory Group.

Remuneration of the Committees and advisory groups is consistent with the remuneration arrangements for the Professional Standards Councils.

The average sitting time for Committee meetings was approximately one hour and 40 minutes.

Figure 2: Internal organisational structure of the Professional Standards Councils



**The Finance Audit and Risk Management Committee** discusses operations and risk management issues, specifically financial position, budget management, risk management strategies, internal controls and business plans. Its members are:

- Iain Summers (chairman)
- Esther Alter
- Ronald Farrell
- Joanne Metcalfe

The Executive Officer is secretary of the committee.

Table 3: Member attendance at the FARMC Committee meetings

Members	Committee meetings entitled to attend	Committee meetings attended
Iain Summers	2	2
Esther Alter	2	2
Ronald Farrell	2	2
Joanne Metcalfe	2	2

**The Star Grants Committee** oversees the Star Grants Program. Its members are:

- Madeleine Ogilvie (chairperson)
- Joanne Metcalfe
- Hugh Plaistowe.

The Executive Officer is secretary of the Committee.

Table 4: Member attendance at Star Grants Committee meetings

Members	Committee meetings entitled to attend	Committee meetings attended
Madeleine Ogilvie (chairperson)	4	4
Joanne Metcalfe	4	4
Hugh Plaistowe	4	4



Operations Committee: L-R: Joanne Metcalfe, Terry Evans and Philippa Seagrave

Ms Ogilvie ceased to be a member of the Professional Standards Councils in December 2011. In February 2012, she was reappointed to the role of chair of the Star Grants Committee by a resolution of the Councils. Jurisdictional approval for a non-council member to sit on a sub-committee of Council has been obtained, where required, and Ms Ogilvie continues her role on the Star Grants Committee.

**The Operations Committee** advises the Councils on strategic direction of resourcing and prioritisation of the Councils' business plan. Its members are:

- Terry Evans (chairman)
- Joanne Metcalfe.

The Executive Officer is secretary of the committee.

**The Legal Issues Advisory Group** provides input to legal enquiries and issues. Its members are:

- Brian Rayment QC (chairman)
- Esther Alter
- Julie Cameron
- Terry Evans

The Executive Officer is secretary of the group.

## STAR GRANTS PROGRAM

The Star Grants Program invites occupational associations and professionals participating in a *Cover of Excellence*<sup>®</sup> scheme to apply for funding for projects that focus on improvements to occupational standards. The Councils administer the program with the assistance of the Star Grants Committee, which provides advice on grant management.

Round #1 (2010-11) applicants were selected through a merit-based, two-phased process that involved an expression of interest and an invitation-only application.

The Councils invited four applicants to enter funding agreements in early 2011-12. The total value of awarded grants was \$160,830.

Case studies on the round #1 projects can be found on the new Star Grants website at [www.stargrants.com.au](http://www.stargrants.com.au), which was launched in March 2012.

The Councils have completed two of the four projects from round #1 and are working with the remaining grant recipients to complete the other two projects.

In preparation for round #2 (2011-12), the Councils approved a name change from the "Star Grants Initiative Program" to the "Star Grants Program". They also restructured the application process to a single application.

Applications for round #2 were open from 1 October 2011 to 31 March 2012 and accepted through the Star Grants website.

In May 2012, the Star Grants Committee recommended a number of projects to Councils. The Councils have also invited a number of applicants to enter funding agreements.

## INTER-GOVERNMENTAL AGREEMENTS AND OPSC

The Professional Standards Agreement 2005, was reviewed and a new one executed in 2011 by the Standing Committee of Attorneys General. This agreement allows common membership of all State and Territory Professional Standards Councils and stipulates the provision of common secretariat support for all the Councils to be provided by the NSW Department of Attorney General and Justice.

On 1 July 2010, operation commenced of two service agreements: the Professional Standards Councils and Departmental Procurement of Services Agreement 2010 and the Professional Standards Councils Inter-Departmental Service Agreement 2010. These agreements formalise co-operation between all States and Territories, ensuring that the expenditure of the OPSC and by the Councils themselves is allocated between jurisdictions in an equitable manner.

On 30 June 2012, all parties agreed to extend both service agreements for the next 12 months.

Table 5: The outcomes from round #1

Grant recipient	Project	Amount awarded
Victorian Bar	Professional credentialising for indictable crime	\$38,000
Institute of Public Accountants	Online public practice quality assurance for accountants	\$70,000
Edwards Collins Group	Practical risk management in public practice for accountants	\$10,000
Medico-Legal Training Australia (MLTA)	Prevention of elder abuse	\$42,830

## NEW SCHEMES AND NEW ASSOCIATIONS

On 1 January 2012, new schemes commenced for the Law Society of South Australia and the South Australian Bar Association, with corresponding prescription under Commonwealth law. These schemes are in force in all mainland States and Territories, under the mutual recognition provisions of the professional standards legislation.

Mutual recognition of schemes gives professionals the confidence that they can work outside of their home state and still enjoy the benefit of their scheme. The Councils are pleased to see more occupational associations applying to have their schemes extended to other jurisdictions where their members' work may take them.

## PROFESSIONAL STANDARDS RESEARCH PROJECT

In early 2010, the Councils identified the need to assess the impact of professional standards legislation on the professional standards of members of *Cover of Excellence*® schemes and their consumers. They subsequently approved the commencement of the Comprehensive Research Strategy: Assessment of the Impacts of Professional Standards Legislation, to be carried out over a three-year period.

The OPSC's work on the project has continued to advance since last year, with six of the 10 planned phases being seen to completion overall. Two further phases are well underway and expected to be completed early in the 2012-13 financial year.

Conclusion of the project will be marked by an extensive cross-analysis of the results from each of the phases.



Finance, Audit and Risk Management Committee  
L-R: Joanne Metcalfe, Iain Summers and Esther Alter

## FINANCIAL PERFORMANCE OF THE COUNCILS

The Professional Standards Councils are funded by a small annual fee paid by each participating member of an association administering a *Cover of Excellence*® scheme.

Revenue received by each Council and its proportion of the expenditure for each Council are validated by the NSW Audit Office each year as part of the annual reporting process.

Some jurisdictions require a separate financial audit, namely Queensland, Victoria, South Australia and Western Australia. The audited financial statements are produced as four separate addenda to this annual report and are published according to the statutory requirements in those jurisdictions.

# MEMBERS OF THE PROFESSIONAL STANDARDS COUNCILS

The Attorneys General of each State and Territory of Australia appoint members to the Professional Standards Councils' under the relevant legislation in each jurisdiction.

They select Council members for their skills, qualifications, experience and ability to contribute to the Councils' work. The current members have qualifications and experience in law, dispute resolution, accounting, insurance, audit, architecture, property management and company directorship. They work very effectively together as a team, the majority of whom have served at least one or more terms.

The Chairperson and Deputy Chairperson of the Councils are nominated on an alternating basis by NSW and Victoria, under the Professional Standards Agreement 2011.



Brian Rayment QC



Esther Alter

## **Brian Rayment QC** **Chairman | BA, LLB**

Brian Rayment was admitted to the NSW Bar in 1970. He practises throughout Australia, specialising in insurance, transport law and general commercial law. From 1972 to 1974, he lectured in law (part-time) at the University of Sydney. Brian has also served as a member and honorary treasurer of the NSW Bar Council, Chairman of the Legal Aid Commission of NSW and a member of the NSW Legal Services Tribunal.

## **Esther Alter** **Deputy Chair | BEc, LLB, MBA, MAICD**

Esther Alter brings a wide range of experience in consumer law and dispute resolution to the Councils. As a member of the Victorian Civil and Administrative Tribunal, she was involved in conciliating and adjudicating on consumer law matters. Esther has worked in a range of consumer, legal and management roles in the Victorian and Commonwealth governments. Her professional interests are in the areas of governance, management, service evaluation and organisational development. Esther is a board member on the Victorian Pharmacy Authority. Esther is a member on several government panels lists.



Robert Beaton



Julie Cameron



Terry Evans



Ronald Farrell

### **Robert Beaton | LLB, BArch (Hons), BSc (Arch)**

Robert Beaton has had more than 35 years experience in all facets of professional risks insurance. Until June 2010, he was the National Product & Underwriting Manager Professional Risks Insurance at CGU Insurance. Robert is currently a consultant on issues relating to professional risk insurance. He was Chairman of the Professional Indemnity standing committee of Insurance Council of Australia between 2003 and 2010 and a member of the APRA National Claims and Policies Database Steering Group Committee when it was created.

### **Julie Cameron | BComm, LLB (Hons), LLM**

Julie Cameron is a partner of Corrs Chambers Westgarth in Brisbane and practises in the areas of insurance, medical malpractice, public liability and commercial litigation. Julie also advises and represents clients in investigations by the Health Quality and Complaints Commission and professional registration boards. An accredited personal injuries specialist of the Queensland Law Society (QLS) since 2002, Julie is a member of the QLS Personal Injuries Specialist Accreditation Committee and the QLS Accident Compensation Committee. She is also the Chairperson (Brisbane) of the Medicare Participation Review Committee and she holds membership of the Australian Insurance Law Association and the Medico-Legal Society of Queensland.

### **Terry Evans | LLM**

Terry Evans is engaged as Special Counsel with Minter Ellison Adelaide. Previously, he was the Deputy Chief Executive of the South Australian Justice Department and Attorney General's Department (2004 to March 2006). He was the Chief Commercial Counsel for the Crown Solicitor's Office from 1996 to 2004. Previously, Terry was a partner with Minter Ellison. He holds a number of board positions in the corporate, government, education and not-for-profit sectors.

### **Ronald Farrell**

Ronald Farrell is currently a member of the Committee of Management of MAV Insurance, which includes Civic Mutual Plus, and is appointed as a responsible officer. In 2008, he retired after 14 years as a foundation non-executive director of the Victorian Managed Insurance Authority. Prior board appointments include the Metropolitan Fire and Emergency Services Board, Gro it Pty Ltd manufacturing company, Utilities Insurance Company Ltd, and connect.com.au Pty Ltd (internet provider). This followed a successful career in the insurance industry as General Manager of Australian Eagle Insurance Company Ltd and as an Executive Director of various subsidiaries. Memberships include the Australian and New Zealand Institute of Insurance and Finance, as well as a not-for-profit advisory body.





Tom Karp



Joanne Metcalfe



Madeleine Ogilvie

**Tom Karp | BA (Hons) (Actuarial Studies), Fellow of the Institute of Actuaries of Australia**

Tom Karp has been a member of the Professional Standards Committee of the Institute of Actuaries of Australia since 2008. He held the position of the Executive General Manager at the Australian Prudential Regulation Authority until his retirement in June 2008. Tom is also a board member of the Australian Reinsurance Pool Corporation and represents the Institute of Actuaries of Australia at the International Actuarial Association. Tom provides advice on insurance regulation, including conducting financial sector assessment programs for the International Monetary Fund and the World Bank.

**Jo Metcalfe | BLArch (Hons), MBA**

Jo Metcalfe has served on the Professional Standards Councils since 2005 and was also appointed to the Councils' Finance and Risk Management Committee and Star Grants Committee. She works for professional services company GHD in Canberra as a business group manager operating across the ACT and southern NSW. Jo has been an active member of the property industry for the past 15 years, a division councillor for the Property Council of Australia since 2004, and has held positions of vice-president, member of the Executive Committee and chair of the Planning Committee. She is currently the Chair of the Property Council's Economic Development and Infrastructure Committee. Jo is currently a director of Consult Australia. Jo formerly worked in landscape architecture

and communications, as State Manager, Australian Institute of Architects ACT, and in professional services management as Managing Principal of peckvonhartel Architects.

**Madeleine Ogilvie | BA, LLB, Grad Certificate of Business (AGSM), MAICD**

Madeleine Ogilvie is a Tasmanian-based barrister and solicitor. She has a wide range of professional experience in Australia and internationally, including the provision of legal and strategic management advice to key private and public sector organisations. She has held senior roles in business, general management and the legal profession. Madeleine has particular expertise in infrastructure and major commercial contracts. Her key areas of professional interest are in the fields of telecommunications, the arts, and intellectual property commercialisation. She is a member of the Tasmanian Integrity Board, Calvary Hospital Ethics Committee, the board of Kickstart Arts Inc. and is Deputy Chair of the Tasmanian Council of Professional Bodies.



Hugh Plaistowe



Tiina-Liisa Sexton



Iain Summers

### **Hugh Plaistowe | FCPA FTIA**

Hugh Plaistowe is a partner in the Perth accounting firm, Owen and Plaistowe. He is a past state President (WA) of CPA Australia and was chairman of its national professional standards committee for five years. He has served on the board of a number of not-for-profit organisations. He served on the Professional Standards Council from 1998 to 2006 and was reappointed for another three year term in 2009.

### **Tiina-Liisa Sexton | BComm, FCA, FTIA, FAICD**

Tiina is a Tasmanian chartered accountant with a background in risk and financial management, governance and ethics. She has worked as a professional accountant in the private, public, academic and not-for-profit sectors. Tiina was the national Professional Standards Adviser in ethics and corporate governance at CPA Australia for 14 years until 2011. She was the Australian Technical Adviser for the IFAC International Ethics Standards Board for Accountants and CPA Australia representative on the Australian Stock Exchange Corporate Governance Council. Tiina is Company Secretary of Woodlands Wines Pty Ltd, director of Housing Choices Australia, Chair of Housing Choices Tasmania and a former director of Aurora Energy Pty Ltd, Hobart Water and the Connect Credit Union. She is also a board member of Designed Objects Tasmania (DOT) – Australia’s longest running design collective.

### **Iain Summers | BComm, LLB (Hons), Grad Dip Management Psychology, FCA, FCPA, FAICD, FAIM**

Iain Summers provides governance and management advice, assistance and training primarily to community services and public sector entities. From 1995 to 2002 he was the Northern Territory Auditor-General. He is a company director for community services corporations, and chairs a number of audit and risk committees for community services and public sector entities.

# COVER OF EXCELLENCE<sup>®</sup> SCHEMES

## HOW DO COVER OF EXCELLENCE<sup>®</sup> SCHEMES WORK?

The Professional Standards Councils are responsible for recommending and monitoring associations' *Cover of Excellence*<sup>®</sup> schemes, under the professional standards legislation in each State and Territory.

*Cover of Excellence*<sup>®</sup> schemes limit the civil liability of members of the association who hold a current professional indemnity insurance (PII) policy, and/or who hold business assets to the level of the limitation of liability.

Associations with a scheme must also meet a range of criteria specified in the professional standards legislation, including implementing and monitoring codes of ethics and conduct. They must also ensure that there is a complaints and disciplinary mechanism covering members in case of complaints by consumers.

Each association covered by a scheme has a standard for the PII cover which members must hold.

As part of their broader statutory compliance obligations, each association must develop a rigorous five-year risk management plan, against which they must submit an annual report to the Councils.



## WHAT ARE THE STEPS TO APPLY FOR A COVER OF EXCELLENCE<sup>®</sup> SCHEME?

Before the Professional Standards Councils will recommend a *Cover of Excellence*<sup>®</sup> scheme to the relevant minister(s) for authorisation, the Councils must consider:

- the position of consumers who may be affected if the occupational liability of association members is limited (also called “capped”)
- the nature and level of insurance claims made by consumers against members of the association which has applied for a *Cover of Excellence*<sup>®</sup> scheme
- the association's standards of PII
- the cost and availability of that insurance
- the association's risk management strategies and how those strategies are intended to be implemented
- public comments and submissions made in response to the public notification of a proposed *Cover of Excellence*<sup>®</sup> scheme.

## THE BALANCE BETWEEN LIMITED LIABILITY AND CONSUMER PROTECTION

The Councils are responsible for determining the limitation of liability for each occupational association participating in *Cover of Excellence*<sup>®</sup> schemes.

To do so, the Councils consider the nature of the work being done by members of the association, the risks inherent in such work, and the positions of persons likely to be affected by a cap on liability. The Councils consider the 10-year retrospective history of claims made against members of the association, together with the prospective risk management plans of the association. They also obtain independent actuarial advice as to the likelihood of future claims exceeding the proposed cap. The intention is to find a cap on liability that provides an appropriate level of consumer protection, relative to the risks associated with the service being provided.

## IMPLEMENTATION OF ASSOCIATIONS' RISK MANAGEMENT PLANS

Associations applying for a *Cover of Excellence*<sup>®</sup> scheme must demonstrate that they have the organisational capacity to implement risk management strategies, and also to administer the association's scheme for the benefit of consumer protection.

Once a scheme is approved, associations must report against their risk management plans annually to Councils, for the duration of the scheme, consistent with ongoing statutory compliance requirements. These reports provide information about the mechanisms used by the associations to improve the professional standards of individual practitioners, including the monitoring of compliance by members, through methods such as member surveys and audits.



## HOW DO COVER OF EXCELLENCE<sup>®</sup> SCHEMES HELP PROTECT CONSUMERS?

The work of the Councils helps protect consumers by assisting and encouraging occupational associations to improve and promote professional standards. Additionally, members of associations who participate in *Cover of Excellence*<sup>®</sup> schemes must hold sufficient PII (and/or other assets) to meet any civil claims at the level of their limit of liability under the scheme. Therefore, consumers have recourse to reasonable compensation for economic loss in the event of a claim.

Members of an association can use the *Cover of Excellence*<sup>®</sup> trademark once the Councils have approved the association's scheme and gazetted it in the relevant State or Territory.

Each scheme has a maximum duration of five years. If the association wishes its members to continue to be covered by a scheme, they must submit a new application. The five-year limit allows associations to review the most current economic landscape, to understand any environmental shift within which professionals are now working, and to use the latest developments in risk management plans for professional services.

## WHAT DOES MUTUAL RECOGNITION OF SCHEMES MEAN?

As members of professional associations may work across State and Territory borders, the Professional Standards Councils support amendments to professional standards legislation, allowing *Cover of Excellence*® schemes to have force across multiple jurisdictions.

These mutual recognition provisions are now in place in the legislation in New South Wales (NSW), the Northern Territory (NT), the Australian Capital Territory (ACT), Queensland (Qld), Victoria (Vic), South Australia (SA) and Western Australia (WA).

## HOW DOES THE COMMONWEALTH GOVERNMENT PRESCRIBE COVER OF EXCELLENCE® SCHEMES?

The Commonwealth Government can limit the liability of members of occupational associations with *Cover of Excellence*® schemes, under the *Treasury Legislation Amendment (Professional Standards) Act 2004* (Cth).

The Commonwealth can prescribe a *Cover of Excellence*® scheme under the *Competition and Consumer Act 2010* (formerly the *Trade Practices Act 1974*), the *Corporations Act 2001*, and the *Australian Securities and Investments Commission Act 2001*.

Through the *Competition and Consumer Amendment Regulations 2011 (No 1)*, sub-regulations in the *Competition and Consumer Regulations 2010* which specified expiry dates of prescription of schemes, were omitted.

Table 6: *Cover of Excellence*® schemes in operation in each State and Territory

Scheme	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
<b>Accountants</b>								
Institute of Chartered Accountants in Australia (ICAA)	Orange	Orange	Orange	Orange	Orange	White	Orange	Orange
	Light Green	Light Green	Light Green	Light Green	Light Green	White	Light Green	Light Green
Certified Practising Accountants Australia (CPA Australia)	Orange	Orange	Orange	Orange	Orange	White	Orange	Orange
	Light Green	Light Green	Light Green	Light Green	Light Green	White	Light Green	Light Green
Institute of Public Accountants (IPA)	White	Orange	White	White	White	White	White	White
	White	Light Green	White	White	White	White	White	White
<b>Barristers</b>								
NSW Bar Association (NSW Bar)	Yellow	Orange	Yellow	Yellow	Yellow	White	Yellow	Yellow
	White	Light Green	White	White	White	White	White	White
SA Bar Association (SA Bar)	Yellow	Yellow	Yellow	Yellow	Orange	White	Yellow	Yellow
	White	White	White	White	Light Green	White	White	White
Victorian Bar Incorporated (Vic Bar)	Yellow	Yellow	Yellow	Yellow	Yellow	White	Orange	Yellow
	White	White	White	White	White	White	Light Green	White
<b>Lawyers</b>								
The Law Society of NSW (LSNSW)	White	Orange	White	White	White	White	White	White
	White	Light Green	White	White	White	White	White	White
Law Society of SA (LSSA)	Yellow	Yellow	Yellow	Yellow	Orange	White	Yellow	Yellow
	White	White	White	White	Light Green	White	White	White
Law Institute of Victoria (LIV)	White	White	White	White	White	White	Orange	White
	White	White	White	White	White	White	Light Green	White
Queensland Law Society (QLS)	White	White	White	Orange	White	White	White	White
	White	White	White	Light Green	White	White	White	White

Scheme	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
<b>Engineers</b>								
Engineers Australia (EA)								
College of Investigative and Remedial Consulting Engineers Of Australia (CIRCEA)								
<b>Information technology professionals</b>								
Australian Computer Society (ACS)								
<b>Surveyors</b>								
Professional Surveyors Occupational Association (PSOA)								
<b>Valuers</b>								
Australian Valuers Institute (AVI)								
Australian Property Institute Valuers Limited (APIV)								

Key

- Scheme operative in this State/Territory
- Scheme prescribed by the Commonwealth
- Mutual recognition of scheme in this State/Territory
- Mutual recognition of scheme in this State/Territory – pending gazettal
- Scheme awaiting prescription by the Commonwealth

Table 7: The number of members of associations to whom a scheme applied in all jurisdictions as at 30 June 2012

Association	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
ACS		10						
APIV		2,409						
AVI		28						
CIRCEA		26						
CPA Australia	92	1,657	28	1,139	263		2,210	776
EA	0	2	0	1	0	0	2	1
ICAA	558	9,595	124	3,740	1,651		6,274	2,333
LIV							2,858	
LSNSW		7,523						
IPA		1,208						
NSW Bar		2,073						
PSOA		38						
QLS				4,564				
LSSA					886			
SA Bar					154			
Vic Bar							744	

# COMPLIANCE REPORTING ON RISK MANAGEMENT

In order to comply with the professional standards legislation in each State and Territory, associations that have *Cover of Excellence*<sup>®</sup> schemes must submit annual reports to the Professional Standards Councils. The role of scrutinising how associations implement and monitor risk management of strategies is fundamental to the role of the Councils in all jurisdictions.

These compliance reports are derived from the five-year risk management plan that is submitted as part of an association's original application for a *Cover of Excellence*<sup>®</sup> scheme.

The risk management plans set out how the associations' members will improve the quality of services they provide to consumers through improved risk management practices. Compliance reports include an account of developments in PII specific to that occupational group.

Compliance reports typically examine initiatives and trends in the associations' work in areas such as:

- continuing professional development
- codes of conduct and ethics, and professional obligations
- quality control program
- technical standards and competence
- complaints and disciplinary system
- claims data and insurance monitoring
- compliance with professional indemnity insurance requirements.



Philippa Seagrave, Executive Officer

While associations may provide comprehensive information on a wide range of potential areas of risk, the annual compliance reports focus on insurance claims and monitoring, complaints and discipline, continual occupational education and compliance with disclosure of limited liability, as well as use of the Councils' *Cover of Excellence*<sup>®</sup> trademark.

Reporting on an annual basis encourages the association to work throughout the year to set the standards for constant and timely improvement to members' practices. Anecdotal evidence from associations is that the increasingly rigorous and systematic risk management programs reported to the Professional Standards Councils are providing assistance toward reducing the expense of litigation in the professional services sector, as well as improving consumer protection.

# COMPLIANCE REPORTING – NATIONAL ASSOCIATIONS

Following are the compliance reports from national associations.

## CPA Australia

CPA Australia's risk management report for 2011 summarised strategies it adopted to minimise risk in relation to its limited liability scheme. Below are the key outcomes.

CPA Australia continues to review and enhance the design and delivery of its CPD offer. Increased data on members' CPD activities was made available via an online CPD diary reporting system. The improved data collection and reporting systems have allowed CPA Australia to report continually on CPD compliance and monitor the diversity of learning activities being undertaken by members. It also identifies new trends and helps develop new standards or guidance for members. There was a significant uptake of the careers guidance system which allows members to understand their current competencies and identify areas for development.

CPA Australia continued to update and enhance the content of its CPA program and foundations programs with input from the Professional Qualifications Advisory Committee. It reported the successful delivery of a new foundation level program in 2011.

The availability of insurance underwriters willing to place accountants' PII has continued to increase in the past 12 months and is expected to continue to grow even more over the next 12 months. There are more than 35 underwriters willing to provide PII for accountants.

CPA Australia continued its improvement in the investigation and disciplinary process to achieve operational efficiencies in business processes. It undertakes investigation of complaints in accordance with the procedures outlined in the by-laws. Details of the complaints and discipline processes, along

with outcomes of disciplinary tribunals, are published on the CPA Australia website.

The CPA Australia Insurance and PSC Scheme Advisory Committee met three times during 2011 to review the ongoing performance of the CPA Australia risk management systems for public practitioners, the preferred PII facility and member scheme. In addition, it reviewed monthly insurance reports that included an overview of the performance of the PII scheme, claims, market updates and related news articles. Membership participation in the scheme continued to increase during 2011.

CPA Australia continued to be an active member of the Liability Reform Steering Group and provided input into the future Council of Australian Governments (COAG) Regulatory Reform Agenda and contributed to research on liability reforms.

CPA Australia estimates that 70 per cent of all PII for accountants continues to be written by overseas markets; for example, Lloyds of London.

Claim numbers and severity have increased over the past 12 months as a direct result of the economic downturn. Notifications have also increased in proportion, as a result of the slowdown. Based on the past, it expects to receive an increase in claims as a result.

CPA Australia has no proposed major changes to tactics for 2012 but will continue to extend its core education offerings on risk mitigation strategies and insurance.

Compliance with the *Cover of Excellence*<sup>®</sup> trademark is applicable to all members who hold a CPA Australia Public Practice Certificate and who are covered by a State or Territory PSC scheme.



## The Institute of Chartered Accountants in Australia

The Institute of Chartered Accountants in Australia (ICAA) reported that, through its engagement with governments and regulators, both internationally and in Australia, it is setting the benchmark for high ethical, professional and educational standards.

In 2011, ICAA's thought leadership work addressed a range of significant emerging issues that will impact the profession and that has initiated debate about the most pressing challenges facing Australia over the next 20 years.

Its key activities included:

- participation in and contributions to global forums
- publishing thought leadership papers
- contributions to the Business Briefing series written for leaders and financial professionals on a range of contemporary and emerging topics
- a few audit committee guides
- organising an ICAA forum of regulators, standard setters, major banks, major firms and government officials to discuss the findings of the leadership paper
- organising an academic education forum of leading Australian and international accounting academics, practitioners and institute representatives who explored strategies to increase the relevance of accounting research to professional practice
- establishing the ICAA's Academic Research Program supporting quality research into accounting and related fields.

ICAA delivers the Chartered Accountants Program – Australia's leading postgraduate accounting program – which is a prerequisite for ICAA membership. This program is undergoing a comprehensive strategic review to ensure that it continues to provide the high quality, rigorous and internationally recognised training for those seeking membership of the Institute.

ICAA noted that, if there were an increase in GFC-related claims, a hardening of the PII market would be likely to follow, with an increase in premiums and restrictions in policy terms. Although it understands that there has been an increase in the circumstances notified during the last few years, and more recently some increase in the number of claims on accountants' PII policies, there has not been an increase in premium costs. It understands that premiums in the London market have been trending upwards; however, the market for accountants' PII policies in Australia has remained relatively flat during 2011.

Claims data reported in 2011 does not reflect a significant impact from the GFC. There has not been an increase in the number of claims, although there has been some increase in the size of the largest claims. However, the evidence from claims data collected indicates that final settlement amounts are significantly lower than the amount of the original claim. This leads them to be cautious about drawing conclusions from original claims figures. In this fourth year of the Institute Limitation of Liability Scheme, the claims data does reflect the long tail nature of PII claims against ICAA members. From this, it is clear that it will be the evidence of claims data collected over an extended period of time from which firmer conclusions can be drawn.

Members are able to access adequate PII cover at affordable rates. And this is all in spite of the difficult economic environment of the last few years.

The 2011 Scheme Compliance Survey reflected over 99 per cent compliance with the requirements of the Institute's *Regulation 4A – Professional Indemnity Insurance*. This compliance rate has steadily improved over the four-year life of the ICAA scheme to 31 December 2011.

## Engineers Australia

Engineers Australia's risk management plan applies across Australia and its annual report to the Councils covers all the Australian States and Territories.

It reported to the Professional Standards Councils that its risk management strategies for 2011 were:

- Professional standing
- Code of ethics
- Continuing professional development
- Quality control standards
- Technical standards
- Advisory and support services
- Complaints and discipline
- Compliance program
- Insurance costs.

Engineers Australia reported extensive programs of continuing professional development (CPD) across Australia. These were delivered through a diverse range of formats from international conferences, seminars and workshops, eminent speaker presentations and individual technical meetings. Members are required to undertake a prescribed number and range of CPD activities in any three-year period.

During 2011, Engineers Australia groups hosted and co-hosted 19 national and international conferences which attracted some 5,000 delegates. Nine eminent speakers gave presentations in metropolitan and regional centres to nearly 5,000 members.

Engineers Australia designated 2011 as the "Year of Humanitarian Engineering", with a focus on activities associated with the role engineering plays in improving the quality of life in not only disaster and recovery relief, but also on the broader contributions that engineering makes across many spheres of life.

Capturing the intellectual value of its technical publications is a key focus of Engineers Australia. Every year, Engineers Australia's publications are becoming more visible to local and international users. Over 34,000 full text papers – available across 12 Engineers Australia journals, 324 conference proceedings and 55 reports – are accessible through InfoRMIT. The bibliographic database, "Engine", also has over 42,000 published papers. Fourteen issues of technical journals were published during the year.

Engineers Australia maintains separate information on CPD delivery for each State and Territory. For more detail on CPD, see the State and Territory summary data in later pages.

Engineers Australia completed its annual cycle of CPD audits and reported a strong increase in the number of members becoming chartered.

During 2011, Engineers Australia received 17 complaints against 20 members. Three complaints were received against non-members of Engineers Australia. Two complaints against engineering firms were not within the remit of Engineers Australia to investigate. As has historically been the case, the issues complained about are associated primarily with domestic housing projects and related contractual and legal issues.

Engineers Australia advised that it contributes to the development of the insurance industry's understanding of the engineering profession by participating in the Liability Reform Steering Group.

# AUSTRALIAN CAPITAL TERRITORY – SUMMARY DATA

The Professional Standards Council of the Australian Capital Territory (ACT) approves schemes under the *Civil Law (Wrongs) Act 2002* (ACT).

Associations with schemes under this Act have a statutory obligation to submit an annual compliance report to the Council, covering implementation and monitoring of their risk management strategies, details of claims and insurance data, use of the *Cover of Excellence*® trademark, and disclosure of limited liability.

During 2011-12, there were 10 schemes in operation in the ACT, covering 10 occupational associations and seven occupational groups.

## Accountants

- CPA Australia (ACT)
- Institute of Chartered Accountants in Australia (ACT)

## Barristers

- The NSW Bar Association – operates under mutual recognition

- The South Australian Bar Association – operates under mutual recognition
- The Victorian Bar Incorporated – operates under mutual recognition

## Engineers

- Engineers Australia (ACT)

## Information technology professionals

- Australian Computer Society – operates under mutual recognition

## Solicitors

- The Law Society of South Australia – operates under mutual recognition

## Surveyors

- The Professional Surveyors Occupational Association – operates under mutual recognition

## Valuers

- Australian Property Institute Valuers Limited – operates under mutual recognition

There were no applications for new schemes in the ACT in 2011-12.

Table 8: *Cover of Excellence*® schemes in the ACT

Association	Scheme applies to:	Number of members participating in scheme in ACT	Limit of liability	Start date for scheme	End date for scheme
<b>Accountants</b>					
CPA Australia (ACT)	all members of CPA Australia ordinarily resident in the ACT who hold a current public practice certificate and who have not been exempted	92	\$1 million to \$75 million Reasonable charge of services x 10	1 February 2008	31 January 2013
Institute of Chartered Accountants in Australia (ACT)	all members of ICAA ordinarily resident in the ACT who hold a current certificate of public practice and who have not been exempted	558	\$1 million to \$75 million Reasonable charge of services x 10	1 February 2008	31 January 2013
<b>Engineers</b>					
Engineers Australia (ACT)	members of Engineers Australia who are also members of the Engineering Science and Technology Professional Standards Society	0	\$1.5 million to \$20 million	1 January 2009	31 December 2013

## Accountants

### *CPA Australia (ACT)*

CPA Australia's compliance report for 2011 covers all Australian States and Territories. For more on CPA Australia's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

### Monitoring of claims

In 2011, there were no reported insurance claims against ACT members or notifications that a claim might be made.

### *Institute of Chartered Accountants in Australia (ACT)*

ICAA's compliance report for 2011 covers all mainland Australian States and Territories. For more on the ICAA's national risk management and other compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

## Monitoring of claims

As part of the annual scheme compliance survey, the ICAA sought information regarding any formal claim in excess of \$500,000 lodged against the member or the firm during 2011. There were no claims against ACT members of the ICAA in 2011.

## Engineers

### *Engineers Australia (ACT)*

The Engineers Australia compliance report for 2011 covers all Australian States and Territories. For more on Engineers Australia's risk management and other compliance strategies – which are the same for each jurisdiction – see the section *Cover of Excellence*<sup>®</sup> schemes. Separate information is maintained for each State and Territory on CPD, as below.

### Continuing professional development

Engineers Australia reported that it held 74 technical events in Canberra, with a total attendance of 2,636 members.

# NEW SOUTH WALES – SUMMARY DATA

The Professional Standards Council of New South Wales (NSW) approves schemes under the *Professional Standards Act 1994* (NSW).

Associations with schemes under this Act have a statutory obligation to submit an annual compliance report to the Council, covering implementation and monitoring of their risk management strategies, details of claims and insurance data, use of the *Cover of Excellence*<sup>®</sup> trademark, and disclosure of limited liability.

During 2011-12, there were 14 schemes in operation in NSW, covering 14 occupational associations and seven occupational groups.

## Accountants

- CPA Australia (NSW)
- Institute of Chartered Accountants in Australia (NSW)
- Institute of Public Accountants (formerly National Institute of Accountants)

## Barristers

- The NSW Bar Association
- The South Australian Bar Association – operates under mutual recognition
- The Victorian Bar Incorporated – operates under mutual recognition

## Information technology professionals

- Australian Computer Society

## Engineers

- College of Investigative and Remedial Consulting Engineers, Australia Inc.
- Engineers Australia (NSW)

## Solicitors

- Law Society of NSW
- The Law Society of South Australia – operates under mutual recognition

## Surveyors

- The Professional Surveyors Occupational Association NSW Inc.

## Valuers

- Australian Property Institute Valuers Limited
- Australian Valuers Institute

Table 9: Cover of Excellence® schemes in NSW

Association	Scheme applies to:	Number of members participating in scheme in NSW	Limit of liability	Start date for scheme	End date for scheme
<b>Accountants</b>					
CPA Australia (NSW)	all members of CPA Australia ordinarily resident in NSW who hold a current public practice certificate and who are not exempt	1,657	\$1 million to \$75 million Reasonable charge of services x 10	8 October 2007	7 October 2012
Institute of Chartered Accountants in Australia (NSW)	all members of ICAA ordinarily resident in NSW who hold a current public practice certificate and who are not exempt	9,595	\$1 million to \$75 million Reasonable charge of services x 10	8 October 2007	7 October 2012
Institute of Public Accountants	all members of the Institute ordinarily resident in NSW who hold a current public practice certificate issued by IPA who are not exempt	1,208	\$500,000 to \$20 million Reasonable charge of services x 10	30 January 2007	29 January 2013
<b>Barristers</b>					
NSW Bar Association	all members of the NSW Bar who hold a current NSW barrister's practising certificate	2,073	\$1.5 million for all members (from 1 July 2010)	1 July 2010	30 June 2015
<b>Engineers</b>					
Engineers Australia (NSW)	members of Engineers Australia who are also members of the Engineering Science and Technology Professional Standards Society	2	\$1.5 million to \$20 million depending on total annual fee income of partnership, corporation or sole trader	24 February 2007	23 February 2013
College of Investigative and Remedial Consulting Engineers, Australia Inc.	all ordinary and retired members of CIRCEA	26	\$1 million for ordinary members, \$5 million for members who provide advice predominantly on geotechnical engineering, \$10 million on application of member	5 December 2006	4 December 2011

**Information technology professionals**

Australian Computer Society	all members of the ACS professional division with certified computer professional status	10	\$1.5 million to \$10 million	1 January 2010	31 December 2014
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**Solicitors**

Law Society of NSW	all solicitors and life members of the Law Society of NSW who hold a current public practice certificate, and who are not exempt	7,523	\$1.5 million to \$20 million depending on the number of principals; up to \$200 million, as determined by the LSNSW, on application by a member	22 November 2006	21 November 2011
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**Surveyors**

Professional Surveyors Occupational Association NSW Inc.	all members of the PSOA	38	\$1 million to \$5 million depending on the firm's total annual gross fee income  Higher amount to \$10 million if selected	12 November 2007	11 November 2012
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**Valuers**

Australian Property Institute Valuers Limited	all members of the APIV	2,409	\$1 million to \$10 million depending on upper end value of valuation  Higher amount to \$20 million, if selected	1 September 2010	31 August 2015
Australian Valuers Institute	AVI members resident in NSW who hold a current practising certificate	28	\$1 million for commercial and \$500,000 for work relating to residential property  Higher amount to \$10 million, if selected	26 July 2007	25 July 2012

## COMPLIANCE REPORTS BY ASSOCIATIONS

### Accountants

#### CPA Australia (NSW)

CPA Australia's compliance report for 2011 covers all mainland Australian States and Territories. For more on CPA Australia's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

#### Monitoring of claims

In 2011, there were 11 reported insurance claims against NSW members and notifications from members that a claim might be made.

#### Institute of Chartered Accountants in Australia (NSW)

ICAA's compliance report for 2011 covers all mainland Australian States and Territories. For more on the ICAA's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

#### Monitoring of claims

As part of the annual scheme compliance survey, during 2011, the ICAA sought information regarding any formal claim in excess of \$500,000 lodged against the member or the firm. In 2011, a number of claims were reported that were settled in the same year but had been notified in prior years. All claims reported to the Institute in 2011 have been reported as 2011 claims. In 2011, there were six reported insurance claims over \$500,000 against NSW members.

#### Institute of Public Accountants

The Institute of Public Accountants' (IPA) reported, as below.

#### Continuing professional development

The IPA regularly monitors issues arising from the public practice quality assurance (PPQA) reviews and other industry issues. Its technical team advises the NSW divisional office on any areas of concern and those that need to be covered in the CPD program. The professional practice orientation certificate is updated annually with feedback from the IPA technical team, quality assurance reviewers and members on current issues.

The bi-monthly member publication, "Public Accountant", contains regular articles that advise members where the ATO and other regulators have concern and any recommendations on knowledge improvement in these areas.

The 2011 National Public Practice Symposium was held in Sydney in May 2011. Concurrent streams of sessions included technical issues and practice development topics, such as knowledge management, succession planning, professional services marketing and information technology.

#### Complaints data

The IPA has an investigations and disciplinary process to accept written complaints against ITS members. As a condition of membership, all members are subject to this investigation and disciplinary process for breaches of the IPA constitution, by-laws, pronouncements and professional standards.

During 2011, eight complaints were received against NSW members:

- six regarding professional conduct
- one regarding fraud
- one regarding SMSF audit.

Of the eight complaints against NSW members:

- two were finalised
- two were referred to the Disciplinary Tribunal
- four are under investigation.

#### Disclosure of limited liability and use of *Cover of Excellence*<sup>®</sup> trademark

The "Public Accountant" and other IPA publications in NSW have promoted the issue of disclosure.

During the last financial year, a survey indicated that:

- 98 per cent of members were using the disclosure statement as set out in the prescribed form
- all survey respondents held current PII cover of \$500,000 or more



- 99 per cent of members were complying with the IPA's requirement of maximum \$10,000 excess or one per cent of fees
- 99 per cent of members are meeting the business assets requirement
- 53 per cent of members are now choosing to use the *Cover of Excellence*<sup>®</sup> trademark, compared to 45 per cent in 2010.

### **Trends in professional indemnity insurance**

Members of IPA reflect that there remains a tight market for PII for accountants. More members are seeking to add financial advice cover to their insurance and this is likely to increase in the future as a result of the Future of Financial Advice reforms.

Insurance premiums as a percentage of fees were classified as follows:

64%	<1% of fees
15%	>1% but <2% of fees
12%	>2% but <5% of fees
9%	>5% of fees

### **Monitoring of claims**

Due to the low claims data and three separate unrelated issues it is not possible to develop meaningful corrective action.

Although the level of claims remains the same from last year, the dollar amount of claims rose from \$28,000 in 2010 to \$835,000 (including legal costs) in 2011. This is still minimal compared to fees charged and no real conclusions can be drawn as the number of claims is small and statistically irrelevant.

## **Barristers**

### ***New South Wales Bar Association***

The NSW Bar Association's (the Association) compliance report for 2011 was submitted to the Professional Standards Councils.

### **Continuing professional development**

The Association conducts a mandatory CPD program to ensure the ongoing development of members and to manage future risks that may arise from a failure to update knowledge in key areas.

As foreshadowed in last year's report, the Hon. Dr KE Lindgren QC conducted a comprehensive review of all professional development activities at the end of 2010 and into 2011. Presented to the Bar Council in May 2011, the report is currently being analysed in detail by an education sub-committee and is not yet publicly available. The report was highly complimentary of the Bar Practice Course (BPC) and its administration. The report made only one recommendation in relation to the BPC, which was the training of coaches by the Australian Bar Association's Advocacy Training Council or the Australian Advocacy Institute.

The Professional Development Department continues to survey all new readers during and at the completion of the course. In 2011, they conducted the reviews online, rather than in hard copy, which led to a higher participation rate.

### **Complaints data**

In the 12 months to 30 June 2011, the NSW Legal Services Commissioner referred 49 conduct complaints to the NSW Bar Council for investigation. The Bar Council made a further six complaints. In addition, 50 investigations that had commenced prior to 1 July 2010, continued. The Bar Council finalised 62 complaint matters, 50 of which were dismissed.

### **Trends in professional indemnity insurance**

The Association reported that there was a mix of increases and decreases in premiums charged in 2011, particularly by Aon (CGU), and where the fee bands were \$300,000 and over. In Aon's case, there was a decrease, which may be an indication that the fees charged the previous year were too high as that provider's fees still remain higher than the other three providers, in some instances. The Association believes the cost of insurance is not prohibitive.

### **Monitoring of claims**

As reported last year, the number of claims made against barristers increased over the previous two years. Last year saw no significant increase. Commercial law and civil law remain the most common practice areas in which claims and notifications are made.

It is not known how many, if any, of those notifications reported will evolve into a claim. The Association believes that one reason for the increase in the number of notifications is the fact that barristers are more aware of their obligations to report, even in instances that are not likely to result in a claim; for example, where they are experiencing difficulty obtaining payment from a client.

### **Disclosure of limited liability and use of *Cover of Excellence*® trademark**

In August 2011, the Association randomly audited 10 members and asked them to provide samples of documents on which they had used the disclosure statement. The Association selected another five members who had advised they were using the *Cover of Excellence*® trademark and asked them to supply samples of documents where they were used. All 15 members responded.

Although there were variations in the use of the disclosure statement, the Association is satisfied that all members who were audited are now complying with the terms of the disclosure statement, as prescribed. The audit also highlighted variations in the use of the trademark and, as a result, an article was written for its newsletter, "In Brief", to remind all members of disclosure requirements of the above.

### **Information technology professionals *Australian Computer Society***

The Australian Computer Society (ACS) reported, as below.

#### **Continuing professional development**

In 2011, the ACS introduced and/or rolled out CPD opportunities for its members, which included:

- an email-based program to warn members if they were in danger of losing their computer professional (CP) status if they had not registered their completed CPD hours
- risk management education for members so they can maintain their certified CP status
- an online ethics test for all certified members

- a self-assessment tool so that members can readily identify areas where their skills need boosting.

#### **Complaints data**

The ACS reported that it did not receive any complaints about its members during 2011 and there were no disciplinary procedures brought before the Committee.

#### **Trends in professional indemnity**

During 2011, the ACS mandated insurance requirements. Members joining the scheme – and on annual renewal – will have to provide documentation supporting their PII. ACS has met the requirement for all policies, which have been referred to an insurance broker to ensure they meet criteria.

#### **Monitoring of claims**

There was no mention of any claims made against ACS members in the 2011 report.

### **Disclosure of limited liability and use of *Cover of Excellence*® trademark**

The ACS is carrying out ongoing education on how members should use the *Cover of Excellence*® trademark. In so doing, members were provided access to an online page that advised the requirements. The ACS intends carrying out an audit to ensure members comply with the requirements.

### **Engineers**

#### ***Engineers Australia (NSW)***

The Engineers Australia compliance report for 2011 covers all Australian States and Territories. For more on the association's risk management and compliance strategies – which are the same for each jurisdiction – see the section on *Cover of Excellence*® schemes. Separate information is maintained for each State and Territory on CPD, as below.

#### **Continuing professional development**

Engineers Australia reported that it held CPD events in Sydney, Newcastle and regional NSW areas, with nearly 12,165 attendees at 198 sessions.

### ***College of Investigative and Remedial Consulting Engineers, Australia Inc.***

The College of Investigative and Remedial Consulting Engineers, Australia, Inc. (CIRCEA) compliance report for 2011 was not received by the Professional Standards Council of NSW by 31 March 2011.

### **Solicitors**

#### ***Law Society of New South Wales***

The Law Society of NSW (the Society) reported that as a part of the COAG National Legal Profession Reform, the Society has been involved in ongoing development of national uniform legislation, rules and regulations. It expects a final of the draft legislation in June 2012.

#### **Continuing professional development**

The Society has a points system for mandatory continuing legal education, requiring members to demonstrate completion of a certain number of CPD activities each year. It also has schemes of accreditation.

#### **Complaints data**

Solicitors are regulated as a profession under the *Legal Profession Act 2004* (NSW), which allows for inspection and investigation of legal practitioners and law practices.

During the year, the Professional Standards Department opened 545 complaint files (20 per cent decrease on last year) and the Office of the Legal Services Commissioner received 2,394 written complaints (three per cent decrease). Of these, 458 (19 per cent) were referred to the Law Society (23 per cent decrease). Seven solicitors were reprimanded. Twenty-five, including one clerk, were referred to the Administrative Decisions Tribunal – 10 of whom had their practising certificate suspended, and seven had their names removed from the Supreme Court Roll.

#### **Trends in professional indemnity insurance**

The Society has a long-standing arrangement of organising PII cover for its members under the name LawCover Insurance Pty Limited. It places an emphasis on family law risk management and, in particular, on providing

advice for binding financial agreements. LawCover has also been conducting country roadshows for regional law societies.

Insurance remains available to all firms from LawCover for the compulsory layer of \$2 million. All its reinsurance is arranged with Australian Prudential Regulation Authority regulated or approved reinsurers.

#### **Monitoring of claims**

LawCover Insurance Pty Limited advised there were 676 notifications (an increase of 7.6 per cent on the previous period) against members, with the majority of claims in the commercial area. An overall conclusion is that it appears that family law may be a growing area of claims due to the introduction of binding financial agreements in 2001. Statistics on cause of loss continue to reflect long-term trends. The number of notifications for the year continues to remain low in the context of historical trends.

### **Surveyors**

#### ***Professional Surveyors Occupational Association NSW Inc.***

The Professional Surveyors Occupational Association NSW Inc. (PSOA) submitted its 2011 compliance report to the Professional Standards Council of NSW.

#### **Continuing professional development**

The PSOA notifies its CPD compliance to the OPSC annually following the membership renewal process. On renewal, members are required to provide a signed CPD summary report which the administration officer reviews and then recommends action. As at 30 December 2011, 92 per cent of members advised CPD requirements for their staff had been met. The remainder are currently undertaking procedures to meet their obligations.

## Complaints data

One hundred per cent of PSOA's members provided a signed annual report on complaints and discipline during 2011. It compiled a summary table of all member reports to identify the reasons for the complaints. The complaints were for minor misconduct or disputes which the member dealt with in-house and therefore not progressed any further.

## Trends in professional indemnity insurance

ACSIS Ltd, the insurance company responsible for 92 per cent of PSOA members, is the preferred supplier of insurance to the surveying profession, and is widely promoted to other associated bodies in other States.

ACSIS Ltd has provided a risk management audit program free of charge to its clients. When the program is undertaken and passed, it provides a significant discount to their policy. From discussions with its members, insurance costs appear to range from 1.6 per cent to 3.5 per cent of turnover.

## Monitoring of claims

ACSIS Ltd advised 11 notifications, nine of which are still open, with a reserve total of \$36,846. Completed member reports received indicated nine notifications with six settled and none paid out. This is a decrease from last year's report by three claims and \$14,850 in settlement costs. Of the ACSIS Ltd claims notified, none were paid out, therefore \$36,846 is still in reserve. The main causes of the claims derive from disputes with owners, contractors or builders.

Overall, the statistics for PSOA members compare favourably with the state and national averages; however, due to the small sample, a reasonable conclusion could not be drawn.

## Disclosure of limited liability and use of *Cover of Excellence*<sup>®</sup> trademark

As required by the PSOA Risk Management disclosure requirements policy document, all PSOA members are required to disclose their limited liability to the consumer. All new PSOA members are notified that they have the option to use the *Cover of Excellence*<sup>®</sup> trademark.

## Valuers

### *Australian Property Institute Valuers Limited*

The Australian Property Institute Valuers Limited (APIV) reported, as below.

### Continuing professional development

Members are required to achieve 20 CPD points per annum. All members complied with this requirement.

### Complaints data

The APIV did not receive any complaints against its members during the reporting period.

### Trends in professional indemnity insurance

The APIV requires that each member have at least \$1,000,000 professional PII in place. According to members surveyed, the average insurance premium was 3.6 per cent of annual turnover, with a range of three per cent to nine per cent. These figures vary due to a number of underwriting criteria, including a member's gross turnover, risk management processes, limit of indemnity sought and claims history.

The majority of members sourced PII from Lloyds of London, Sterling, Newline Insurance Australia, JUA Underwriting Agency, Asset Insure and Liberty International Underwriters.

### Monitoring of claims

During the last financial year, five members reported having a combined total of four claims and 12 notifications made against them. Four of these 16 claims and notifications included an amount sought, averaging \$501,300, plus interest or costs, with a range from \$229,520 to \$900,000. Of the 12 notifications, one was withdrawn. Of the four, a claim of \$390,000 was settled for \$190,000, and two claims are still outstanding.

Residential claims volumes may be trending upwards. The majority of claims by value are from larger firms – defined as having more than 10 employees who conduct valuations.

The data showed that 83 per cent of members were claim-free for four years and 14 per cent claim-free for three years. This resulted in only three per cent of members experiencing claims on a more regular basis. The results indicate that approximately one third of notifications result in a paid or outstanding claim each year. The value of incurred claims paid and outstanding is significantly less than the notification value.

Overall, the data indicates that the majority of members operate claims-free and that claims are being generated by a relatively small number of members. This also suggests that risk management activities should focus on the larger corporate firms' members.

#### **Disclosure of limited liability and use of *Cover of Excellence*® trademark**

Members have been advised that use of the *Cover of Excellence*® trademark is not mandatory. The APIV found that 30 per cent of members who were surveyed or audited elected to use the trademark on some or all of their correspondence. The majority chose, however, to display the trademark on their website. The main issue of not using the trademark is put down to the strict terms that govern its use, with which members had difficulty complying.

#### ***Australian Valuers Institute***

The Australian Valuers Institute (AVI) reported that its CPD strategy is designed to ensure that members are competent and ethical, and to help ensure that members maintain their knowledge and skills. CPD comprises a variety of activities and learning methods, including face-to-face learning, distance learning, e-learning, post graduate and short courses.

All its members (except corporate members) with a practising certificate are required to undertake 40 hours of CPD, involving a minimum 20 hours of structured courses and 20 hours self-regulated study.

#### **Complaints data**

AVI reported that there were no complaints, nor were they advised of any claims throughout the reporting period.

#### **Trends in professional indemnity insurance**

AVI reported that the cost of PII has increased from last year. Generally, insurance has a base of four to five per cent of gross fees for low risk valuers, where gross fees are in excess of \$1 million. They also had eight to 12 per cent for higher risk valuers who carry out mortgage work in certain demographic areas and for lower gross fee levels (information provided by a key PII broker and underwriter). AVI has received reports that some high risk valuers (not AVI members) have been quoted over 12 per cent of their gross fees for PII.

#### **Disclosure of limited liability and use of *Cover of Excellence*® trademark**

AVI is taking the following steps to ensure that members comply with the Council's disclosure requirements:

- Educating members on the need to comply with the Council's disclosure policy, *Cover of Excellence*® trademark and insurance and business assets requirements.
- Requiring members to complete the self-assessment form regarding compliance with these requirements.
- Auditing members to verify the authenticity of members' completed self-assessment forms.
- Conducting quality review programs.

The AVI currently relies upon member disclosure for compliance as it does not currently have the administrative resources to carry out audits nor detailed analysis of members' insurance policies.

# NORTHERN TERRITORY – SUMMARY DATA

The Professional Standards Council of the Northern Territory (NT) approves schemes under the *Professional Standards Act* (NT).

Associations with schemes under this Act have a statutory obligation to submit an annual compliance report to the Council, covering implementation and monitoring of their risk management strategies, details of claims and insurance data, use of the *Cover of Excellence*® trademark, and disclosure of limited liability.

During 2011-12, there were six schemes in operation in the NT, covering six occupational associations and five occupational groups.

## Accountants

- CPA Australia (NT)
- Institute of Chartered Accountants in Australia (NT)

## Barristers

- The NSW Bar Association – operates under mutual recognition
- The Victorian Bar Incorporated – operates under mutual recognition

## Engineers

- Engineers Australia (NT)

## Information technology professionals

- Australian Computer Society – operates under mutual recognition

## Surveyors

- The Professional Surveyors Occupational Association – operates under mutual recognition

## Valuers

- Australian Property Institute Valuers Limited – operates under mutual recognition

There were no proposed new schemes for the NT in the application stage during 2011-12.

Table 10: *Cover of Excellence*® schemes in the NT

Association	Scheme applies to:	Number of members participating in scheme in NT	Limit of liability	Start date for scheme	End date for scheme
<b>Accountants</b>					
CPA Australia (NT)	all members of CPA Australia ordinarily resident in NT who hold a current public practice certificate and who are not exempt	28	\$1 million to \$75 million Reasonable charge of services x 10	26 May 2008	25 May 2013
Institute of Chartered Accountants in Australia (NT)	all members of ICAA ordinarily resident in NT who hold a current certificate of public practice and who are not exempt	124	\$1 million to \$75 million Reasonable charge of services x 10	7 January 2008	6 January 2013
<b>Engineers</b>					
Engineers Australia (NT)	members of Engineers Australia who are also members of the Engineering Science and Technology Professional Standards Society	0	\$1.5 million to \$20 million	1 January 2009	31 December 2013

## COMPLIANCE REPORTS BY ASSOCIATIONS

### Accountants

#### *CPA Australia (NT)*

CPA Australia's compliance report for 2011 covers all mainland Australian States and Territories. For more on CPA Australia's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

#### **Monitoring of claims**

In 2011, there were no reported insurance claims against NT members or notifications from members that a claim might be made.

#### *Institute of Chartered Accountants in Australia (NT)*

ICAA's compliance report for 2011 covers all mainland Australian States and Territories. For more on the ICAA's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

As part of the annual scheme compliance survey, during 2011, the ICAA sought information regarding any formal claim in excess of \$500,000 lodged against the member or the firm. In 2011, there were no reported insurance claims over \$500,000 against NT members.

### Engineers

#### *Engineers Australia (NT)*

The Engineers Australia compliance report for 2011 covers all Australian States and Territories. For more on Engineers Australia's risk management and compliance strategies – which are the same for each jurisdiction – see the section on *Cover of Excellence*<sup>®</sup> schemes. Separate information is maintained for each State and Territory on CPD, as below.

#### **Continuing professional development**

Engineers Australia reported that it held 24 CPD events, including technical seminars and site visits, as well as a host of eminent speakers in their northern region.

# QUEENSLAND – SUMMARY DATA

The Professional Standards Council of Queensland (Qld) approves schemes under the *Professional Standards Act 2004* (Qld).

Associations with schemes under this Act have a statutory obligation to submit an annual compliance report to the Council, covering implementation and monitoring of their risk management strategies, details of claims and insurance data, use of the *Cover of Excellence*® trademark, and disclosure of limited liability.

During 2011-12, there were 11 schemes in operation in Queensland, covering 11 occupational associations and seven occupational groups.

## Accountants

- CPA Australia (Qld)
- Institute of Chartered Accountants in Australia (Qld)

## Barristers

- The NSW Bar Association – operates under mutual recognition
- The South Australian Bar Association – operates under mutual recognition

- The Victorian Bar Incorporated – operates under mutual recognition

## Engineers

- Engineers Australia (Qld)

## Information technology professionals

- Australian Computer Society – operates under mutual recognition

## Solicitors

- The Law Society of South Australia – operates under mutual recognition
- Queensland Law Society

## Surveyors

- The Professional Surveyors Occupational Association – operates under mutual recognition

## Valuers

- Australian Property Institute Valuers Limited – operates under mutual recognition

There were two proposed new schemes for Queensland in the application stage during 2011-12.

Table 11: *Cover of Excellence*® schemes in Queensland

Association	Scheme applies to:	Number of members participating in scheme in Queensland	Limit of liability	Start date for scheme	End date for scheme
<b>Accountants</b>					
CPA Australia (Qld)	all members of CPA Australia ordinarily resident in Queensland who hold a current public practice certificate and who are not exempt	1,139	\$1 million to \$75 million Reasonable charge of services x 10	25 March 2008	24 March 2013
Institute of Chartered Accountants in Australia (Qld)	all members of ICAA ordinarily resident in Queensland who hold a current certificate of public practice and who are not exempt	3,740	\$1 million to \$75 million Reasonable charge of services x 10	1 February 2008	31 January 2013



## Engineers

Engineers Australia (Qld)	members of Engineers Australia who are also members of the Engineering Science and Technology Professional Standards Society	1	\$1.5 million to \$20 million	1 January 2009	31 December 2013
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## Solicitors

Queensland Law Society	full members of the Queensland Law Society who hold a current Australian practising certificate	4,564	\$1.5 million or \$10 million	1 July 2010	30 June 2015
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## COMPLIANCE REPORTS BY ASSOCIATIONS

### Accountants

#### CPA Australia (Qld)

CPA Australia's compliance report for 2011 covers all Australian States and Territories. For more on CPA Australia's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

### Monitoring of claims

In 2011, there were 15 reported insurance claims against Queensland members and notifications from members that a claim might be made.

#### Institute of Chartered Accountants in Australia (Qld)

ICAA's compliance report for 2011 covers all mainland Australian States and Territories. For more on the ICAA's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

### Monitoring of claims

As part of the annual scheme compliance survey, during 2011, the ICAA sought information regarding any formal claim in excess of \$500,000 lodged against the member or the firm. In 2011, a number of claims were reported that were settled in the same year but had been notified in prior years. All claims reported to the ICAA in 2011 have been reported as 2011 claims. In 2011, there was one reported insurance claim over \$500,000 against a Queensland member.

### Engineers

#### Engineers Australia (Qld)

Engineers Australia's compliance report for 2011 covers all Australian States and Territories. For more on Engineers Australia's risk management and compliance strategies – which are the same for each jurisdiction – see the section on *Cover of Excellence*<sup>®</sup> schemes.

Separate information is maintained for each State and Territory on CPD, as below.

### Continuing professional development

Engineers Australia reported that it held regular professional development activities throughout Queensland, with an average attendance of 50 at each event. It held regional engineering conferences in Townsville, Bundaberg and Toowoomba. It also made technical presentations available to members online.

### Solicitors

#### Queensland Law Society

The Queensland Law Society (QLS) submitted its compliance report for 2011 to the Professional Standards Council of Queensland.

### Continuing professional development

QLS has a range of professional development offerings. During 2011-12, QLS attracted 6,425 attendees to 14 major conferences, 65 short seminars and regional workshops which attracted approximately 1,000 members. Attendance at seminars and conferences was up nine per cent on the previous year. Those unable to attend could gain CPD points through the purchase and viewing of DVD resources.

### Complaints and discipline of members

The Legal Services Commission (LSC) received and dealt with 2,562 enquiries throughout the year. It received 1,041 formal written complaints from members of the public and initiated 100 own motion investigations. It finalised 1,097 complaints and 97 own motion investigations – a clearance ratio overall of 105 per cent. The LSC took no action on 507 (or 46 per cent) of the 1,097 complaints finalised during the year, and dealt with 51 (or five per cent) consumer disputes and 539 conduct complaints.

A small number of solicitors are subject to multiple complaints. The LSC dealt with 420 solicitors about conduct matters, 386 about one matter only, 48 about two matters, 14 about three matters and approximately 12 about four or more matters.

Female lawyers were almost three times less likely than male lawyers per head of population to be subject to complaint. Similarly, lawyers remain increasingly more likely to be subject to complaint depending on age group and experience.

QLS reports that there is nothing particularly surprising in the spread of complaints according to practice area, as these are broadly similar to earlier years. Conveyancing and personal injury attracted the most claims and complaints.

### Trends in professional indemnity insurance

Under the Queensland Law Society Indemnity Rules 2005, every solicitor must be insured under the QLS PII scheme, operated by Lexon Insurance. Availability and stability of the scheme remains satisfactory and

constant whilst cover is arranged with Lexon for the compulsory layer of \$2 million. Despite ongoing challenges in the insurance environment, prudent and effective management of the scheme by QLS and Lexon enabled the delivery of a levy model for 2011-12, which sees:

- a five per cent reduction to the base levy rates for each of gross fee income (GFI) bands 2 to 9 – now at their lowest levels since the introduction of the GFI model
- an increased discount of 10 per cent of the base levels of practices that have signed on for the Enhanced Management Review program – with a minimum discount for small practices of \$1,000 and a maximum discount capped at \$25,000
- a continuation of reduced excesses payable by low fee earning practices for 2011-12 year claims.

### Monitoring of claims

QLS is responsible for monitoring claims made against its members through close co-operation with Lexon Insurance. QLS reported that the practice areas that attracted the most claims and complaints were from commercial and family law.

During 2011, Lexon ran 520 individual risk management workshops to 3,430 people within Queensland practices. The issues that they addressed covered where claims derive, the underlying causes, and how to avoid them.

### Use of *Cover of Excellence*<sup>®</sup> trademark

QLS performs an annual audit of members of the scheme to ensure compliance with disclosure requirements. The audit involves requesting copies of documentation (such as letterhead, fax coversheets, newsletters etc) from members to ensure they contain the appropriate statements and the *Cover of Excellence*<sup>®</sup> trademark (where appropriate).

# SOUTH AUSTRALIA – SUMMARY DATA

The Professional Standards Council of South Australia (SA) approves schemes under the *Professional Standards Act 2004 (SA)*.

Associations with schemes under this Act have a statutory obligation to submit an annual compliance report to the Council, covering implementation and monitoring of their risk management strategies, details of claims and insurance data, use of the *Cover of Excellence*<sup>®</sup> trademark, and disclosure of limited liability.

During 2011-12, there were eight schemes in operation in SA, covering eight occupational associations and four occupational groups.

## Accountants

- CPA Australia (SA)
- Institute of Chartered Accountants in Australia (SA)

## Barristers

- The NSW Bar Association – operates under mutual recognition
- The South Australian Bar Association
- The Victorian Bar Association – operates under mutual recognition

## Solicitors

- The Law Society of South Australia

## Engineers

- Engineers Australia (SA)

## Valuers

- Australian Property Institute Valuers Limited – operates under mutual recognition

There were no new scheme applications in progress for SA during the reporting period.

Table 12: *Cover of Excellence*<sup>®</sup> schemes in SA

Association	Scheme applies to:	Number of members participating in scheme in SA	Limit of liability	Start date for scheme	End date for scheme
<b>Accountants</b>					
CPA Australia (SA)	all members of CPA Australia ordinarily resident in SA who hold a current public practice certificate and who are not exempt	263	\$1 million to \$75 million Reasonable charge of services x 10	14 April 2008	13 April 2013
Institute of Chartered Accountants in Australia (SA)	all members of ICAA ordinarily resident in SA who hold a current public practice certificate and who are not exempt	1,651	\$1 million to \$75 million Reasonable charge of services x 10	20 February 2008	19 February 2013
<b>Engineers</b>					
Engineers Australia (SA)	members of Engineers Australia who are also members of the Engineering Science and Technology Professional Standards Society	0	\$1.5 million to \$20 million	1 September 2009	31 August 2014
<b>Barristers</b>					
The South Australian Bar Association	all members of the Law Society who have not applied for an exemption	200	Single class: \$1.5 million Discretion to approve up to \$50 million	1 January 2012	30 December 2016
<b>Solicitors</b>					
Law Society of South Australia	all admitted and company members who are not exempt and who have compliant PII	1,900	Two classes: (1) \$10 million – participating members in a law practice exceeding 20 admitted members or where the practice generated total annual fee income exceeding \$10 million (2) \$1.5 million – other than those in category above Discretion up to \$50 million	1 January 2012	31 December 2016

## COMPLIANCE REPORTS BY ASSOCIATIONS

### Accountants

#### *CPA Australia (SA)*

CPA Australia's compliance report for 2011 covers all Australian States and Territories. For more on CPA Australia's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

#### Monitoring of claims

In 2011, there were three reported insurance claims against SA members and notifications from members that a claim might be made.

#### *Institute of Chartered Accountants in Australia (SA)*

ICAA's compliance report for 2011 covers all Australian States and Territories. For more on the ICAA's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

#### Monitoring of claims

As part of the annual scheme compliance survey, during 2011, the ICAA sought information regarding any formal claim in excess of \$500,000 lodged against the member or the firm. In 2011, a number of claims were reported that were settled in the same year but had been notified in prior years. All claims reported to the Institute in 2011 have been reported as 2011 claims. In 2011, there was one reported insurance claim over \$500,000 against a SA member.

### Barristers and solicitors

#### *South Australian Bar and the Law Society of South Australia*

As the South Australian Bar and the Law Society of South Australia have only been in operation in South Australia for less than 12 months, they were not required to provide a compliance report.

### Engineers

#### *Engineers Australia (SA)*

Engineers Australia's compliance report for 2011 covers all Australian States and Territories. For more on Engineers Australia's risk management and compliance strategies – which are the same for each jurisdiction – see the section *Cover of Excellence*<sup>®</sup> schemes. Separate information is maintained for each State and Territory on CPD, as below.

#### Continuing professional development

Engineers Australia reported that it held 132 CPD events in SA, with more than 3,646 participants.

# TASMANIA – SUMMARY DATA

The Professional Standards Council of Tasmania (Tas) approves schemes under the *Professional Standards Act 2005* (Tas).

Associations with schemes under this Act have a statutory obligation to submit an annual compliance report to the Council, covering implementation and monitoring of their risk management strategies, details of

claims and insurance data, use of the *Cover of Excellence*® trademark, and disclosure of limited liability.

In 2010-12, there was one scheme in operation, covering one occupational association and one occupational group.

Table 13: *Cover of Excellence*® schemes in Tasmania

Association	Scheme applies to:	Number of members participating in scheme in Tas	Limit of liability	Start date for scheme	End date for scheme
<b>Engineers</b>					
Engineers Australia (Tas)	Members of Engineers Australia who are also members of the Engineering Science and Technology Professional Standards Society	0	\$1.5 million to \$20 million	1 June 2009	31 May 2014

## COMPLIANCE REPORTS BY ASSOCIATIONS

### Engineers

#### *Engineers Australia (Tas)*

Engineers Australia's compliance report for 2011 covers all Australian States and Territories. For more on Engineers Australia's risk management and compliance strategies –

which are the same for each jurisdiction – see the section on *Cover of Excellence*® schemes. Separate information is maintained for each State and Territory on CPD, as below.

#### **Continuing professional development**

Engineers Australia reported that it notified members of 117 CPD events in Tasmania and conducted three eminent speaker tours.

# VICTORIA – SUMMARY DATA

The Professional Standards Council of Victoria (Vic) approves schemes under the *Professional Standards Act 2003* (Vic).

Associations with schemes under this Act have a statutory obligation to submit an annual compliance report to the Council, covering implementation and monitoring of their risk management strategies, details of claims and insurance data, use of the Cover of Excellence® trademark, and disclosure of limited liability.

During 2011-12, there were 11 schemes in operation in Victoria, covering 11 occupational associations and seven occupational groups.

## Accountants

- CPA Australia (Vic)
- Institute of Chartered Accountants in Australia (Vic)

## Barristers

- The NSW Bar Association – operates under mutual recognition
- The South Australian Bar Association – operates under mutual recognition
- The Victorian Bar Incorporated

## Solicitors

- Law Institute of Victoria
- The Law Society of South Australia – operates under mutual recognition

## Engineers

- Engineers Australia (Vic)

## Information technology professionals

- Australian Computer Society – operates under mutual recognition

## Surveyors

- The Professional Surveyors Occupational Association – operates under mutual recognition

## Valuers

- Australian Property Valuers Limited – operates under mutual recognition

There was one scheme application in progress during the reporting period.

Table 14: Cover of Excellence® schemes in Victoria

Association	Scheme applies to:	Number of members participating in scheme in Vic	Limit of liability	Start date for scheme	End date for scheme
<b>Accountants</b>					
CPA Australia (Vic)	all members of CPA Australia ordinarily resident in Victoria who hold a current public practice certificate and who are not exempt	2,210	\$0.5 million minimum, to \$75 million	21 April 2008	20 April 2013
Institute of Chartered Accountants in Australia (Vic)	all members of ICAA ordinarily resident in Victoria who hold a current public practice certificate and who are not exempt	6,274	\$75 million cap	3 March 2008	2 March 2013
<b>Barristers</b>					
The Victorian Bar Incorporated	all participating members holding a current Victorian barrister's practising certificate	716	\$2 million	1 July 2008	30 June 2013
<b>Engineers</b>					
Engineers Australia (Vic)	members of Engineers Australia who are also members of the Engineering Science and Technology Professional Standards Society	2	\$1.5 million to \$20 million	19 January 2010	18 January 2015
<b>Solicitors</b>					
Law Institute of Victoria	full members of the Law Institute of Victoria who hold a current public practice certificate and who elect to participate in the scheme	2,858	\$2 million or \$10 million	1 July 2010	30 June 2015

## COMPLIANCE REPORTS BY ASSOCIATIONS

### Accountants

#### *CPA Australia (Vic)*

CPA Australia's compliance report for 2011 covers all Australian States and Territories. For more on CPA Australia's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

#### Monitoring of claims

In 2011, there were 29 reported insurance claims against Victorian members and notifications from members that a claim might be made.

#### *Institute of Chartered Accountants in Australia (Vic)*

ICAA's compliance report for 2011 covers all Australian States and Territories. For more on the ICAA's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

#### Monitoring of claims

During 2011, as part of the annual scheme compliance survey, the ICAA sought information regarding any formal claim in excess of \$500,000 lodged against the member or the firm. In 2011, a number of claims were reported that were settled in the same year but had been notified in prior years. All claims reported to the Institute in 2011 have been reported as 2011 claims. In 2011, there were five reported insurance claims over \$500,000 against Victorian members.

### Barristers

#### *The Victorian Bar*

The Victorian Bar (Vic Bar) reported, as below.

#### Continuing professional development

The Vic Bar has been active on a number of fronts in the area of CPD:

- The Vic Bar continued its professional development program which was also made available by podcasting to members via the Bar's website.
- In its report on jury directions, the Victorian Law Reform Commission referred to the comments from trial judges on preparation and participation by counsel in criminal trials. The Vic Bar responded by recommending a specific skills training course.
- The Vic Bar and the Criminal Bar Association have also developed a series of advocacy skills workshops for their members, with the assistance of the Australian Advocacy Institute.
- The Vic Bar has been conducting a baseline survey of core competencies in the area of criminal law advocacy which will feed into the development of the Vic Bar's CPD curriculum.
- It has begun regular meetings between the training managers of each of the Australian Bars.
- The Vic Bar and the alternative dispute resolution section have developed the six-day Lawyers Mediation Certificate training, principally for barristers to meet the mediation education and training course requirements for national mediator accreditation under the National Mediator Accreditation System.
- The Vic Bar has conducted its second CPD audit linked to practice certificate renewal.



## Complaints data

The Vic Bar reported that its strong working relationship with the Legal Services Commission (LSC) continues to grow. During the year, the backlog of matters being investigated by the LSC was eliminated. The Ethics Committee also received and reviewed referred complaints within time limits, set under the Service Level Agreement with the LSC.

During the nine months from July 2011 to March 2012:

- 14 complaints (in the previous period, 22) were referred by the LSC to the Ethics Committee
- 14 matters (previous period, 23) were returned to the LSC, having been completed by the Ethics Committee
- only one matter was returned to the LSC with a recommendation that disciplinary action be instituted
- 64 rulings and dispensations (previous period, 62) were issued by the Ethics Committee.

## Trends in professional indemnity insurance

The Vic Bar's PII claims data shows that the barristers' claims experience since 2005-06 has been favourable and that the scale of claims is well below the scheme's \$2 million cap.

The Legal Practitioners Liability Committee provides cover annually to all practising members of the Vic Bar. There has been a reduction in premiums over the previous year.

## Monitoring of claims

As at 31 March 2012, there were a total of 33 resolved and partially resolved claims against barristers, compared with 42 resolved and partially resolved claims from the previous reporting year. The area of law that attracted the majority of claims was commercial.

## Disclosure of limited liability and use of *Cover of Excellence*<sup>®</sup> trademark

The Vic Bar reported that each clerk has in place a system whereby each fee slip issued by them on behalf of a member of the Vic Bar's scheme carries the required disclosure that the barrister's liability is limited by a scheme approved under the Professional Standards legislation. It also ensures that the profile of each member of the scheme on its website contains the required disclosure.

## Engineers

### *Engineers Australia (Vic)*

Engineers Australia's compliance report for 2011 covers all Australian States and Territories. For more on Engineers Australia's risk management and compliance strategies – which is the same for each jurisdiction – see the section *Cover of Excellence*<sup>®</sup> schemes. Separate information is maintained for each State and Territory on CPD, as below.

### Continuing professional development

Engineers Australia reported that it introduced a new CPD delivery strategy in Victoria. It delivered approximately 180 events in metropolitan Melbourne and 70 regional events.

## Solicitors

### *Law Institute of Victoria*

The Law Institute of Victoria (LIV) reported, as below.

### Continuing professional development

The Victorian legal profession must comply with requirements to undertake and complete a set number of CPD points each year. LIV continues to enhance the range of core products and is introducing new training platforms and technology to provide improved access and delivery of services.

More than 100 CPD events and activities were available to practitioners via the LIV from 1 January 2011 to 31 December 2011.

### Complaints data

In Victoria, the Legal Services Commission investigates complaints against legal practitioners. Consistent with previous years, the top five areas of law that featured as new complaints were family or de facto (22 per cent), conveyancing (12 per cent), probate and estate (10 per cent) and commercial (nine per cent).

### Trends in professional indemnity insurance

In Victoria, the Legal Practitioners Liability Committee (LPLC) is the professional indemnity insurer which also supplies the information. The last financial year was characterised by a very low number of claims and notifications relative to the 25-year life of the scheme; however, the total cost of claims finished somewhat higher than in previous years.

During the reporting period, 405 claims and notifications were received, with an estimated cost of \$36 million.

Approximately 80 per cent of the cost of claims over the years originates from four areas of practice: property and conveyancing, mortgage, commercial and commercial litigation.

### Monitoring of claims and insurance

Now with a full year in operation, LIV is continuing to liaise with the LPLC in order to monitor the performance of members. Their objectives are to ensure adequate professional indemnity coverage for membership and to determine from claims statistics where the main areas of claims lie so as to create a “feedback loop” – that is, the development of education programs based on claims data provided by the LPLC.

### Disclosure of limited liability and use of *Cover of Excellence*<sup>®</sup> trademark

The LIV was pleased to announce an excellent compliance result of 99.4 per cent compliance from all respondents in regard to the appropriate use of disclosure statement, *Cover of Excellence*<sup>®</sup> trademark and level of insurance and business needs. This is an increase of 6.4 per cent on the last reporting period, being 93 per cent.

# WESTERN AUSTRALIA – SUMMARY DATA

The Professional Standards Council of Western Australia (WA) approves schemes under the *Professional Standards Act 1997* (WA).

Associations with schemes under this Act have a statutory obligation to submit an annual compliance report to the Council, covering implementation and monitoring of their risk management strategies, details of claims and insurance data, use of the *Cover of Excellence*® trademark, and disclosure of limited liability.

In 2011-12, there were nine schemes in operation in WA, covering nine occupational associations and five occupational groups.

## Accountants

- CPA Australia (WA)
- Institute of Chartered Accountants in Australia (WA)

## Barristers

- The NSW Bar Association – operates under mutual recognition

- The South Australian Bar Association – operates under mutual recognition
- The Victorian Bar Incorporate – operates under mutual recognition

## Engineers

- Engineers Australia (WA)

## Information technology professionals

- Australian Computer Society – operates under mutual recognition

## Solicitors

- The Law Society of South Australia – operates under mutual recognition

## Valuers

- Australian Property Institute Valuers Limited – operates under mutual recognition

There were no new proposed schemes for WA in the application stage during 2011-12.

The extension of the ICAA scheme was approved by the Councils and WA Attorney under ss44A(2) and (3) of the *Western Australia Act*.

Table 15: *Cover of Excellence*® schemes in WA

Association	Scheme applies to:	Number of members participating in scheme in WA	Limit of liability	Start date for scheme	End date for scheme
<b>Accountants</b>					
CPA Australia (WA)	all members of CPA Australia ordinarily resident in WA who hold a current public practice certificate and who are not exempt	776	\$0.5 million minimum to \$75 million	1 April 2008	31 March 2013
Institute of Chartered Accountants in Australia (WA)	all members of ICAA ordinarily resident in WA who hold a current certificate of public practice and who are not exempt	2,333	\$75 million cap	8 October 2007	7 October 2013
<b>Engineers</b>					
Engineers Australia (WA)	members of Engineers Australia who are also members of the Engineering Science and Technology Professional Standards Society	1	\$1.5 million to \$20 million	1 January 2009	31 December 2013

## COMPLIANCE REPORTS BY ASSOCIATIONS

### Accountants

#### *CPA Australia (WA)*

CPA Australia's compliance report for 2011 covers all Australian States and Territories. For more on CPA Australia's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

#### **Monitoring of claims**

In 2011, there were 10 reported insurance claims against WA members and notifications from members that a claim might be made.

#### *Institute of Chartered Accountants in Australia (WA)*

ICAA's compliance report for 2011 covers all Australian States and Territories. For more on the ICAA's national risk management and compliance strategies, see the section *Cover of Excellence*<sup>®</sup> schemes.

#### **Monitoring of claims**

As part of the annual scheme compliance survey, during 2011, the ICAA sought information regarding any formal claim in excess of \$500,000 lodged against the member or the firm. In 2011, a number of claims were reported that were settled in the same year but had been notified in prior years. All claims reported to the Institute in 2011 have been reported as 2011 claims. In 2011, there was one reported insurance claim over \$500,000 against a WA member.

### Engineers

#### *Engineers Australia (WA)*

Engineers Australia's compliance report for 2011 covers all Australian States and Territories. For more on the Engineers Australia's risk management and compliance strategies – which are the same for each jurisdiction – see the section *Cover of Excellence*<sup>®</sup> schemes. Separate information is maintained for each State and Territory on CPD, as below.

#### **Continuing professional development**

Engineers Australia reported that more than 10,740 association members attended 297 events, including four conferences and 18 site visits in WA.

# FINANCIAL AND STATUTORY REPORTING FOR THE PROFESSIONAL STANDARDS COUNCILS

## CONSOLIDATED FINANCIAL PERFORMANCE EXTRACT 2011-12<sup>1</sup>

Table 16: Financial performance of the Professional Standards Councils

	Cons	NSW	Qld	Vic	SA	WA	ACT	NT	Tas
<b>Revenue <sup>2</sup></b>									
Application fees	15,000	10,000	0	5,000	0	0	0	0	0
Annual fees	2,334,761	1,079,689	416,834	545,759	115,962	137,894	31,316	7,307	0
Interest received less fees	197,272	111,468	33,865	51,945	0	(6)	0	0	0
<b>Total revenue</b>	<b>2,547,033</b>	<b>1,201,157</b>	<b>450,699</b>	<b>602,704</b>	<b>115,962</b>	<b>137,888</b>	<b>31,316</b>	<b>7,307</b>	<b>0</b>
<b>Employee-related payments</b>									
Salaries and wages	(686,640)	(323,812)	(121,502)	(162,480)	(31,262)	(37,173)	(8,441)	(1,970)	0
Leave entitlements	(59,946)	(28,270)	(10,607)	(14,185)	(2,729)	(3,245)	(738)	(172)	0
Workers' compensation	(4,650)	(2,193)	(823)	(1,100)	(212)	(252)	(57)	(13)	0
Payroll tax	(44,329)	(20,905)	(7,844)	(10,490)	(2,018)	(2,400)	(545)	(127)	0
Superannuation	(66,967)	(31,581)	(11,850)	(15,846)	(3,049)	(3,625)	(824)	(192)	0
Crown liabilities and superannuation	(67,918)	(32,030)	(12,018)	(16,071)	(3,092)	(3,677)	(835)	(195)	0
<b>Total employee-related</b>	<b>(930,450)</b>	<b>(438,791)</b>	<b>(164,644)</b>	<b>(220,172)</b>	<b>(42,362)</b>	<b>(50,372)</b>	<b>(11,440)</b>	<b>(2,669)</b>	<b>0</b>
<b>Other operating expenses</b>									
Advertising and publicity	(46,680)	(22,014)	(8,260)	(11,046)	(2,125)	(2,527)	(574)	(134)	0
External audit	(25,900)	(12,215)	(4,583)	(6,129)	(1,179)	(1,402)	(318)	(74)	0
Consultancies <sup>3</sup>	(122,624)	(57,828)	(21,699)	(29,015)	(5,583)	(6,639)	(1,508)	(352)	0
Contractors	(1,508)	(711)	(266)	(357)	(69)	(82)	(19)	(4)	0
Depreciation	(22,247)	(10,491)	(3,937)	(5,264)	(1,013)	(1,204)	(274)	(64)	0
Electricity and gas	(3,017)	(1,423)	(534)	(714)	(137)	(163)	(37)	(9)	0

	Cons	NSW	Qld	Vic	SA	WA	ACT	NT	Tas
Fees:									
- Board fees <sup>4</sup>	(31,913)	(15,050)	(5,647)	(7,551)	(1,453)	(1,728)	(392)	(92)	0
- Other fees	(62,294)	(29,377)	(11,023)	(14,741)	(2,836)	(3,372)	(766)	(179)	0
Freight and cartage	(20)	(9)	(4)	(5)			0	0	0
General expenses	(1,932)	(911)	(342)	(456)	(88)	(105)	(24)	(6)	0
Insurance	(13,978)	(6,592)	(2,473)	(3,308)	(636)	(757)	(172)	(40)	0
Motor vehicles	(808)	(381)	(143)	(191)	(37)	(44)	(10)	(2)	0
Postal expenses	(228)	(108)	(40)	(54)	(10)	(12)	(3)		0
Printing	(14,829)	(6,993)	(2,624)	(3,509)	(675)	(803)	(182)	(43)	0
Publications	(9,642)	(4,547)	(1,706)	(2,281)	(439)	(522)	(119)	(28)	0
Rates and outgoings	(12)	(5)	(2)	(3)			0	0	0
Rent (government and other)	(56,761)	(26,768)	(10,044)	(13,431)	(2,584)	(3,073)	(698)	(163)	0
Staff expenses	(9,831)	(4,636)	(1,740)	(2,326)	(448)	(532)	(121)	(28)	0
Stores and stationery	(23,805)	(11,226)	(4,212)	(5,633)	(1,084)	(1,289)	(293)	(68)	0
Telephone	(878)	(414)	(154)	(208)	(40)	(48)	(11)	(3)	0
Travel	(59,377)	(28,002)	(10,507)	(14,051)	(2,703)	(3,214)	(730)	(170)	0
Accommodation and building work	(47,440)	(22,372)	(8,395)	(11,226)	(2,160)	(2,568)	(583)	(136)	0
NSW DAGJ service charge	(31,810)	(15,001)	(5,630)	(7,527)	(1,448)	(1,722)	(391)	(91)	0
<b>Total other operating expenses</b>	<b>(587,534)</b>	<b>(277,074)</b>	<b>(103,965)</b>	<b>(139,026)</b>	<b>(26,749)</b>	<b>(31,808)</b>	<b>(7,225)</b>	<b>(1,687)</b>	<b>0</b>
<b>Star Grants</b>									
Grants	(114,198)	(53,855)	(20,207)	(27,023)	(5,199)	(6,182)	(1,404)	(328)	0
<b>Total expenditure</b>	<b>(1,632,182)</b>	<b>(769,720)</b>	<b>(288,816)</b>	<b>(386,221)</b>	<b>(74,310)</b>	<b>(88,362)</b>	<b>(20,069)</b>	<b>(4,684)</b>	<b>0</b>
Less crown liabilities	(67,918)	(32,030)	(12,018)	(16,071)	(3,092)	(3,677)	(835)	(195)	0
Less depreciation	(22,247)	(10,491)	(3,937)	(5,264)	(1,013)	(1,204)	(274)	(64)	0
<b>Net total expenditure <sup>5</sup></b>	<b>(1,542,017)</b>	<b>(727,199)</b>	<b>(272,861)</b>	<b>(364,886)</b>	<b>(70,205)</b>	<b>(83,481)</b>	<b>(18,960)</b>	<b>(4,425)</b>	<b>0</b>
<i>Final net position</i>	1,005,016	473,958	177,838	237,818	45,757	54,409	12,356	2,882	0

## Notes:

1. This unaudited statement is derived from information provided by the New South Wales Department of Attorney General and Justice (NSW DAGJ) and records kept by the OPSC. NSW DAGJ provides financial services to the Councils. Figures are exclusive of goods and services tax.
2. Revenue figures are prepared on an accruals basis of accounting.
3. Consultancy fees were for the provision of independent actuarial and legal advice for the schemes and communications advice.

4. Allowances paid to Council members at rates determined by the NSW Attorney General in accordance with Clause 4, Schedule 2, *Professional Standards Act 1994* (NSW). These allowances are the same for all members, with the exception of the Chair. The figures under each Council are derived from the application of a formula specified in the Professional Standards Councils' Inter-Departmental Service Agreement 2010 which allocates expenses to each Council based on their proportion of the total revenue.
5. Final total expenditure information is derived from NSW DAGJ incorporating variances from estimated expenditure figures used to derive service charges.

Under the Professional Standards Inter-Departmental Service Agreement 2010 (extended to 30 June 2013, signed by all the States and Territories with the NSW DAGJ, each Council bears a proportion of the total expenditure based on their share of the total revenues for all the Councils. Each Council is invoiced by the NSW DAGJ for their portion of the expenditure.

Invoiced services provided by OPSC, in accordance with the service agreement, were based on estimated expenditure at 30 June 2012. These amounts do not include goods and services tax.

The amount of service charges to all the Councils, totalling \$1,542,016.93, is shown in Table 16 below:

Table 17: Amount of service charges to PSCs

	Cons	NSW	Qld	Vic	SA	WA	ACT	NT	Tas
Service charge paid to NSW DAGJ	(1,542,016.93)	(727,208.58)	(272,858.32)	(364,833.49)	(70,204.63)	(83,479.22)	(18,958.85)	(4,423.84)	0

In the last financial year, there were no variations for each of the Councils, as in the table below.

Table 18: Variations of PSCs

	Cons	NSW	Qld	Vic	SA	WA	ACT	NT	Tas
Variation to be payable to NSW DAGJ Q1 2011-12	0	7.97	(2.67)	(3.57)	(0.68)	(0.82)	(0.19)	(0.04)	0

# THE PROFESSIONAL STANDARDS COUNCIL OF THE AUSTRALIAN CAPITAL TERRITORY

## CONSTITUTION OF THE COUNCIL

Listed below are the number of meetings that the Professional Standards Council members were entitled to attend and those that they attended in the Australian Capital Territory (ACT).

Table 19: Meetings of the Professional Standards Council of the ACT

Members	Council meetings entitled to attend	Council meetings attended
Esther Alter	5	5
Robert Beaton	5	5
Julie Cameron	5	3
Terry Evans	5	4
Ronald Farrell	5	4
Tom Karp	5	3
Joanne Metcalfe	5	5
Madeleine Ogilvie [retired 31/12/11]	2	2
Hugh Plaistowe	5	4
Brian Rayment QC	5	5
Iain Summers	5	4

## MAJOR LEGISLATIVE CHANGES

Amendments were made to the *Civil Law (Wrongs) Act 2002* during 2011-12. Professional standards legislation in all jurisdictions, except the ACT, states that the Minister can authorise the gazettal (notification) of a scheme approved by the Professional Standards Council (the Council).

The ACT *Civil Law (Wrongs) Act 2002* additionally required the Minister's approval of a scheme that has been approved by

the Council, prior to notifying the scheme. This additional requirement in the ACT was inconsistent with other jurisdictions.

The *Justice and Community Safety Legislation Amendment Act 2012 (No. 2)* removed this requirement from the Act and provided that professional standards schemes can be approved or amended by the Council, with the Minister notifying the scheme subsequently. This has aligned the ACT's professional standards legislation with professional standards legislation in other jurisdictions.

## RISK MANAGEMENT AND INTERNAL AUDIT

The risk management and internal audit practices of the Council and the OPSC are described elsewhere in this annual report.

## PUBLIC INTEREST DISCLOSURE

There were no public interest disclosures for the period 2011-12.

## FREEDOM OF INFORMATION

Under sections 7, 8 and 79 of the *Freedom of Information Act 1989 (ACT)*, the Council must report on the freedom of information (FOI) requests received and handled during the reporting year.

Section 7: Requires the Council to publish a statement about the particulars, functions and powers of that agency as well as certain categories of documents held by each agency and the arrangements for public participation in the formulation of policy and operations. The following statements are correct as of 30 June 2012.



## ORGANISATION AND FUNCTIONS

The organisation and functions of the Council are described elsewhere in this annual report.

## CATEGORIES OF DOCUMENTS

The Council holds several categories of documents as follows:

- Documents freely available on request and without charge – these are available on the Council’s website at [www.psc.gov.au](http://www.psc.gov.au). These include:
  - ◆ annual reports
  - ◆ the scheme application form
  - ◆ policy papers
  - ◆ application guidelines
  - ◆ scheme documents.
- Documents that are exempt under the *Freedom of Information Act 1989 (ACT)*.
- All other kinds of documents that may be available under the Act.

Personal information is not held or collected by the Council.

Section 8: The Council makes its decisions to approve *Cover of Excellence*<sup>®</sup> schemes by considering an association’s individual application, independent actuary advice and within the confines of the legislative requirements of schemes. A copy of the application form required to be completed by associations, along with application guidelines, are available on the website of the Council at [www.psc.gov.au](http://www.psc.gov.au).

A large amount of information is requested of associations when completing an application for a scheme. This information includes insurance data about the level and nature of claims, insurance data from the previous 10 years concerning the highest claims and types of claims, risk management strategies of the association, education and other qualification requirements, COE and codes of conduct and ethics.

Section 79: The Council did not receive any applications for the access of documents (initial requests) during the reporting year. Nor did Council receive applications for the internal review of its decisions. As such, the Council did not receive any applications to a tribunal to review its decisions, nor any requests for the amendment of records under section 48.

## STAFFING PROFILE

The staffing profile of the OPSC that performs the secretariat work for the Professional Standards Council of the ACT is located in the appendices of this annual report, headed “Staffing profile”.

## TERRITORY RECORDS

Sound record keeping practices underpin good governance. The Council has a system in place to ensure the accurate storage, capture and retrieval of documents as required by the *Territory Records Act 2002 (ACT)*.

## FINANCIAL PERFORMANCE

The Professional Standards Council of the ACT is not responsible for compiling financial statements. The OPSC is responsible for ensuring the collection of revenue and operating within budget. During the reporting period, the OPSC undertook these tasks.

Refer to the Consolidated Financial Performance Extract of the Professional Standards Councils at the beginning of this section, for revenue of the Professional Standards Council of the ACT and the proportion of expenses for this Council.

# THE PROFESSIONAL STANDARDS COUNCIL OF NEW SOUTH WALES

## CONSTITUTION OF THE COUNCIL

Listed below are the number of meetings that the Professional Standards Council members were entitled to attend and those that they attended for New South Wales (NSW).

Table 20: Meetings of the Professional Standards Council of NSW

Members	Council meetings entitled to attend	Council meetings attended
Esther Alter	5	5
Robert Beaton	5	5
Julie Cameron	5	3
Terry Evans	5	4
Ronald Farrell	5	4
Tom Karp	5	3
Joanne Metcalfe	5	5
Madeleine Ogilvie [retired 31/12/11]	2	2
Hugh Plaistowe	5	4
Brian Rayment QC	5	5
Tiina-Liisa Sexton [appointed 31/1/12]	3	2
Martyn Hagan [deputy member for Tasmania]	1	0
Iain Summers	5	4

\* Councillor Ogilvie retired from the Professional Standards Council in December 2011.

## MAJOR LEGISLATIVE CHANGES

No legislative change took place in relation to the *Professional Standards Act 1994* (NSW) during the relevant period.

## REPORTING UNDER THE GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009 (NSW)

The *Freedom of Information Act 1989* (NSW) was repealed and replaced by the *Government Information (Public Access) Act 2009* (NSW) (GIPA Act), which came into force on 1 July 2010. Amongst other things, the GIPA Act requires the NSW DAGJ's Business Centres to publish "open access information" on their websites unless there is an overriding public interest against disclosing this information.

According to the *GIPA Act*, "open access information" may be interpreted quite broadly and can include policy documents drafted by a Business Centre that are tabled in Parliament, such as an annual report. The Professional Standards Council of NSW did not receive any requests pursuant to the GIPA Act during the reporting period, nor were there any outstanding requests for information under the earlier *Freedom of Information Act 1989* (NSW).

## OCCUPATIONAL HEALTH AND SAFETY DISCLOSURE

There were no work related injuries during the reporting period nor illnesses and prosecutions under the *Work Health and Safety Act* (NSW). The OPSC staff are governed by the OHS policies and practices of the NSW DAGJ.

## FUNDS GRANTED TO NON-GOVERNMENT COMMUNITY ORGANISATIONS

Four associations were offered the opportunity to enter into funding agreements based on successful applications submitted by their members in the 2011-12 reporting period. Based on the timing involved in the application process, grant funds were not awarded during this period; however, it is anticipated that

funds will be distributed to the four successful associations throughout 2012-13.

## CONSULTANTS

Any costs incurred by hiring consultants during the reporting period are detailed in the Consolidated Financial Performance Extract.

## OVERSEAS TRAVEL

There was no overseas travel in the reporting period.

## LAND DISPOSAL

The Professional Standards Council of NSW and the OPSC do not own properties, nor were properties acquired or disposed of during the reporting period.

## PUBLICATIONS AND PROMOTION

The Professional Standards Council of NSW produces a variety of publications to facilitate improvements in the professions and to support consumer protection. Publications produced during 2011-12 were:

- Professional Standards Council: Combined Annual Report 2011-12
- Star Grants Program: Expression of Interest 2010 (brochure).

## CONSUMER RESPONSE

During the reporting period, the Council and the OPSC did not receive any consumer complaints or suggestions.

## RISK MANAGEMENT AND INSURANCE ACTIVITIES

The risk management and internal audit practices of the Council and the OPSC are described elsewhere in this annual report.

## ETHNIC AFFAIRS PRIORITIES STATEMENT (EAPS)

The staff of the OPSC and the services it provides are governed by the NSW DAGJ Ethnic Affairs Priority Statement and the Culturally and Linguistically Diverse Communities' (CALD) Access Plan. All NSW DAGJ services are accessible to CALD communities with the availability of translators and interpreters.

## WASTE MANAGEMENT

The OPSC staff are governed by the NSW DAGJ Environment Policy, which demonstrates a commitment to reducing the effect of our operations on the natural environment. NSW DAGJ also has in place a Sustainability Policy.

The Council and OPSC have continued to comply with these policies and assist to limit the impact of their operations on the environment. For example, Council papers for regular Council meetings were produced on 50 per cent recycled paper, printed double sided, and in most cases lengthy addenda are provided to Councillors electronically only. Councillors all now receive their papers in electronic format only, thereby virtually eliminating the use of paper and print processing. Promotional materials such as the annual report are produced on 55 per cent recycled paper, only the required number of reports is printed and the report is available on the internet.

## FINANCIAL PERFORMANCE

The Professional Standards Council of New South Wales is not responsible for compiling financial statements. The OPSC is responsible for ensuring the collection of revenue and operating within budget. During the reporting period, the OPSC undertook these tasks.

Refer to the Consolidated Financial Performance Extract of the Professional Standards Councils at the beginning of this section, for revenue of the Professional Standards Council of NSW and the proportion of expenses for this Council.

# THE PROFESSIONAL STANDARDS COUNCIL OF THE NORTHERN TERRITORY

## CONSTITUTION OF THE COUNCIL

Listed below are the number of meetings that the Professional Standards Council members were entitled to attend and those that they attended for the Northern Territory (NT).

Table 21: Meetings of the Professional Standards Council of the NT

Members	Council meetings entitled to attend	Council meetings attended
Esther Alter	5	5
Robert Beaton	5	5
Julie Cameron	5	3
Terry Evans	5	4
Ronald Farrell	5	4
Tom Karp	5	3
Joanne Metcalfe	5	5
Madeleine Ogilvie [retired 31/12/11]	2	2
Hugh Plaistowe	5	4
Brian Rayment QC	5	5
Tiina-Liisa Sexton [appointed 31/1/12]	3	2
Martyn Hagan [deputy member for Tasmania]	1	0
Iain Summers	5	4

\* Councillor Ogilvie retired from the Professional Services Council in December 2011.

## MAJOR LEGISLATIVE CHANGES

The *Professional Standards Act 2004* (NT) was amended by the *Justice Legislation (Penalties) Act 2010* (NT), which came into force on 1 July 2010. As a result, the penalties for non-compliance with the *Professional Standards Act 2004* (NT) changed from an absolute number of penalty units, to a “maximum” number of penalty units.

The *Professional Standards Act 2004* (NT) was further amended by the *Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010* (NT), which came into force on 1 March 2011. As a result, section 40(2)(c) of the *Professional Standards Act 2004* (NT), relating to associations’ complaints and disciplinary codes, has been procedurally amended for consistency with other NT legislation to provide that a committee may “require evidence be given on [oath]” and to omit the words “administer an [oath]” because the new *Oaths, Affidavits and Declarations Act 2010* now provides for who may administer an oath – namely, any sitting member of a tribunal/ committee may administer an oath.

### Information Act

The Council did not receive any freedom of information (FOI) requests, nor were there any outstanding requests for information pursuant to the *Information Act 2002* (NT) during the reporting period.

## PROTECTION OF PERSONAL INFORMATION AND RECORDS MANAGEMENT

Personal information is not held or collected by the Council. Decisions of the Council to approve *Cover of Excellence*<sup>®</sup> schemes are made by consideration of an association's individual application, independent actuary advice and within the confines of the legislative requirements of schemes. A copy of the application form required of associations, along with application guidelines, can be accessed on Council's website at [www.psc.gov.au](http://www.psc.gov.au).

A large amount of information is requested of associations when completing an application for a scheme. This information includes insurance data about the level and nature of claims, insurance data from the previous 10 years concerning the highest claims and types of claims, risk management strategies of the association, education and other qualification requirements, COE and codes of conduct and ethics.

Sound record keeping practices underpin good governance. The Council has a system in place to ensure the accurate storage, capture and retrieval of documents as required by the Act.

## PUBLIC INTEREST DISCLOSURE ACT

There were no public interest disclosures for the period 2011-12.

## FINANCIAL PERFORMANCE

The Professional Standards Council of the NT is not responsible for compiling financial statements. The OPSC is responsible for ensuring the collection of revenue and operating within budget. During the reporting period, the OPSC undertook these tasks.

Refer to the Consolidated Financial Performance Extract of the Professional Standards Councils at the beginning of this section, for revenue of the Professional Standards Council of the NT and the proportion of expenses for this Council.

# THE PROFESSIONAL STANDARDS COUNCIL OF QUEENSLAND

## CONSTITUTION OF THE COUNCIL

Due to a lack of quorum from 31 December 2011, only two Queensland Council meetings were convened during the last financial year.

Listed below are the number of meetings that the Professional Standards Council members were entitled to attend and those that they attended.

Table 22: Meetings of the Professional Standards Council of Queensland

Members	Council meetings entitled to attend	Council meetings attended
Esther Alter	2	2
Robert Beaton	2	2
Julie Cameron	2	1
Terry Evans	2	2
Ronald Farrell	2	2
Tom Karp	2	2
Joanne Metcalfe	2	2
Madeleine Ogilvie [retired 31/12/11]	2	2
Hugh Plaistowe	2	1
Brian Rayment QC	2	2
Tiina-Liisa Sexton [appointed 31/1/12]	0	0
Martyn Hagan [deputy member for Tasmania]	0	0
Iain Summers	2	2

## MAJOR LEGISLATIVE CHANGES

There were no amendments to the *Professional Standards Act 2004* (Qld) within the reporting period.

## RIGHT TO INFORMATION REPORTING

The *Right to Information Act 2009* (Qld) grants a right of access to persons to obtain information in the possession or control of the Government, unless it is contrary to public interest to do so.

The Council, via its website, actively publishes information about its work. Annual reports of the Council are available on the website, as is information about the role and operations of the Council.

Consultation notices for new *Cover of Excellence*<sup>®</sup> schemes are published on the website as well in the newspaper. Also, once a scheme becomes operational in Queensland, the scheme document and summary are made available on the website for public access. The Council publishes policy and discussion papers on its website, as well as application forms and application guidelines for *Cover of Excellence*<sup>®</sup> schemes.

The Professional Standards Council of Queensland did not receive any requests under the *Right to Information Act 2009* (Qld) in the reporting period.

## INFORMATION PRIVACY

Section 40 of the *Information Privacy Act 2009* (Qld) provides that a person has a right to access documents which contain their personal information.

Council does not hold nor collect personal information. Council's decisions to approve *Cover of Excellence*<sup>®</sup> schemes are made by consideration of an association's individual application, independent actuary advice

and within the confines of the legislative requirements of schemes. A copy of the application form required to be completed by associations, along with application guidelines, can be accessed on the website of the Council at [www.psc.gov.au](http://www.psc.gov.au).

A large amount of information is requested of associations when completing an application for a scheme. This information includes insurance data about the level and nature of claims, insurance data from the previous 10 years concerning the highest claims and types of claims, risk management strategies of the association, education and other qualification requirements, COE and codes of conduct and ethics.

## WHISTLEBLOWERS' PROTECTION

The *Whistleblowers Protection Act 1994* (Qld) aims to protect public interest by protecting persons who disclose:

- unlawful, negligent or improper conduct affecting the public sector
- danger to public health or safety
- danger to the environment.

The Professional Standards Council of Queensland did not receive disclosures covered by the *Whistleblowers Protection Act 1994* (Qld) during the reporting period.

## RISK MANAGEMENT

The risk management and internal audit practices of the Council and the OPSC are described elsewhere in this annual report.

## CONSULTANTS

Any costs incurred by hiring consultants during the reporting period are detailed in the Consolidated Financial Performance Extract.

## OVERSEAS TRAVEL

There was no overseas travel in the reporting period.

## INFORMATION SYSTEMS AND RECORD KEEPING

Sound record keeping practices underpin good governance. The Council has a system in place which ensures the accurate storage, capture and retrieval of documents as required by the *Public Records Act 2002* (Qld) and Information Standard 40: Record keeping and Information Standard 31.

## WASTE MANAGEMENT

The OPSC staff are governed by the NSW DAGJ Environment Policy as the OPSC operates in NSW. The policy demonstrates a commitment to reducing the effect of our operations on the natural environment. NSW DAGJ also has in place a sustainability policy.

The Council and OPSC have continued to comply with these policies and assist to limit the impact of their operations on the environment. For example, Council papers for regular Council meetings are produced on 50 per cent recycled paper, and in most cases lengthy addenda are provided to Councillors electronically. A number of Councillors are now receiving their papers in electronic format only, thereby reducing the use of paper and print processing. Promotional material such as the annual report are produced on 55 per cent recycled paper, only the required number of reports is printed and the report is available on the internet.

## FINANCIAL PERFORMANCE

The audited financial statements of the Professional Standards Council of Queensland are attached as an addendum to this report. For an unaudited statement of the revenue and expenditure of this Council, refer to the Consolidated Financial Performance Extract of the Professional Standards Councils at the beginning of this section.

# THE PROFESSIONAL STANDARDS COUNCIL OF SOUTH AUSTRALIA

## CONSTITUTION OF THE COUNCIL

Listed below are the number of meetings that the Professional Standards Council members were entitled to attend and those that they attended for South Australia (SA).

Table 23: Meetings of the Professional Standards Council of SA

Members	Council meetings entitled to attend	Council meetings attended
Esther Alter	5	5
Robert Beaton	5	5
Julie Cameron	5	3
Terry Evans	5	4
Ronald Farrell	5	4
Tom Karp	5	3
Joanne Metcalfe	5	5
Madeleine Ogilvie [retired 31/12/11]	2	2
Hugh Plaistowe	5	4
Brian Rayment QC	5	5
Tiina-Liisa Sexton [appointed 31/1/12]	3	2
Martyn Hagan [deputy member for Tasmania]	1	0
Iain Summers	5	4

## MAJOR LEGISLATIVE CHANGES

The *Professional Standards Act 2004 (SA)* was amended by the *Professional Standards (Mutual Recognition) Amendment Act 2010 (SA)* which came into force on 14 October 2010. As result, sections 4, 8, 9, 11, 13, 14, 15, 16, 17, 18, 34 and 46 were amended and sections 18A, 18B and 46A were inserted to provide the *Professional Standards Act 2004 (SA)* the flexibility required to allow mutual recognition of schemes from other jurisdictions.

## FRAUD

There was no instance of fraud during the period.

## FREEDOM OF INFORMATION REPORTING

The Council is required to publish a statement about the particulars, functions and powers of that agency as well as certain categories of documents held by each agency and the arrangements for public participation in the formulation of policy and operations. The following statement is correct as of 30 June 2012.

## ORGANISATION AND FUNCTIONS

The organisation and functions of the Council are described elsewhere in this annual report.



## CATEGORIES OF DOCUMENTS

The Council holds several categories of documents, as follows:

- Documents freely available on request and without charge. These are available on the Council's website at [www.psc.gov.au](http://www.psc.gov.au). Specifically, these include:
  - ◆ annual reports
  - ◆ the scheme application form
  - ◆ policy papers
  - ◆ application guidelines
  - ◆ scheme document.

Documents that are exempt under the *Freedom of Information Act 1991 (SA)*, and all other kinds of documents that may be available under the Act.

Personal information is not held or collected by the Council.

Decisions of the Council to approve *Cover of Excellence*<sup>®</sup> schemes are made by consideration of an association's individual application, independent actuary advice and within the confines of the legislative requirements of schemes. A copy of the application form required to be completed by associations, along with application guidelines, can be accessed on the website of the Council at [www.psc.gov.au](http://www.psc.gov.au).

A large amount of information is requested of associations when completing an application for a scheme. This information includes insurance data about the level and nature of claims, insurance data from the previous 10 years concerning the highest claims and types of claims, risk management strategies of the association, education and other qualification requirements, *Cover of Excellence*<sup>®</sup> and codes of conduct and ethics.

The Professional Standards Council of SA has a computerised records management system and databases that record certain details of applications, submissions and correspondence. Arrangements can be made to inspect documents available under

the *Freedom of Information Act 1991 (SA)* by contacting the OPSC between 9.00 am and 5.00 pm from Monday to Friday (public holidays excepted).

The Council did not receive any applications for the access of documents (initial requests) during the reporting year. The Council did not receive any applications for the internal review of its decisions.

## CONSULTANTS

Any costs incurred by hiring consultants during the reporting period are detailed in the Consolidated Financial Performance Extract.

## PUBLIC INTEREST DISCLOSURE

The Council is required to disclose the number of occasions on which public interest information has been disclosed to it or a responsible officer of the Council under the *Whistleblowers Protection Act 1993 (SA)*. There were no such disclosures during the reporting period.

## OCCUPATIONAL HEALTH AND SAFETY DISCLOSURE

There were no work related injuries during the reporting period nor illnesses or prosecutions. The OPSC staff are governed by the OHS policies and practices of the NSW DAGJ.

## FINANCIAL PERFORMANCE

The audited financial statements of the Professional Standards Council of SA are attached as an addendum to this report. For an unaudited statement of the revenue and expenditure of this Council, refer to the Consolidated Financial Performance Extract of the Professional Standards Councils at the beginning of this section.

# THE PROFESSIONAL STANDARDS COUNCIL OF TASMANIA

## CONSTITUTION OF THE COUNCIL

Listed below are the number of meetings that the Professional Standards Council members were entitled to attend and those that they attended for Tasmania.

Table 24: Meetings of the Professional Standards Council of Tasmania

Members	Council meetings entitled to attend	Council meetings attended
Esther Alter	5	5
Robert Beaton	5	5
Julie Cameron	5	3
Terry Evans	5	4
Ronald Farrell	5	4
Tom Karp	5	3
Joanne Metcalfe	5	5
Madeleine Ogilvie [retired 31/12/11]	2	2
Hugh Plaistowe	5	4
Brian Rayment QC	5	5
Tiina-Liisa Sexton [appointed 31/1/12]	3	2
Martyn Hagan [deputy member for Tasmania]	1	0
Iain Summers	5	4

## MAJOR LEGISLATIVE CHANGES

No major changes were made to professional standards legislation during 2011-12.

## FINANCIAL PERFORMANCE

The Professional Standards Council of Tasmania is not responsible for compiling financial statements. The OPSC is responsible for ensuring the collection of revenue and operating within budget. During the reporting period, the OPSC undertook these tasks.

Refer to the Consolidated Financial Performance Extract of the Professional Standards Councils at the beginning of this section, for revenue of the Professional Standards Council of Tasmania and the proportion of expenses for this Council.

# THE PROFESSIONAL STANDARDS COUNCIL OF VICTORIA

## CONSTITUTION OF THE COUNCIL

Listed below are the number of meetings that the Professional Standards Council members were entitled to attend and those that they attended for Victoria.

Table 25: Meetings of the Professional Standards Council of Victoria

Members	Council meetings entitled to attend	Council meetings attended
Esther Alter	5	5
Robert Beaton	5	5
Julie Cameron	5	3
Terry Evans	5	4
Ronald Farrell	5	4
Tom Karp	5	3
Joanne Metcalfe	5	5
Madeleine Ogilvie [retired 31/12/11]	2	2
Hugh Plaistowe	5	4
Brian Rayment QC	5	5
Tiina-Liisa Sexton [appointed 31/1/12]	3	2
Martyn Hagan [deputy member for Tasmania]	1	0
Iain Summers	5	4

## MAJOR LEGISLATIVE CHANGES

No legislative amendments were made during 2011-12.

## NATIONAL COMPETITION POLICY

The Professional Standards Council of Victoria, to the extent applicable, complies with the requirements of the National Competition Policy.

## REPORTING OF OFFICE-BASED ENVIRONMENTAL IMPACTS

The financial reporting directions issued by the Minister for Finance requires all entities defined as a “Department” under section 3 of the *Financial Management Act 1994* (Vic) to report on office-based environmental impacts. The Council does not fall within this definition. The OPSC is within the NSW DAGJ, who has developed a policy on energy use, waste production and green purchasing. The policy demonstrates a commitment to reducing the effect of our operations on the natural environment. NSW DAGJ also has in place a sustainability policy.

The Council and OPSC have continued to comply with these policies and assist to limit the impact of their operations on the environment. For example, Council papers for regular Council meetings are produced on 50 per cent recycled paper and printed double sided, and in most cases lengthy addenda are provided to Councilors electronically only. A number of Councilors are now receiving their papers in electronic format only, thereby reducing the use of paper and print processing. Promotional materials such as the annual report are produced on 55 per cent recycled paper, only the required number of

reports is printed and the report is available on the internet.

From 2011, NSW DAGJ has continued to improve energy efficiency in its Justice Precinct Office located in Parramatta. OPSC staff co-operated with the NSW DAGJ “energy challenge” by switching off all unnecessary office lighting and turning off office equipment such as computers and monitors at close of business each day.

## VICTORIAN INDUSTRY PARTICIPATION POLICY (VIPP)

The Professional Standards Council of Victoria did not enter into or complete any contracts over \$3 million in metropolitan Melbourne or \$1 million in regional Victoria; therefore VIPP reporting is not required.

## FREEDOM OF INFORMATION REPORTING

Victoria’s *Freedom of Information Act 1992* (Vic) gives members of the public the right to apply for access to information held by Ministers, State government departments, local councils, public hospitals, most semi-government agencies and statutory authorities. The Professional Standards Council of Victoria received no requests under the *Freedom of Information Act 1982* (Vic) in the reporting period.

## COMPLIANCE WITH THE BUILDING ACT 1993 (VIC)

The Professional Standards Council of Victoria does not lease or own property in Victoria.

## WHISTLEBLOWERS PROTECTION ACT 2001 (VIC)

The *Whistleblowers Protection Act 2001* (Vic) encourages and facilitates disclosures of improper conduct by public officers and public bodies. For the 12 months ended 30 June 2012, the Professional Standards Council of Victoria did not receive any disclosures covered by the *Whistleblowers Protection Act 2001* (Vic).

## STAFFING PROFILE

The staffing profile of the OPSC that performs secretariat work for the Professional Standards Council of Victoria is located in the Appendix section of this Annual Report, headed “Staffing profile”.

## EXPOSURE TO SUB-PRIME

The Professional Standards Council of Victoria did not have any loans during the reporting period, and was not exposed to the sub-prime.

## FINANCIAL PERFORMANCE

The audited financial statements of the Professional Standards Council of Victoria are attached as an addendum to this report. For an unaudited statement of the revenue and expenditure of this Council, refer to the Consolidated Financial Performance Extract of the Professional Standards Councils at the beginning of this section.

# THE PROFESSIONAL STANDARDS COUNCIL OF WESTERN AUSTRALIA

## CONSTITUTION OF THE COUNCIL

Listed below are the number of meetings that the Professional Standards Council members were entitled to attend and those that they attended for Western Australia (WA).

Table 26: Meetings of the Professional Standards Council of WA

Members	Council meetings entitled to attend	Council meetings attended
Esther Alter	5	5
Robert Beaton	5	5
Julie Cameron	5	3
Terry Evans	5	4
Ronald Farrell	5	4
Tom Karp	5	3
Joanne Metcalfe	5	5
Madeleine Ogilvie [retired 31/12/11]	2	2
Hugh Plaistowe	5	4
Brian Rayment QC	5	5
Tiina-Liisa Sexton [appointed 31/1/12]	3	2
Martyn Hagan [deputy member for Tasmania]	1	0
Iain Summers	5	4

## MAJOR LEGISLATIVE CHANGES

No major legislative changes were made to professional standards legislation during 2011-12.

## ADVERTISING

The Professional Standards Council of WA did not incur advertising expenditure under the *Electoral Act 1907* (WA).

## PUBLIC SECTOR STANDARDS AND ETHICAL CODES

The Professional Standards Council of WA did not have any compliance issues arising from the public sector standards and WA Code of Ethics during the reporting period.

## RECORD KEEPING PLANS

Under the WA State Records Act 2000 (WA), each government entity is required to have a record keeping plan which is to provide an accurate reflection of the record keeping program within the entity. Annual reports must address:

- whether the entity's record keeping systems have been evaluated or when an evaluation is proposed
- the nature and extent of any record keeping training
- whether the training has been reviewed
- assurances that the entity's induction program addresses employee roles and responsibilities.

Sound record keeping practices underpin good governance. In accordance with the requirements of the *State Records Act 1998* (NSW), the Council's record keeping system (maintained by the OPSC, within the NSW DAGJ and based in NSW) ensures the accurate storage, capture and retrieval of documents.

## OCCUPATIONAL HEALTH AND SAFETY

There were no work related injuries during the reporting period nor illnesses or prosecutions. The OPSC staff are governed by the OHS policies and practices of the NSW DAGJ.

## FINANCIAL PERFORMANCE

The reporting of audited financial statements and key performance indicators (KPIs) for the Professional Standards Council of WA is attached as an addendum to this report. For an unaudited statement of the revenue and expenditure of this Council, refer to the Consolidated Financial Performance Extract of the Professional Standards Councils at the beginning of this section.

# APPENDIX

## COST OF ANNUAL REPORT

The Professional Standards Councils' Annual Report was produced in-house with an external graphic designer and printer. A downloadable version can be found on the Councils' website at [www.psc.gov.au](http://www.psc.gov.au). To meet Parliamentary tabling requirements, 250 hard copies were printed. Addendums for South Australia (8 copies), Queensland (55 copies), Victoria (70 copies) and Western Australia (20 copies) were also printed. The total cost of production was \$12,518.25.

## PROFESSIONAL STANDARDS LEGISLATION

### Australian Capital Territory

- *Civil Law (Wrongs) Act 2002* (ACT). Commenced 9 March 2005. Amended 7 May 2008.
- *Civil Law (Wrongs) Regulation 2003*.

### New South Wales

- *Professional Standards Act 1994* (NSW). Commenced 1 May 1995.
- *Professional Standards Regulation 2009* (NSW). Commenced 1 September 2009, repealing the *Professional Standards Regulation 2004* (NSW).

### Northern Territory

- *Professional Standards Act 2004* (NT). Commenced 1 January 2006.
- *Professional Standards Regulation 2007* (NT). Commenced 1 January 2008.

### Queensland

- *Professional Standards Act 2004* (Qld). Commenced 1 July 2005.
- *Professional Standards Regulation 2007* (Qld). Commenced 9 February 2007.

### South Australia

- *Professional Standards Act 2004* (SA). Commenced 1 October 2006.
- *Professional Standards Regulation 2006* (SA). Commenced 1 October 2006.

### Tasmania

- *Professional Standards Act 2005* (Tas). Commenced 1 August 2005.

### Victoria

- *Professional Standards Act 2003* (Vic). Commenced 8 June 2004.
- *Professional Standards Regulation 2007* (Vic). Commenced 7 November 2007.

### Western Australia

- *Professional Standards Act 1997* (WA). Commenced 18 April 1998.
- *Professional Standards Regulation 1998* (WA). Commenced 18 April 1998.

### Commonwealth

- *Treasury Legislation Amendment (Professional Standards) Act 2004* (Cth). Commenced 13 July 2004.

## PUBLICATIONS AND PROMOTION

The Professional Standards Councils produce a variety of publications to facilitate improvements in the professions and to support consumer protection. Publications produced during 2011-12 were:

- Professional Standards Council: Combined Annual Report 2011-12
- Professional Standards Council of Western Australia Annual Report 2011-12
- Star Grants Program: Expression of Interest 2010 (brochure).

## STAFFING PROFILE

OPSC staff are employed by the NSW DAGJ, which is an equal opportunity employer and encourages flexible working practices, including part-time work. It values social and cultural diversity and is committed to providing a safe and harassment-free workplace for all employees. It encourages staff to undertake training that will contribute to the work of the Councils, and actively supports staff by providing study leave for this purpose.

Table 27: Staffing of the Office of the Professional Standards Councils – permanent

Position grade	No. of positions	No. of males	No. of females
Clerk Grade 3-4	1	0	1
Departmental Professional Officer Grade 3-4	4	2	2
Departmental Professional Officer Grade 3	3	0	3
Clerk Grade 11-12	1	0	1
Legal Officer Grade 5-6	1	0	1

Table 28: Staffing of the Office of the Professional Standards Councils – temporary

Position Grade	No. of positions	No. of males	No. of females
Departmental Professional Officer Grade 2	1	0	1

# DIRECTORY AND CONTACT DETAILS

## **Chairman**

Brian Rayment QC

## **Deputy Chairman**

Esther Alter

## **Office of the Professional Standards Councils**

Philippa Seagrave (Executive Officer)

Mary Abi-Younes (Administrative Officer)

Naomi Degabriele (Policy Officer)

Helen Dickensen (Marketing and Communications Officer)

Robert Lawson (Policy Officer)

Nicole Maxwell (Policy Officer)

Mary McCrudden (Policy Officer)

Hau Wong (Policy Officer)

Genevieve Wallace (Senior Legal Officer)

Kylie Morgan (Research Officer)

Monique Linssen (Assistant Research Officer)

## **Contact the Professional Standards Council**

Mail: Locked Bag 5111  
Parramatta NSW 2124

Phone: (02) 8688 8060  
1300 555 772 free call Australia wide

Fax: (02) 8688 9675

Email: [pscinfo@psc.gov.au](mailto:pscinfo@psc.gov.au)

In person: Parramatta Justice Precinct Building  
160 Marsden Street, Parramatta NSW 2150

Website: [www.psc.gov.au](http://www.psc.gov.au)



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Photographs by Simon Hewson, Fa tog'ra fi

ISSN 1326-1770 (print version), 1834-1861 (CD ROM version), 1836-7119 (online version)

Published in August 2012 by the Office of the Professional Standards Councils of the Australian Capital Territory, New South Wales, the Northern Territory, Queensland, South Australia, Tasmania, Victoria and Western Australia.

This information can be provided in alternative formats such as Braille, audiotape, large print or computer disk. Please contact the Diversity Services business centre of the NSW Department of Attorney General and Justice on (02) 8688 7507 (voice), (02) 8688 7733 (TTY – for people who are deaf or have a speech impairment) or [diversity\\_services@agd.nsw.gov.au](mailto:diversity_services@agd.nsw.gov.au).



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