

Professional Standards Council

ANNUAL REPORT 2006-2007

NEW SOUTH WALES

NORTHERN TERRITORY

QUEENSLAND

SOUTH AUSTRALIA

TASMANIA

VICTORIA

WESTERN AUSTRALIA



**PROFESSIONAL
STANDARDS
COUNCIL**



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THE PROFESSIONAL STANDARDS COUNCILS' MAJOR ACHIEVEMENTS 2006-2007

- Renewed over half the existing schemes
- Promoted the implementation of Professional Standards Legislation across Australia, the self-regulation of professionals, improving professional standards and protecting consumers
- Fostered co-operation between the Professional Standards Councils of New South Wales, Northern Territory, Queensland, South Australia, Tasmania, Victoria and Western Australia
- Worked co-operatively with Commonwealth Treasury regarding prescription of schemes
- Participated in negotiations for a Service Agreement to ensure common secretariat support for all Councils
- Suggested and supported legislative change
- Worked co-operatively with professional and other occupational associations on applications for approval of schemes
- Monitored the implementation of professional and other occupational associations' risk management strategies.

WHAT THE PROFESSIONAL STANDARDS COUNCILS DO

OUR VISION:

PROFESSIONAL EXCELLENCE – CONSUMER PROTECTION

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*[®] schemes.

Cover of Excellence[®] schemes are for members of occupational associations, and:

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

History and profile of the Councils

The New South Wales Attorney General established the Professional Standards Council (the NSW Council) in 1995 under Section 39 of the *Professional Standards Act 1994* (NSW) (the NSW Act). It was created to help professional and other occupational associations (associations) improve the regulation of their members so that the community is better protected.

Similar Councils were created subsequently in other jurisdictions. A Western Australian Professional Standards Council was established in 1997 under Section 8 of the *Professional Standards Act 1997* (WA) (the WA Act).

Professional Standards Legislation was passed in the remaining jurisdictions after 2003. In 2005, a Victorian Council was established, while Tasmanian,

Northern Territory and South Australian Councils were formed in 2006 and a Queensland Council was formed in 2007. An Australian Capital Territory Council is expected to be formed in the 2007-2008 financial year.

The Commonwealth has also passed legislation, which allows occupational liability to be limited under the *Trade Practices Act 1974* (Cth), the *Corporations Act 2001* (Cth) and the *Australian Securities and Investments Commission Act 2001* (Cth).

The Attorneys General of each of the states and territories and the Commonwealth Minister for Revenue and Assistant Treasurer signed the Professional Standards Agreement (PS Agreement) in October 2005. Under this agreement, all states and territories agreed to appoint the



same members to each of the eight Professional Standards Councils. Each state and territory and the Commonwealth have nominated one member except NSW and Victoria, which have nominated two each, for a total of 11 members.

The Professional Standards Councils approve and monitor professional standards schemes that aim to improve professional standards, protect consumers and limit the civil liability of professional and other occupational groups.

The NSW Attorney General's Department has provided secretariat support to the Councils, and will provide secretariat support to all eight Councils, to be formalised in a Service Agreement. The Victorian Department of Justice has also provided administrative support to the Councils.

Under the supervision of the Councils, the Secretariat assists occupational associations in the preparation of schemes, administers the risk management reporting of occupational associations and on occasion conducts research and forums to facilitate the improvement of occupational standards of professionals and others.

It is the intention of all jurisdictions that the Councils will be self-funding from application and annual fees. As an interim measure, all jurisdictions which do not currently generate income from application and annual fees have loaned seed funding which will be repayable from future fee revenue.

Schemes

The Councils are responsible for approving and monitoring associations' *Cover of Excellence*[®] schemes. Schemes limit the civil liability of members of associations who have the benefit of an insurance policy and/or business assets to the level of the limitation of liability. Insurance policies must comply with the association's standards of insurance.

Approving schemes

Before approving a scheme, Councils must consider:

- Public comments and submissions made in response to the public notification of the scheme
- The position of persons who may be affected by limiting the occupational liability of members of the association
- The nature and level of claims relating to occupational liability made against members of the association
- The association's standards of insurance
- The cost and availability of insurance
- The association's risk management strategies and how those strategies are intended to be implemented. The risk management strategies of an association may include the adoption of a code of ethics, the establishment of a complaints and discipline system and the provision of continuing professional development programs.

Determining limits of liability

The Councils are responsible for determining the limitation of liability. When doing so, the Councils must consider the nature and level of claims made against members of the association and the need to adequately protect consumers.

Monitoring associations' risk management strategies

Associations must demonstrate they have the capacity to implement risk management strategies and to administer their schemes. They must report annually to the Councils on the mechanisms used to implement their strategies and on the effectiveness of such strategies.

Improving professional standards

The Councils work with associations to develop self-regulation and improve professional standards. The Councils conduct research, develop policies and guidelines and organise events to promote debate and change.

Protecting consumers

The Councils' goals are to continue to strengthen and extend professionalism, promote self-regulation across occupational groups and to protect consumers through an expanding number of schemes. The Professional Standards Councils allow members of associations to use the NSW Council's *Cover of Excellence*[®] logo.

CHAIRMAN'S REPORT



Dear Mr Attorney,

Professional Standards Councils have now been fully constituted in all States and the Northern Territory, with nominees by all State and Territory Attorneys General and the Commonwealth now sitting on the governing body. The members of the Councils are ready to receive applications for new schemes and renewals from all Australian States and the Northern Territory.

Council members have displayed real energy in reviewing the procedures and guidelines published by the Councils, and the Councils' initial reviews will shortly be complete. The Councils are anxious to streamline the processing of applications for new and renewed schemes, so that the legislation can be utilised widely in all jurisdictions.

The first amendment to Professional Standards Legislation to allow mutual recognition of interstate schemes was passed in NSW, permitting mutual recognition of schemes and similar legislation

is in train or planned throughout Australia. The Councils have continued to promote consistency in Professional Standards Legislation across jurisdictions.

The Councils have worked closely with the Commonwealth, which prescribed another scheme under the *Trade Practices Act 1974* during the year, completing what was previously a significant gap in the effectiveness of approved schemes.

The Councils were much assisted by the hard and diligent work done in the leadership of the Secretariat by Dr Kate Sainsbury, who is now on maternity leave. I look forward to working with Ms Philippa Seagrave, who is acting as Executive Officer.

Yours faithfully,

Brian Rayment QC

SECRETARIAT REPORT

The focus of the Secretariat in 2006-2007 was the renewal of existing schemes and preparation for the expansion of the work of the Councils into all jurisdictions. This focus required the training of new staff and close co-operation between the departments supporting Councils in each jurisdiction.

Structure and staffing within the Secretariat

The structure and staffing of the Secretariat underwent considerable change during the period to better reflect the expanded role of the Secretariat in providing support to all Professional Standards Councils.

New positions have been created to assist the Secretariat provide support to all the Councils. A new Project Officer, Belinda Crosbie, was appointed to assist with public affairs and a new Policy Officer position, shared by Sharon Scully and Mary McCrudden, was created to assist with scheme analysis and monitoring and policy development.

A new Policy Officer, Rob Lawson, and a new Assistant Analyst, Hau Wong, were appointed to fill vacancies in these positions. The Secretariat continued to participate in the Attorney General's Department Graduate Program, and was assisted by Jonathan Lee and Ben Lumsdaine. Mary Abi-Younes continued to provide administrative support to the Secretariat.

The Executive Officer, Dr Kate Sainsbury went on maternity leave in June 2007.

Co-operation with the Professional Standards Legislation Working Group

The Secretariat has worked closely with the Professional Standards Legislation Working Group (PSLWG), which reports to the Standing Committee of Attorneys General. The PSLWG comprises officers from each jurisdiction responsible for the implementation of Professional Standards Legislation in their jurisdiction. Co-operation with the group has allowed for progress in negotiating and drafting the Service Agreement between the NSW Attorney General's Department and the Councils and Departments in each jurisdiction. Co-operation has also allowed amendments to Professional Standards Legislation to ensure costs-inclusive insurance policies are able to limit the liability of professionals under the legislation, mutual recognition of professional standards schemes across jurisdictions and the development of a fee structure to ensure Councils will be self-funding.

Assisting Councils to develop and review policies

The Secretariat conducted research and worked closely with stakeholders to assist Councils to develop and review a number of their policies to better achieve the aims of Professional Standards Legislation and meet the needs of its stakeholders.

A policy on business-entity-only associations was developed in 2006 after consultation with stakeholders. The Councils' application guidelines are currently under review to accommodate the new policy on business entity only associations.



Back (L to R): Rob Lawson, Hau Wong, Ben Lumsdaine.
Front (L to R): Philippa Seagrave, Mary Abi-Younes.

The Secretariat also assisted in the development of a new marketing strategy and website strategy, and is currently reviewing the Councils' website.

In addition, the Secretariat has worked closely with the Commonwealth Treasury to construct a template for setting limits of liability for different classes of accounting professionals. This template will allow the Councils and the Commonwealth to take a consistent approach in reviewing the various accounting schemes. The Council has agreed to use the template as a guide in the future but recognised that it could not apply it strictly in order to properly address differences between schemes.

The Secretariat has assisted the Councils in conducting a review of the Policy Statement on Professional Indemnity Insurance. The Review seeks to simplify the policy and give more flexibility to occupational associations to adjust required insurance standards in order to respond to changes in the insurance market.

The Councils continued to work on the joint Australian Research Council's Linkage Project entitled "Professionalisation, Ethics and Integrity Systems: The Promotion of Professional Ethical Standards, and the Protection of Clients and Consumers" ("Professionalisation, Ethics and Integrity Systems") with the Centre for Applied Philosophy and Public Ethics.

The Councils welcome continuing feedback from associations and other stakeholders on their policies and guidelines.

Plans for 2007-2008

The Secretariat is seeking to revise a number of its processes in the coming year. Key priorities for the Secretariat during the year ahead include:

- Mapping and streamlining the applications process and revising application guidelines to increase user friendliness
- Developing and updating risk management guidelines for associations and revising draft guidelines for associations' annual reporting
- Publication of a members' handbook and revised policy statement on Professional Indemnity Insurance
- Updating the website to include a complaints handling mechanism and monitoring the website to reflect policy updates and legislation changes
- Implementing an annual stakeholder satisfaction survey
- Completion of the Service Agreement
- Completion of the joint Australian Research Council's Linkage Project "Professionalisation, Ethics and Integrity Systems"
- Developing a strategy for effective resourcing necessary to administer Councils' legislative.

The Secretariat will also assist the Councils in the analysis of applications for approval or renewal of schemes in all jurisdictions.

Philippa Seagrave

Acting Executive Officer

THE COUNCILS



Brian Rayment



Esther Alter

Appointments to the Councils

The Attorneys General appoint members to the Councils who have the skills, qualifications, experience and ability to contribute to the work of the Councils. The current Council members provide the Councils with a solid base of experience in the fields of law, insurance, consumer affairs, corporate governance and auditing.

All states and territories have agreed to appoint the same members to each Council. The Professional Standards Agreement 2005 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.

Council members

Brian Rayment QC BA, LLB Chairman (nominated by NSW)

Brian Rayment was admitted to the NSW Bar in 1970 and practices 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 BEc, LLB, MBA, MAICD (nominated by Victoria)

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 (VCAT), 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 of the Chiropractor Registration Board of Victoria and a Board Member of the Osteopaths Registration Board of Victoria.



Robert Beaton



Steven Cole



Terry Evans

Robert Beaton LLB, BArch (Hons), BSc (Arch), RAIA, ANZIIF (Senior Associate) (nominated by NSW)

Robert Beaton is currently the National Product & Underwriting Manager at CGU Professional Risks Insurance and has been dealing with Professional Indemnity insurance since 1976. He is also Chairman of the Professional Indemnity Committee of the Insurance Council of Australia (ICA) and has been involved on several other ad hoc committees and task forces set up by ICA in respect of Insurance Contracts Act amendment and by APRA in respect of the National Claims and Policies Database (NCPD).

Steven Cole LLB (Hons), FAICD (nominated by Western Australia)

Steven Cole is a non-executive independent director and corporate consultant. He holds appointments as Chairman and Deputy Chairman of a number of ASX, private and NFP boards. Until recently, Steven was a Senior Partner of Allens Arthur Robinson Lawyers. His experience includes corporate and strategic management within both professional and general industry environments. Steven is also active in professional, business and community affairs, including the Australian Institute of Company Directors, the Chamber of Commerce & Industry (WA) and not-for-profit, community-based organisations.

Terry Evans LLB, LLM (nominated by South Australia)

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

Council Members *continued*

Ronald Farrell



Justin Harper



Joanne Metcalfe

Ronald Farrell (nominated by Victoria)

Ronald Farrell provides professional advice to both the public and private sectors. Ronald's current positions include: Board member of the Victorian Managed Insurance Authority; member for Municipal Association of Victoria Insurance Committee of Management; Australian Securities & Investments Commission (ASIC) 'Responsible Officer' for MAV Financial Services Licence. He has been a member of the Metropolitan Fire and Emergency Services Board and its Audit and Remuneration Committees (1994-2003). His 38-year insurance career culminated as General Manager of the Australian Eagle Insurance Group (General Division) until 1992 including directorship of subsidiary companies. During that time he was also involved in various industry committees. He was involved in the ground-up establishment of a rural industry Occupational Superannuation Fund.

**Justin Harper BA, LLB
(nominated by Queensland)**

Justin Harper is a barrister and a member of the Queensland Bar Association. He specialises in the areas of personal injuries, insurance, administrative law and defamation. He was counsel representing the Bundaberg Patient Support Group at the Queensland Public Hospitals Commission of Inquiry. He has worked as a senior policy advisor to the Queensland Attorney General, and as a policy officer and legal officer in a number of government departments.

**Joanne Metcalfe BLArch (Hons), MBA
(nominated by the ACT)**

Joanne Metcalfe is the Business Group Leader for Buildings, and Service Line Leader, Architecture at the professional services company GHD Pty Ltd's Canberra office. She has been an active member of the property industry in the Canberra region for the past eight years, currently holding the position of Vice President of the Property Council of Australia, ACT. She has formerly worked in landscape architecture with Team Design Australia and as a Principal at the architectural firm peckvonhartel (formerly Robert Peck von Hartel Trethowan). She has also served in the National Communications Unit and as State Manager of the ACT branch of the Royal Australian Institute of Architects.



Madeleine Ogilvie



Iain Summers



Warwick Wilkinson

Madeleine Ogilvie BA LLB, Grad Certificate of Business (AGSM), MAICD (nominated by Tasmania)

Madeleine Ogilvie is the principal of Ogilvie & Associates lawyers in Tasmania. Madeleine 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 IT&T, tenders, and intellectual property commercialisation. Madeleine is also active in community life as a member of the board of Kidsafe (Tas), a member of the Ministerial Child Care Advisory Council (Tas), founder of Early Years Parents & Friends (Tas) and provides pro-bono support to a range of Tasmanian not-for-profit organisations.

Iain Summers B Comm, LLB (Hons), Grad Diploma Management Psychology, FCA FCPA FAICD FAIM (nominated by Northern Territory)

Iain Summers provides governance and management advice and assistance to community services and public sector entities and small-to-medium-sized commercial enterprises. He was a partner of the chartered accountancy firm Pannell Kerr Forster in Darwin from 1982 to 1992, and the General Manager of Corporate Services for the Northern Territory Tourist Commission from 1993 to 1994. From 1995 to 2002 he was the Northern Territory Auditor-General. He is a company director of commercial and community sector entities and a member of audit committees for private and public sector entities.

Warwick Wilkinson AO, RFD ED (Hons) M Pharm FPS (nominated by Commonwealth)

Warwick Wilkinson is an Officer of the Order of Australia. He has been an Associate Commissioner of the Australian Competition and Consumer Commission and Director of the Australian Institute of Political Science. He was a Director at Merck Sharp and Dohme for 11 years. He is a past President of both the Australian Council of Professions and the NSW Council of Professions and past National President of the Pharmaceutical Society of Australia. He is also a lay member of the disciplinary committee of CPA Australia.

CO-OPERATION BETWEEN JURISDICTIONS

CO-OPERATION AMONG PROFESSIONAL STANDARDS COUNCILS

Intergovernmental agreement

The Professional Standards Agreement 2005 was endorsed by the Standing Committee of Attorneys General (SCAG) in 2005, and signed by all state and territory Attorneys General and the Commonwealth Assistant Treasurer and Minister for Revenue in the same year. The Agreement provides for common membership of State and Territory Professional Standards Councils and the use by each Professional Standards Council of a common secretariat, operating in the NSW Attorney General's Department. At the end of the period, Professional Standards Legislation had commenced in all jurisdictions and Councils were operational in all jurisdictions except the ACT.

Service agreement

The Secretariat, Councils and their associated Departments have undertaken major work in negotiating a service agreement with the NSW Attorney General's Department. The Service agreement will allow the Secretariat to provide effective support to all the Councils to fulfil their statutory duties. The Service Agreement is expected to be finalised by the end of 2007.

LEGISLATIVE CHANGE

The Councils are responsible for giving advice to the Attorneys General on the operation of Professional Standards Legislation. The Councils have taken an active role in this regard during the period. Some key areas that the Councils have addressed are consultation on amendments to Professional Standards Legislation, which allows members of schemes to hold costs-inclusive insurance policies, mutual recognition of interstate schemes and the consistency of schemes across jurisdictions.

Costs-inclusive insurance amendment

The Councils conveyed to Attorneys General advice it had received that Professional Standards Legislation may not allow a person to whom a scheme applies to rely on a costs-inclusive policy. Many professionals who had the benefit of a scheme typically held the more readily available costs-inclusive cover.

An amendment was requested to clarify the fact that both costs-inclusive and costs-in-addition insurance policies could be used for the purposes of limiting liability under Professional Standards Legislation. The Standing Committee of Attorneys General gave in-principle support to the amendment in April 2006. Amendments commenced in Victoria on 11 October 2006, in NSW on 27 October 2006, in Tasmania on 18 December 2006, in South Australia on 18 January 2007, in the Northern Territory on 4 April 2007. Amendments were passed in the ACT on 21 August 2007 and are awaiting notification. The amendments will commence on the day after notification.

Mutual recognition of schemes

The Council has also identified the need for an amendment to Professional Standards Legislation to allow mutual recognition of schemes across jurisdictions. Such an amendment would enable Professional Standards Legislation to work more efficiently in all jurisdictions. Professionals, associations and the Councils would benefit due to decreased compliance and other costs and consumers would benefit from greater clarity and certainty. The first mutual recognition amendment was made in NSW in June 2007. Similar amendments are expected to be made in other jurisdictions in the coming financial year.

Regulations

The Councils have also been active in proposing a fee structure which it is anticipated will allow the Professional Standards Councils to be self-funding. The Councils also responded to associations' concerns about the timing of quarterly annual fee payments by requesting an amendment to the Regulation to allow fees to be paid at the end of a calendar quarter rather than quarterly based on the anniversary of the commencement of a scheme.

Regulations incorporating the Councils' proposals commenced in South Australia on 1 October 2006, in New South Wales on 8 December 2006, in Western Australia on 29 December 2006 and in Queensland on 9 February 2007.

COMMONWEALTH CO-OPERATION

The Commonwealth Treasury worked closely with the Councils during the period. The Secretariat had regular correspondence with Commonwealth representatives and a Commonwealth representative is also present at Councils' meetings.

This co-operation paved the way for the Engineers Australia's NSW scheme to be prescribed by regulation under the *Trade Practices Act 1974* (Cth) during the year, which allows occupational liability to be capped under Commonwealth legislation.

PROFESSIONAL STANDARDS COUNCILS' OPERATIONS

RESEARCH AND DEVELOPMENT

Annual reporting guidelines

The Councils are continuing a major review of the associations' annual reporting requirements. The review is implementing the recommendations of the 2006 NSW Attorney General's Department Internal Audit Plan, conducted by Deloitte Touche Tohmatsu. The guidelines are expected to be completed in the coming year and ensure compliance Risk Management Standard AS/NZS 4360:2004.

Review of the Policy Statement on Professional Indemnity Insurance

The Policy Statement is a guide for occupational associations as to the insurance standards applicable to members of their associated professional standards scheme. The Councils have incorporated submissions from stakeholders to create a simpler Policy Statement that will allow occupational associations flexibility to adjust their insurance standards to respond to changes in the insurance market.

Continuing engagement in joint research projects

The Councils continued to be involved in the Australian Research Council Linkage Project, "Professionalisation, Ethics and Integrity Systems" during 2006-07 with the Centre for Applied Philosophy and Public Ethics (CAPPE). The due date for the report was extended to allow CAPPE to include new research on multi-disciplinary incorporated legal services and to provide a detailed data analysis of the complaints and self-assessment forms for incorporated legal practices in NSW.

The final report for this project includes background on the practice and theory of professions and regulation, empirical work on a number of occupational associations and a chapter on regulation, professionalism and promoting ethical standards. The report also includes recommendations for the future directions of the Councils and for building the reputation of *Cover of Excellence*[®] schemes. The project will be published in late 2007.

Star Initiative Grants Program: providing associations with assistance

No grants were provided under the Star Initiative Grants Program in 2006-2007. The Program was not advertised in the reporting period due to limited staff resources and the focus of the Secretariat on implementing Professional Standards Legislation across all jurisdictions. The Councils are considering whether to continue the Program in 2007-2008.

EXCHANGING KNOWLEDGE

The Councils' website

Information about the Professional Standards Councils is disseminated through its website, which publishes all current schemes and information about the Councils' policies, as well as links to current and back copies of publications including Annual Reports and consultative papers. A new website strategy was developed in 2006-2007 and will continue to be implemented in the 2007-2008 financial year. The Councils' website is currently being redesigned. The redesign aims to reflect the close co-operation between the Councils of different jurisdictions and increase accessibility to stakeholders in all jurisdictions.

Meeting with stakeholders

The Secretariat meets regularly with members of its stakeholder associations. Additionally, the Executive Officer presented papers at the Australian Insurance Law Association National Conference on 1 November 2006; the Associations Forum risk management workshop on 16 May 2007; and the Professions Australia AGM on 29 May 2007.

Promoting professional standards and professional standards schemes to consumers

The *Cover of Excellence*[®] slogan and seven point star logo and their composite are registered trademarks of the NSW Council. The trademark clearly identifies the Council and members of schemes approved by it to consumers. The NSW Council is reviewing its licence to use the trademark to allow the other Councils to use it and to ensure that professionals use it in an appropriate manner.

CORPORATE GOVERNANCE

The Councils are committed to implementing sound principles of corporate governance. These are outlined in the Councils' Corporate Governance Principles – A Guide for Occupational Associations (April 2005).

Terms of office and remuneration

Council members are appointed for a term of up to three years and Council members are eligible for re-appointment at the expiration of their term. Allowance consists of a sitting fee for attendance at Council and Working Party or Committee meetings. The remuneration of Council Members is \$361 for a meeting up to four hours and \$75 for each additional hour. The Chairperson is paid \$593 and \$125 respectively. The Chairperson is also paid a retainer of \$2,575 per annum, which includes expenses for Council related work. The average sitting time of Council meetings during the period was approximately three and a half hours.

Procedures

Procedures for Council meetings are guided by provisions in Professional Standards Legislation in each jurisdiction. Policies developed since the Councils were established provide additional guidance for the operation of the Councils and its meetings. A Members' Handbook has been developed to further assist Council members. It contains information about the procedures and policies of the Councils, copies of current schemes, a comparative table of Professional Standards Legislation and the terms and conditions of members' appointments. The Handbook is currently being updated. When completed it will refer to relevant legislation, policies and procedures across the eight jurisdictions.

Meetings of the Councils

This information can be found under the State specific pages.

Committees

The Councils can establish Committees to assist them in their work. During the period, Audit and Risk Management Committees had been established in NSW, NT, SA, Tasmania, Victoria and WA. The Committees consider the Councils' financial position, budget management, internal controls and risk management. Like the Councils, the Committees have common membership. The common members of the Committees were Steven Cole (Chair), Esther Alter (since August 2006), Iain Summers (since August 2006) and Ronald Farrell (since February 2007).

Risk Management Program

The Councils are implementing a Risk Management Program (RMP) based on the Risk Management Standard AS/NZS 4360:2004. The RMP assists the Councils to identify and treat diverse types of risk, including external risks such as commercial and legal risks, and internal risks such as those associated with corporate knowledge management and financial administration. A review of the current program is planned for 2007-08.

FINANCIAL PERFORMANCE OF COUNCILS

All Professional Standards Councils operate with the assistance of secretariat support provided by the NSW Attorney General's Department. The financial performance of each Council can be found in the sections of this report specific to each jurisdiction's Council.

COVER OF EXCELLENCE® SCHEMES

CURRENT SCHEMES IN NSW

There are currently seven *Cover of Excellence*® schemes in operation in New South Wales, covering eight occupational associations and five occupations.

The Law Society of NSW, National Institute of Accountants (NIA), Engineers Australia (EA),

Australian Valuers Institute (AVI), and College of Investigative and Remedial Consulting Engineers (CIRCEA) all renewed schemes in the 2006-2007 financial year. The following table sets out the persons to whom the scheme applies, the limitation of liability, the start and expiry date of each scheme.

| Association | To whom scheme applies | Limitation of Liability | Start Date | Expiry Date |
|---|---|--|------------------|--|
| Australian Valuers Institute (AVI) | All members of the Institute ordinarily resident in NSW and who hold a current certificate of public practice issued by AVI | \$1million for commercial and \$500,000 for work relating to residential property | 26 July 2001 | 25 July 2007 (statutorily extended) |
| NSW Bar Association (NSW Bar) | All members of the Bar Association who hold a current NSW Barrister's Practising Certificate | \$1million for all members | 19 Jan 2005 | 18 Jan 2010 |
| College of Investigative and Remedial Consulting Engineers (CIRCEA) | All ordinary and retired members of CIRCEA | \$1million for ordinary members, \$5million for members who provide advice predominantly on geotechnical engineering, \$10million on application of member | 5 Dec 2006 | 4 Dec 2011 |
| CPA Australia (CPAA) | All members of CPA Australia ordinarily resident in NSW who hold a current Public Practice Certificate and who have not been exempted | \$500,000 to \$20 million. Reasonable charge of services x 10 | 8 Oct 2001 | 7 Oct 2007 (Statutory extension granted) |
| Institute of Chartered Accountants Australia (ICAA) | All members of ICAA ordinarily resident in NSW who hold a current Certificate of Public Practice and who have not been exempted | \$500,000 to \$20million. Reasonable charge of services x 10 | 8 Oct 2001 | 7 Oct 2007 (Statutory extension granted) |
| Institute of Engineers Australia (NSW) Scheme | Members of Engineers Australia who are also members of the Engineering Science and Technology Professional Standards Society (ESTPSS) | \$1 million, \$2.4 million or \$4 million depending on total annual fee income of partnership, corporation or sole trader. Up to \$8 million on application to Engineers Australia by a member of the scheme | 24 February 2007 | 23 February 2012 |
| Law Society of NSW (LSNSW) | All solicitor and life members of the Law Society who hold a current practising certificate and have not been exempted | \$1.5million to \$20 million depending on the number of principals; up to \$200million, as determined by the Law Society, on application by a member | 22 Nov 2006 | 21 Nov 2011 |
| National Institute of Accountants (NIA) | All members of NIA ordinarily resident in NSW who hold a current Public Practice Certificate issued by the NIA unless exempted | \$500,000 to \$20million. Reasonable charge of services x 10 | 30 Jan 2007 | 29 Jan 2012 |
| Professional Surveyors Occupational Association (PSOA) | All members of the PSOA | \$1 million, \$2 million, \$5 million depending on the firms' total annual gross fee income. Higher amount if selected. | 1 June 2001 | 31 May 2007 |

The following table sets out the number of members of associations to whom a scheme applies in NSW for 2006-07 and previous years.

| Scheme | Administrator | 2006-07 | 2005-06 | 2004-05 | 2003-04 | 2002-03 | 2001-02 |
|---|----------------------------------|---------|---------|---------|---------|---------|---------|
| Accountants Scheme | CPAA | 1350 | 1337 | 1278 | 1262 | 1135 | 1114 |
| | ICAA | 7370 | 7326 | 7320 | 6830 | 6715 | 6752 |
| Barristers Professional Standards Scheme | NSW Bar Association | 1982 | 1978 | 2000 | N/A | N/A | N/A |
| Engineers Australia (NSW) Scheme | Institute of Engineers Australia | 0 | N/A | N/A | N/A | N/A | N/A |
| Institute of Consulting Valuers Scheme | AVI | 45 | 48 | 85 | 85 | 64 | 57 |
| Investigative and Remedial Engineers (NSW) Scheme | CIRCEA | 25 | 13 | 13 | 13 | 14 | 14 |
| Law Society of NSW Scheme Professional Standards Scheme | LSNSW | 8097 | 7309 | 7505 | 8618 | 9079 | 8547 |
| National Institute of Accountants Scheme | NIA | 961 | 874 | 773 | 710 | 633 | N/A |
| Professional Surveyors Scheme | PSOA | 67 | 67 | 89 | 102 | 101 | 94 |

SCHEMES IN FOCUS

To date, only the NSW Council has approved schemes under Professional Standards Legislation. All associations with schemes under the Professional Standards Act 1994 (NSW) (the NSW Act) submitted Annual Risk Management Reports in which they reported on the implementation and monitoring of their risk management strategies, claims and insurance data, members' compliance with the use of *Cover of Excellence*[®] logo and disclosure of limited liability. PSOA did not submit a plan for the 2006-07 reporting year as the scheme expired in May 2007.

RISK MANAGEMENT REPORTS 2006

The NSW Act requires associations to provide an annual report to the NSW Council about implementation and monitoring of their risk management strategies, the effect of those strategies and any changes made, or proposed to be made, to them. The annual reporting program was developed by the Professional Standards Councils and is designed to help associations manage their occupational risks and protect consumers by fostering an adaptive approach to risk management and improvements in professional standards.

Associations prepare risk management plans for each year a scheme is in operation based on an initial five-year risk management plan submitted as part of the application process. The Secretariat reviews these plans using the Councils' Risk Management Reporting Guidelines (Reporting Guidelines) and reports to the NSW Council annually on associations' progress in implementing these plans.

With the exception of the Law Society of NSW, associations report on a calendar year basis.

In 2003, the NSW Council developed A Framework for Compliance: Under the Professional Standards Act 1994. This is a compliance program based on the NSW Act designed to help associations meet their obligations to monitor their members' compliance with insurance and disclosure requirements under *Cover of Excellence*[®] schemes, and to report the outcomes to the NSW Council. The compliance program is designed to ensure that associations are accountable for regulation of their members. It enables action to be taken to enforce compliance.

Associations reported on eight key strategic areas in their 2006 reports:

1. Advisory and support services
2. Codes of ethical conduct
3. Complaints and discipline systems
4. Continuing occupational education
5. Membership and entry requirements
6. Technical standards and guidance
7. Quality control programs/quality assurance systems
8. Claims and insurance monitoring
9. Compliance with disclosure and *Cover of Excellence*[®] logo requirements.

The following tables and text include a selection from examples derived directly from associations' annual reports noting progress in implementing risk management strategies.

1. Advisory and support services

Associations are encouraged to provide members with encouragement and support in their professional fields through advisory services covering workplace issues as well as supporting work-life balance. Increasingly, occupational related support services are delivered electronically and confidentially, the lessons learned are being extracted and conveyed to other association members through newsletters, mentoring and other communication channels and a range of support tools are being offered to assist members.

| Association | Tactics | Actions and outcomes |
|---------------------|--|---|
| AVI | <p>Promote informal use of Board members and Institute secretary for advisory services.</p> <p>Maintain Members Forum section of website for discussion and communication.</p> | <p>Advisory services usage discussed at monthly Board meetings.</p> <p>Members Forum component of website being adapted to meet user preferences of members (email based).</p> |
| NSW Bar Association | Ongoing financial support for BarCare (covering costs of initial consultation for assessment, counselling and referral). | <p>Decrease in the number of complaints that have resulted from emotional or stress related problems.</p> <p>Slight decline in requests for assistance for BarCare (down from 15 to 13).</p> |
| CPAA | <p>Provide access to timely updates and information for members.</p> <p>Increase technical support through delivery of tailored tools and resources.</p> | <p>Regular publication of CPA Update and CPA Tax News and IN THE BLACK newsletters.</p> <p>Adoption of best practice through standardised checklists for Audit, Tax and WorkChoice legislation.</p> <p>CD ROM developed to promote Public Practice Toolkit Publication of standardised checklists for members to access on website.</p> |
| Law Society of NSW | Availability and support for lawyers through LawCare. | 80 practitioners sought advice in reporting period a 15.5 percent decrease on previous year. |

2. Codes of ethical conduct

A mandatory reporting requirement for associations with approved schemes is to have in place a Code of Ethics. Members are required to abide by the Code and associations report on compliance (and efforts to ensure compliance) with the Code.

In February 2006 the ICAA, CPAA and NIA (all three associations cover the accountancy profession) joined together to fund and bind members of each association to ethical guidelines issued by a new board called the Accounting Professional and Ethical Standards Board (APESB). APESB has the responsibility for the ongoing review of professional standards for accountants including ethical conduct. During 2006 APESB issued one standard relating to ethical practice that affects all three accounting occupational associations: APES 110 – Code of Ethics for Professional Accountants. The approaches to implementation have been different across the three associations, but all have worked to adopt the new ethical standards.

| Association | Tactics | Actions and outcomes |
|---------------------|---|---|
| NSW Bar Association | Ensure knowledge of ethical issues in entry requirements and CPD. | <p>New barristers are required to pass an ethics exam (with mark of 75 % or more).</p> <p>Bar Practice Course contains an ethics element.</p> <p>Professional Conduct Department facilitates provision of ethical advice to members.</p> <p>All barristers are required to obtain at least one CPD point in the 'Ethics and Regulation of the Profession' strand.</p> <p>Course reading material updated twice in 12 months to reflect emerging issues.</p> |
| CPAA | Introduce independent standard setting process for ethical and professional standards of members. | <p>Review standards to ensure compliance with International Federation of Accountants (IFAC) standards.</p> <p>Standards meet IFAC requirements.</p> |
| ICAA | Dissemination and adoption of international best practice standards for professional accountants. | <p>Completion of Phase 2 of IFAC Member Body Compliance Program, Statement of Member Obligation) (SMO 4): IFAC Code of Ethics for Professional Accountants.</p> <p>International Federation of Accountants (IFAC) reviewed compliance program. No further action required and endorsed ICAA's progress noting that the ICAA program was well prepared, and will provide information to assist other bodies developing action plans.</p> |
| NIA | Communicate and educate practitioners on the NIA's Code of Ethics. | <p>New members educated on Code of Ethics as part of orientation.</p> <p>Regular articles in newsletters.</p> <p>External evaluation examining teaching of professional and business ethics found that the depth of knowledge and commitment to deal with ethical issues is well beyond anything observed by the Consultant in other comparative disciplines.</p> |

3. Complaints and discipline systems

A key requirement for maintaining a limited liability scheme is consumer protection. Associations must deal appropriately with complaints from consumers against members. Complaint systems must allow consumer access to complaints mechanisms that are fair and transparent. The systems must also allow for timely resolution, and consumers must be made aware of the nature, scope and steps of a complaints procedure that is available to them.

All associations with approved schemes have procedures in place for dealing with complaints.

| Association | Tactics | Actions and outcomes |
|---------------------|---|--|
| AVI | All members required to adhere to AVI's complaints procedures. | During the reporting period there were no complaints received about current members. |
| NSW Bar Association | Meet statutory obligations with respect to complaints and notifications and other disclosures under the Legal Professions Act 2005 and associated regulations. | 62 new complaints referred to the Legal Services Commission to 30 June 2006. |
| CIRCEA | CIRCEA Board (Management Committee) maintain commitments to the complaints and discipline processes. | Restatement of commitment of Board members to complaints and discipline procedures. No complaints were received at the most recent annual general meeting of CIRCEA. |
| CPAA | Adoption and implementation of new case management model for complaint investigation. Continual improvement in the investigation and disciplinary process and operational efficiency of CPA Australia. | Independent review of new model undertaken by Financial Report Council. Investigation of breaches of standards by Quality Assurance Unit. Three cases of members refusing to comply with quality assurance requirements were referred to Professional Conduct Council. Investigation of any formal complaint against a member. 145 externally initiated complaints were investigated, The outcomes of these appear on website. |
| NIA | Maintain a complaints and disciplinary system that is accessible, open, responsive and independent. Improve the collection, collation and reporting of complaints data and complaints processes. | There have been no formal complaints about the complaints and discipline process since the scheme began. A statistically very small number of complaints received against NSW members (10 new complaints out of 5700 members). |

4. Continuing Occupational Education

A key component in improving risk management practices of members is the provision of Continuing Occupational Education (COE), sometimes called Continuing Professional Development (CPD) by associations. Outcomes of complaints, insurance claims and innovation in the profession should form the basis of regular review of COE or CPD courses. This ensures knowledge of risks and methods to manage them are spread, allowing risks to be minimised.

COE can also enhance the skills of practitioners and the reputations of professional associations.

| Association | Tactics | Actions and outcomes |
|---------------------|--|---|
| AVI | Mandatory 40 hours continuing professional education prior to issuing practicing certificate. | 100% compliance with COE requirements. Random audit of members COE attendance met 100 percent compliance with requirement. |
| NSW Bar Association | Mandatory continuing professional education for members to qualify for renewal of practicing certificate. | New barristers are required to pass an ethics exam (with mark of 75 % or more). Bar Practice Course contains an ethics element. Ethics and Regulation strand included in compulsory COE program. Course material regularly reviewed by participants and evaluators to ensure currency. |
| CPAA | Provide easily accessible relevant continuing education. Review the COE plan. | Seminars for Public Practice series held in regional settings. 3% increase in attendance at training workshops. Members report satisfaction levels (on average) of 4.22 out of 5 (a slight increase from 4.21 last reporting year). |
| ICAA | Monitor compliance of members to meet COE statutory requirements (eg company auditors, company liquidators, tax agents, licensed municipal auditor etc). | Over 80 percent members satisfied with COE events and programs but in-house training providers not seen as experts. |
| Law Society of NSW | Audit random sample of members to monitor compliance with mandatory continuing professional education policy. | 550 included individuals incorporated into random audit. Only 10 practitioners with compliance issues – addressed through extension of time grants. 100 solicitors accredited during reporting period. |
| NIA | Secure members' compliance with COE requirements. | Random audit of members and self-evaluation of compliance. COE requirements checked as part of quality review program. All non-complying members were required to undergo a further audit in 12 months or sent for investigation. |
| PSOA | Declaration of minimum COE requirement obtained in renewal for each year of registration. | 100 percent of members required to return declaration certificates before membership is renewed. 100 percent of members advised COE requirements undertaken. |

5. Membership and entry requirements

Associations that have limited liability schemes in operation must maintain entry requirements that ensure members are able to practice at the high standards required for the professional work they perform. Associations must monitor the implementation of these requirements closely to ensure existing and new members maintain the required entry qualifications.

| Association | Tactics | Actions and outcomes |
|---------------------|--|---|
| AVI | Applications examined by Secretary and Board reviews all applications to ensure compliance. | Member application accepted only after 100% compliance with outcomes. All applicants that were approved complied with entry requirements. 11 new members applied or were admitted. Five new practicing certificates were issued, and five new students. One applicant denied membership as not residing in NSW or registered as a valuer in NSW. |
| NSW Bar Association | Completion of Bar Practice Course (required before practicing certificate is issued). | A pass grade of at least 75 percent must be achieved before issuing practicing certificate. The four-week course has been extended to include two compulsory follow-up courses and seven extension sessions to meet needs of barristers in first year of practice. |
| | NSW Bar Association Extension of 'reader's program' to have contact with Professional Development Department in first 12 months of service. | Feedback from participants is ensuring relevance and flexibility to suit needs of barristers in practice. |
| Law Society of NSW | Members must provide evidence of admission to Supreme Court of NSW. | Prompt entering of data on database upon notification by Supreme Court. Data entered within two days of receipt from Supreme Court. |
| | Lodgement of External Examiner's Report by due date (30 June 2006). | 2691 External Examiner's Reports lodged by due date. Nil practicing certificates cancelled as a result of non-lodgement of External Examiner's Report by due date. |
| NIA | Issue practitioner certificates only to those applicants who meet full membership criteria. | Monitor all new applications for compliance through six-monthly review of membership database. Practitioner certificates only issued to full members. |
| | To require all new practitioner members to complete the Practitioner Orientation Program within six months of taking out a practitioner certificate. | Compliance monitored on six-monthly basis. All members have complied with this request in the reporting period. |

6. Technical and professional standards and guidance

Associations are encouraged to assist members to keep up to date with recent technical advances in their fields.

| Association | Tactics | Actions and outcomes |
|---------------------|---|---|
| NSW Bar Association | Ensure sufficient money from the Bar Association's budget is allocated to ensuring that the library's materials are up-to-date and continual provision of training is provided. | <p>Increase use of the library's resources.</p> <p>During the period, loans averaged 68-70 per day (this continues an upward trend over the last 2 years. In the last two years reference enquiries have increased from 3292 in 2004/05 to 3790 in 2005/06.</p> |
| | Ongoing development of the Bar Associations to ensure that members are kept up to date with major changes in law. | <p>Of the 62 new complaints referred to the Professional Conduct Department for investigation, none involved a failure to keep up to date with the law.</p> <p>Experience over the last five years is that failure to keep up to date with changes in law is not a common reason for complaint.</p> |
| NIA | Improve access to timely information updates. | Regular (weekly) email publication of newsletters. |
| | Develop new tools and checklists for practitioners. | New checklists added to websites. |

7. Quality control programs and quality assurance systems

Risk management depends largely on the implementation of appropriate and rigorous quality management systems, particularly when associations with schemes cover occupations providing intellectual advice and services. Associations have a responsibility to ensure implementation of, and compliance with, suitable systems.

| Association | Tactics | Actions and outcomes |
|--------------------|---|--|
| CPAA | Monitor APES 320 which addresses risk management in accountancy practices. | Member compliance with APES 320 within review cycle (12 months, 3 years and 4 years). Review of approx 1400 members each year. |
| ICAA | Comply with APES 320 Quality Control for Firms (Accounting Professional and Ethical Standards). | Benchmarking of the Institute's progress against major accountancy bodies in other countries. International review (IFAC) body benchmarked against other countries found policies and procedures met or exceeded best practice and such information will help other bodies in preparing action plans. |
| | Audit and Review of practices to comply with quality assurance guidelines. | Member feedback on review process. Member feedback evaluation reveals that reviews are effective in reducing errors and increasing efficiency of service, particularly with the release of new Quality Control Guide in 2006. |
| Law Society of NSW | Practice management course available for members seeking to move from an employed solicitor to practice on their own account. | Successful completion of the course in a timely manner. 130 solicitors undertook the course (a significant decrease from the 529 solicitors in 2005). 42 did not complete the course. Of these 39 undertook the course with an extension of time, and the remainder had extenuating circumstances such as being overseas, interstate or returning to employed practice. |
| PSOA | Review certificates of renewal to identify members audited by third parties under ISO 9001. | Percentage of firms with quality assurance systems in place. Two firms have quality assurance in place. |

8. Claims and insurance monitoring

The Councils are aware that many associations continue to have difficulties obtaining claims information from the insurance industry and other sources. Information about claims allows an association to understand why claims occur, so that an association can equip its members with the knowledge and skills to avoid the mistakes that gave rise to the claim. Avoiding mistakes may lead to a reduction in claims that could ultimately contribute to the stabilisation of the professional indemnity insurance market and may also enhance reputations of practitioners. The Councils expect to undertake a review on claims data requirements over the next 12 months.

All associations reported on insurance and claims monitoring.

The NSW Bar Association reported that claims do not appear to be increasing against its members. The number of claims made in the year 2005-06 was six and the number of notifications was 34. Claims against barristers have remained stable or declined slightly over the last few years. There is a decrease in the number of notifications (from 40 in 2004-2005). Major areas where claims or notifications were reported were in professional conduct, commercial, personal injuries and family. No claim approached the limitation of liability on members.

CIRCEA reported that they had no claims against their members, continuing a trend of the last few years.

NIA reported only four insurance claims made against over 900 public practitioners (down again from 10 claims in the previous reporting period).

The insurance company responsible for 75 percent of PSOA members' professional indemnity insurance advised five notifications with four closed this year.

The Law Society noted an increase in claims from the previous year from 625 to 701 claims. Major areas in which claims were made were commercial, conveyancing, leases, out-of-time personal injury, and other litigation.

CPA Australia noted five claims in the reporting period against its members. This is consistent with the previous year's experience where the number of claims and the severity of claims are low by historical standards.

The ICAA has reported no specific claims data for the 2006 reporting year but has provided information regarding historical claims as part of its application for the renewal of its scheme. However, as part of a random audit of members, only one claim in excess of a \$350,000 benchmark was identified.

9. Compliance with disclosure and *Cover of Excellence*® logo requirements

Six of the seven associations reported on the outcomes of monitoring member compliance with disclosure of limited liability and *Cover of Excellence*® logo requirements.

CPA Australia provided a quality review framework for implementing and assessing compliance strategies monitoring approximately 12 percent of members on an annual basis. Of those surveyed, 24.5 percent used the *Cover of Excellence*® logo.

AVI conducted self-assessment questionnaires and conducted random audits of members. It reported that 100% of members complied with disclosure and *Cover of Excellence*® logo and insurance policy requirements.

ICAA undertook a random survey of members for its compliance program. 98% of firms surveyed returned the survey and indicated compliance with the compliance program requirements. ICAA also randomly audited firms to verify the surveys and found 100% compliance.

As in previous years, NIA surveyed 25 percent of its NSW members to gauge if members were aware of the need to comply with disclosure, *Cover of Excellence*® logo and insurance and business assets requirements. The members who were not aware of the requirements were in the process of being contacted by NIA to remind them of the requirements. NIA also required a sample of members to complete a self-assessment form to assess members' level of compliance. The self-assessment forms indicated that 97 percent of

members were using the appropriate disclosure statement (an increase of five percent on last reporting period).

Of those NIA members choosing to use the *Cover of Excellence*[®] logo 100% were audited and found to be complying with information provided on their compliance declaration forms.

The NSW Bar Association reported that 21 barristers advised they were using the trademark. The Bar Association randomly audited five of the 21 members using the *Cover of Excellence*[®] logo. All members audited were able to provide samples of documents on which they had used the logo. 100 percent complied with the terms of disclosure or used the trademark as licensed. It also reported three renewing members were not currently using the disclosure statements. All barristers not complying were followed up to ensure they were using the statement as required before their practising certificate was issued.

Risk Management Plans 2007

AVI and the NSW Bar Association have furnished the NSW Council with Risk Management Plans for 2007. CPAA provided a plan for the 2007 year, which will be considered with its application for a new scheme.

The ICAA scheme is expected to expire in the next reporting cycle year, and so will report under the new arrangements, when its scheme is renewed. The risk management plans will be used by associations to report on the effectiveness of their risk management strategies in 2007.

It is expected that a significant review of the annual risk management reporting guidelines will be undertaken in 2007-2008, with changes to reporting requirements to be reflected in the 2008 reporting years for associations.

FINANCIAL REPORT

NEW SOUTH WALES COUNCIL

Constitution of the Council

Council members Ronald Farrell and Terry Evans were appointed to the Council for the first time. Warwick Wilkinson rejoined the Council and Steven Cole was re-appointed as a member and appointed Deputy Chairman.

Major legislative changes

During the period, the *Professional Standards Act 1994* (NSW) was amended by the *Professional Standards Amendment (Defence Costs) Act 2006* (commenced on 27 October 2006), and the *Professional Standards Amendment (Mutual Recognition) Act 2007* (commenced on 15 June 2007).

Meetings of the NSW Council

No. of meetings

| Members | Council meetings entitled to attend | Council meetings attended | ARMC meetings entitled to attend | ARMC meetings attended |
|-------------------|-------------------------------------|---------------------------|----------------------------------|------------------------|
| Esther Alter | 8 | 7 | 4 | 3 |
| Robert Beaton | 8 | 7 | | |
| Steven Cole | 8 | 7 | 5 | 5 |
| Terry Evans | 5 | 5 | | |
| Ronald Farrell | 6 | 6 | 3 | 3 |
| Joanne Metcalfe | 8 | 8 | | |
| Glen Miliner | 3 | 3 | | |
| Madeleine Ogilvie | 8 | 8 | | |
| Brian Rayment | 8 | 8 | | |
| Iain Summers | 8 | 8 | 5 | 5 |
| Warwick Wilkinson | 8 | 8 | | |

Consultants

The NSW Council incurred \$67,000 in consultancy fees during the period. These fees were paid to the Centre for Applied Philosophy and Public Ethics as part of the ARC Linkage Project, "Professionalisation, Ethics and Integrity Systems" and to actuaries for the provision of independent actuarial advice on schemes.

Freedom of Information

There were no outstanding or new requests for information under the *Freedom of Information Act 1989* (NSW) during the period.

Financial performance

The Professional Standards Council operates with the assistance of Secretariat support provided by the Professional Standards Council business centre (Secretariat) within the NSW Attorney General's Department. The Council is not responsible for compiling financial records, but the Secretariat is responsible for operating within the budget allocated to it by the NSW Attorney General's Department. During the reporting period, the Secretariat operated within the allocated budget.

FINANCIAL PERFORMANCE EXTRACT¹

| REVENUE | 2006/2007 | 2005/2006 | 2004/2005 | 2003/2004 |
|---|-------------------|-------------------|-------------------|------------------|
| Services Provided ² | 0 | 0 | 0 | 55,500 |
| Application Fees | 7,000 | 5,000 | 19,000 | 5,000 |
| Annual Fees | 823,700 | 688,220 | 662,338 | 682,879 |
| Sundry | 18 | 610 | 175 | 7 |
| TOTAL REVENUE | 830,718 | 693,830 | 681,513 | 743,386 |
| EMPLOYEE RELATED PAYMENTS | | | | |
| Salaries and Wages | 221,112 | 301,836 | 263,132 | 294,425 |
| Leave Entitlements | 35,839 | 31,379 | 28,290 | 3,677 |
| Workers' Compensation | 1,875 | 2,278 | 2,241 | 2,217 |
| Payroll Tax | 21,639 | 23,776 | 17,850 | 19,579 |
| Overtime | 0 | 0 | 0 | 0 |
| Crown Liabilities and Superannuation | 47,891 | 44,880 | 51,790 | 39,505 |
| TOTAL EMPLOYEE RELATED | 328,356 | 404,149 | 363,303 | 359,403 |
| OTHER OPERATING EXPENSES | | | | |
| Advertising and Publicity | 11,932 | 2,857 | 6,941 | 2,133 |
| Consultancies | 52,000 | 30,000 | 30,909 | 102,220 |
| Depreciation | 1,949 | 1,948 | 1,074 | 55 |
| Electricity and Gas | 2,752 | 1,957 | 2,234 | 1,730 |
| - Board Fees ³ | 37,178 | 1,957 | 2,234 | 1,730 |
| - Other Fees | 3,953 | 3,594 | 10,460 | 38,089 |
| Freight & Cartage | 0 | 0 | 0 | 8 |
| General Expenses (including bank charges) | 265 | 663 | 220 | 5,213 |
| Insurance | 97 | 115 | 124 | 102 |
| Lease of Equipment | 3,557 | 3,538 | 5,003 | 1,556 |
| Postal Expenses | 147 | 131 | 226 | 323 |
| Printing | 6,636 | 14,629 | 15,476 | 18,701 |
| Publications | 2,254 | 2,604 | 623 | 1,276 |
| Rates and Outgoings | 939 | 804 | 692 | 675 |
| Rent | 27,408 | 26,493 | 23,750 | 21,185 |
| Staff Expenses | 3,496 | 1,884 | 3,675 | 2,495 |
| Stores and Stationery | 7,326 | 4,269 | 3,280 | 12,805 |
| Telephone | 2,366 | 2,789 | 2,924 | 2,803 |
| Travel | 49,553 | 34,830 | 17,264 | 28,859 |
| Maintenance | 1,204 | 711 | 660 | 847 |
| TOTAL OTHER OPERATING EXPENSES | 215,013 | 161,232 | 143,369 | 266,115 |
| Grants & Subsidies | 21,089 | 11,143 | 3,087 | 11,864 |
| TOTAL EXPENDITURE | 543,368 | 576,524 | 509,759 | 637,382 |
| Less Revenue | 830,718 | 693,830 | 681,513 | 743,386 |
| NET COST | (-308,498) | (-117,306) | (-171,754) | (106,004) |
| Less Provision for Doubtful Debt⁴ | | | | 92,942 |

Notes:

1. This unaudited statement is derived from information provided by the New South Wales Attorney General's Department (AGD). The AGD provides financial services to the Council and the Council's financial information forms part of the Financial Statement published in the AGD Annual Report, which is subject to audit by the NSW Auditor-General. Figures are exclusive of Goods and Services Tax.
2. Invoiced services provided by NSW Secretariat to Western Australia Professional Standards Council, in accordance with a Service Agreement.
3. Allowances paid to Council Members at rates determined by the Attorney General in accordance with Clause 4, Schedule 2, *Professional Standards Act 1994*.
4. The 2003-4 Financial Performance Extract included a line 'Less Provision for Doubtful Debt' of \$92,942 referring to Invoiced service payable by the Department of Justice Western Australia that were unpaid.

NORTHERN TERRITORY COUNCIL

Constitution of the Council

Council members Steven Cole, Terry Evans, Ronald Farrell, Madeleine Ogilvie and Warwick Wilkinson were appointed to the Council for the first time. Steven Cole was appointed Deputy Chairman.

Major legislative changes

During the period, the *Professional Standards Act 2004 (NT)* was amended by the *Justice Legislation Amendment Act 2006 (Act No. 13, 2006)* (commenced 1 July 2006) and the *Professional Standards Amendment Act 2007 (Act No. 2, 2007)* (commenced 4 April 2007).

Meetings of the Northern Territory Council

No. of meetings

| Members | Council meetings entitled to attend | Council meetings attended | ARMC meetings entitled to attend | ARMC meetings attended |
|-------------------|-------------------------------------|---------------------------|----------------------------------|------------------------|
| Esther Alter | 8 | 7 | 4 | 3 |
| Robert Beaton | 8 | 7 | | |
| Steven Cole | 8 | 7 | 5 | 5 |
| Terry Evans | 4 | 4 | | |
| Ronald Farrell | 6 | 6 | 3 | 3 |
| Joanne Metcalfe | 8 | 8 | | |
| Glen Miliner | 3 | 3 | | |
| Madeleine Ogilvie | 8 | 8 | | |
| Brian Rayment | 8 | 8 | | |
| Iain Summers | 8 | 8 | 5 | 5 |
| Warwick Wilkinson | 7 | 7 | | |

Financial performance

The Northern Territory Professional Standards Council received neither revenue nor incurred any expenses during the period. Members of the Northern Territory Council do not receive any payment from the Northern Territory Government. The Council is not responsible for compiling financial records, but the Secretariat is responsible for operating within the budget allocated to it by the NSW Attorney General's Department. During the reporting period, the Secretariat operated within the allocated budget.

QUEENSLAND COUNCIL

Constitution of the Council

The Queensland Council sat for the first time at the 22 June 2007 meeting.

Major legislative changes

The *Professional Standards Regulation 2007 No. 9* commenced on 9 February 2007.

Meetings of the Queensland Council

No. of meetings

| Members | Council meetings entitled to attend | Council meetings attended |
|-------------------|-------------------------------------|---------------------------|
| Esther Alter | 1 | 0 |
| Robert Beaton | 1 | 1 |
| Steven Cole | 1 | 1 |
| Terry Evans | 1 | 1 |
| Ronald Farrell | 1 | 1 |
| Justin Harper | 1 | 1 |
| Joanne Metcalfe | 1 | 1 |
| Glen Miliner | 1 | 1 |
| Madeleine Ogilvie | 1 | 1 |
| Brian Rayment | 1 | 1 |
| Iain Summers | 1 | 1 |
| Warwick Wilkinson | 1 | 1 |

Freedom of Information Reporting

The *Freedom of Information Act 1992* (Qld) (*FOI Act*) requires:

- that information concerning documents held by government are to be made available to members of the community;
- that members of the community are able to obtain access to documents held by government; and
- that members of the community are able to ensure that documents held by the government concerning their personal affairs are accurate, complete, up-to-date and not misleading.

Government includes a department, local council or public authority (such as a body established by an enactment or by government under an enactment for a public purpose).

The Professional Standards Council (Queensland) received no requests under the *FOI Act* in the reporting period.

Whistleblowers Protection

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

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

The Professional Standards Council (Queensland) received no disclosures covered by the *Whistleblowers Protection Act 1994*.

Privacy Principles

The Queensland Government's *Information Standard No 42* and supporting guidelines establishes a framework for the responsible collection and handling of personal information in the Queensland government public sector. *Information Standards* are issued under the authority of ss 22(2) and 56(1) of the *Financial Management Standard 1997* (Qld) and applies all government agencies and statutory bodies as defined under the *Financial Administration and Audit Act 1997* (Qld). *Information Standard 42* requires personal information to be managed in accordance with a set of information privacy principles adapted from the Commonwealth government public sector information privacy principles contained in the *Privacy Act 1988* (Cth). The requirement for agencies to comply with the *Information Standard* and guidelines is administratively based.

Financial Performance

The Queensland Professional Standards Council received neither revenue nor incurred any expenses during the period. Members of the Queensland Council do not receive any payment from the Queensland Government. The Council is not responsible for compiling financial records, but the Secretariat is responsible for operating within the budget allocated to it by the NSW Attorney General's Department. During the reporting period, the Secretariat operated within the allocated budget.

SOUTH AUSTRALIAN COUNCIL

Constitution of the Council

The South Australian Council sat for the first time on 3 November 2006.

Major legislative changes

During the period, the *Professional Standards Act 2004* was amended by the *Statutes Amendment (Justice Portfolio) Act 2006* (SA) (commenced 18 January 2007).

The *Professional Standards Regulations 2006* (SA) commenced on 1 October 2006.

Meetings of the South Australian Council

No. of meetings

| Members | Council meetings entitled to attend | Council meetings attended |
|-------------------|-------------------------------------|---------------------------|
| Esther Alter | 6 | 5 |
| Robert Beaton | 6 | 5 |
| Steven Cole | 6 | 5 |
| Terry Evans | 6 | 6 |
| Ronald Farrell | 6 | 6 |
| Joanne Metcalfe | 6 | 6 |
| Glen Miliner | 1 | 1 |
| Madeleine Ogilvie | 6 | 6 |
| Brian Rayment | 6 | 6 |
| Iain Summers | 6 | 6 |
| Warwick Wilkinson | 6 | 6 |

Fraud

There were no instances of fraud during the reporting period.

Freedom of Information reporting

The Professional Standards Council has details of its policies on its website.

Policy documents

The following Council policy documents can be accessed on the website:

- Policy Statement on Professional Indemnity Insurance
- Policy Statement on Complaints and Discipline Systems
- Policy Statement on Disclosure of Limited Liability
- Policy Statement on Payment of Annual Fees
- Policy Statement on Pricing of PSC Publications
- Policy Statement on Privacy
- Policy on Business Entity Associations.

Other documents

The Council has a computerised records management system and databases that record certain details of applications, submissions to Council, and correspondence of the Council.

Arrangements can be made to inspect documents available under the Freedom of Information Act by contacting the Professional Standards Council Secretariat between 9.00 am and 5.00 pm on ordinary working days.

There were no requests made under the *Freedom of Information Act 1991(SA)* during the reporting period.

Financial performance

The South Australian Professional Standards Council received neither revenue nor incurred any expenses during the period. Members of the South Australian Council do not receive any payment from the South Australian Government. The Council is not responsible for compiling financial records, but the Secretariat is responsible for operating within the budget allocated to it by the NSW Attorney General's Department. During the reporting period, the Secretariat operated within the allocated budget.

TASMANIAN COUNCIL

Constitution of the Council

Council members Terry Evans, Ronald Farrell and Warwick Wilkinson were appointed to the Council for the first time.

Major legislative changes

During the period the *Professional Standards Act 2005* was amended by the *Justice and Related Legislation (Further Miscellaneous Amendments) Act 2006* to allow participants in a scheme to hold costs-inclusive insurance policies. This amendment commenced on 18 December 2006.

Meetings of the Tasmanian Council

No. of meetings

| Members | Council meetings entitled to attend | Council meetings attended | ARMC meetings entitled to attend | ARMC meetings attended |
|-------------------|-------------------------------------|---------------------------|----------------------------------|------------------------|
| Esther Alter | 8 | 7 | 4 | 3 |
| Robert Beaton | 8 | 7 | | |
| Steven Cole | 8 | 7 | 4 | 4 |
| Terry Evans | 6 | 6 | | |
| Ronald Farrell | 6 | 6 | 3 | 3 |
| Joanne Metcalfe | 8 | 8 | | |
| Glen Miliner | 3 | 3 | | |
| Madeleine Ogilvie | 8 | 8 | | |
| Brian Rayment | 8 | 8 | | |
| Iain Summers | 8 | 8 | 4 | 4 |
| Warwick Wilkinson | 6 | 6 | | |

Financial performance

The Tasmanian Professional Standards Council received neither revenue nor incurred any expenses during the period. Members of the Tasmanian Council do not receive any payment from the Tasmanian Government. The Council is not responsible for compiling financial records, but the Secretariat is responsible for operating within the budget allocated to it by the NSW Attorney General's Department. During the reporting period, the Secretariat operated within the allocated budget.

VICTORIAN COUNCIL

Constitution of the Council

Council members Terry Evans, Ronald Farrell and Warwick Wilkinson were appointed to the Council for the first time.

Major legislative changes

During the period, the *Professional Standards Act 2003 (Vic)* was amended by the *Justice Legislation (Further Amendment) Act 2006*, (commenced on 11 October 2006), the *Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006*, No. 80/2006 (commenced on 11 October 2006) and the *Professional Standards Amendment Act 2007*, No. 27/2007 (Ss 4, 6, 7, 9 commenced on 27 June 2007).

Meetings of the Victorian Council

No. of meetings

| Members | Council meetings entitled to attend | Council meetings attended | ARMC meetings entitled to attend | ARMC meetings attended |
|-------------------|-------------------------------------|---------------------------|----------------------------------|------------------------|
| Esther Alter | 8 | 7 | 4 | 3 |
| Robert Beaton | 8 | 7 | | |
| Steven Cole | 8 | 7 | 4 | 4 |
| Terry Evans | 6 | 6 | | |
| Ronald Farrell | 6 | 6 | 2 | 2 |
| Joanne Metcalfe | 8 | 8 | | |
| Glen Miliner | 3 | 3 | | |
| Madeleine Ogilvie | 8 | 8 | | |
| Brian Rayment | 8 | 8 | | |
| Iain Summers | 8 | 8 | 4 | 4 |
| Warwick Wilkinson | 8 | 8 | | |

Manner of establishment and relevant minister

The Victorian Professional Standards Council is established by the *Professional Standards Act 2003* as a body corporate. The Council reported throughout the year to the Attorney-General the Hon. Rob Hulls who was appointed Attorney-General in October 1999.

National Competition Policy

The Council, 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 require all entities defined as departments under s.3 of the *Financial Management Act 1994* and environmental agencies to report on office-based environmental impacts. The Council does not fall within this definition. The NSW Attorney General's Department, which provides secretariat support to the Council has developed policies on energy use, waste production, and green purchasing.

Victorian Industry Participation Policy

The Council 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

Victoria's *Freedom of Information Act 1982* (FOI Act) 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 Victorian Professional Standards Council received no requests under the FOI Act in the reporting period.

Compliance with *Building Act 1993*

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

Whistleblower's Protection Act 2001

The *Whistleblowers Protection Act 2001 (Vic)* encourages and facilitates disclosures of improper conduct by public officers and public bodies. For the 12 months ending 30 June 2007 the Victorian Professional Standards Council did not receive any disclosures covered by the *Whistleblowers Protection Act 2001(Vic)*.

| Whistleblower's Reporting 2006-2007 | Volume |
|---|--------|
| Disclosures made to the Council during the year | Nil |
| Disclosures referred to the Council by the Ombudsman for investigation | Nil |
| Disclosures referred by the Council to the Ombudsman for investigation | Nil |
| Investigations taken over from the Council by the Ombudsman | Nil |
| Disclosed matters that the Council has declined to investigate | Nil |
| Matters that were substantiated upon investigation | Nil |
| Requests made by whistleblowers to the Ombudsman to take over an investigation by the Council | Nil |

Financial performance

The Council is not responsible for compiling financial records, but the Secretariat is responsible for operating within the budget allocated to it by the NSW Attorney General's Department. During the reporting period, the Secretariat operated within the allocated budget.

There is a separate Professional Standards Council (VIC) 2006-2007 report with detailed financial statements.

WESTERN AUSTRALIAN COUNCIL

Background

The Western Australia Professional Standards Council was formed in 1997 under section 8 of the *Professional Standards Act 1997 (WA)*.

Constitution of Council

Council members Ronald Farrell and Terry Evans were appointed to the Council for the first time. Steven Cole was appointed Deputy Chairman.

Major legislative changes

Throughout the period, the *Professional Standards Act 1997 (WA)* was amended by the *Machinery of Government (Miscellaneous Amendments) Act 2006* and the *Financial Legislation Amendment and Repeal Act 2006*.

The *Professional Standards Amendment Regulations 2006 (WA)* commenced on 29 December 2006.

Meetings of the Western Australian Council

No. of meetings

| Members | Council meetings entitled to attend | Council meetings attended | ARMC meetings entitled to attend | ARMC meetings attended |
|-------------------|-------------------------------------|---------------------------|----------------------------------|------------------------|
| Esther Alter | 8 | 7 | 4 | 3 |
| Robert Beaton | 8 | 7 | | |
| Steven Cole | 8 | 7 | 5 | 5 |
| Terry Evans | 6 | 6 | | |
| Ronald Farrell | 6 | 6 | 3 | 3 |
| Joanne Metcalfe | 8 | 8 | | |
| Glen Miliner | 3 | 3 | | |
| Madeleine Ogilvie | 8 | 8 | | |
| Brian Rayment | 8 | 8 | | |
| Iain Summers | 8 | 8 | 5 | 5 |
| Warwick Wilkinson | 8 | 8 | | |

Financial performance

The Western Australian Professional Standards Council received neither revenue nor incurred any expenses during the period. Members of the Western Australian Council do not receive any payment from the Western Australian Government. The Council is not responsible for compiling financial records, but the Secretariat is responsible for operating within the budget allocated to it by the NSW Attorney General's Department. During the reporting period, the Secretariat operated within the allocated budget.

APPENDIX

Cost of Annual Report

The Professional Standards Councils' Annual Report was produced in-house in conjunction with an external graphic designer and printer. A downloadable version can be found on the Councils' website, www.professionalstandardscouncil.gov.au.

600 copies of the Report were produced on CD-ROM and 150 hard copies were produced. The estimated total cost of production is \$6,000.

Overseas travel

Nil.

Professional Standards Legislation

- New South Wales – *Professional Standards Act 1994* (commenced 1 May 1995, amended in 1998, 2000, 2004, 2006, 2007)
- Western Australia – *Professional Standards Act 1997* (commenced 18 April 1998, amended in 2003, 2004, 2006)
- Victoria – *Professional Standards Act 2003* (commenced 8 June 2004, amended in 2007)
- Queensland – *Professional Standards Act 2004* (commenced 1 July 2005)
- South Australia – *Professional Standards Act 2004* (not commenced 30 June 2006)
- Northern Territory – *Professional Standards Act 2004* (commenced 1 January 2006, amended in 2007)
- Australian Capital Territory – *Civil Law (Wrongs) Act 2002* as amended by the *Civil Wrongs (Proportionate Liability and Professional Standards Act) 2004* (commenced 9 March 2005)
- Tasmania – *Professional Standards Act 2005* (commenced 1 August 2005)

- Commonwealth – *Treasury Legislation Amendment (Professional Standards) Act 2004* (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 this year include:

- Annual Report 2005-06 (October 2006)
- Public Notification: Engineers Australia, NIA, Law Society of NSW, AVI.

Staffing

Secretariat staff are employed by the NSW Attorney General's Department. The NSW Attorney General's Department is an equal opportunity employer and encourages flexible working practices including job share. 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 which will contribute to the work of the Councils and actively supports staff by providing study leave for these purposes.

| Grades | Positions | Male | Female |
|---------------------|-----------|------|--------|
| Clerk Grade 1 to 4 | 2 | 1 | 1 |
| Clerk Grade 5 to 8 | 3 | 2 | 1 |
| Clerk Grade 9 to 12 | 1 | - | 1 |

GLOSSARY

AVI

Australian Valuers Institute (formerly Institute of Consulting Valuers)

CAPPE

Centre for Applied Philosophy and Public Ethics

CIRCEA

College of Investigative and Remedial Consulting Engineers Australia

COE

Continuing Occupational Education

CPA Australia

Certified Practising Accountants Australia

CPD

Continuing Professional Development

ICAA

Institute of Chartered Accountants in Australia

LSNSW

Law Society of New South Wales

NIA

National Institute of Accountants

NSW Bar

New South Wales Bar Association

PS Agreement

Professional Standards Agreement (2005)

PSOA

Professional Surveyors Occupational Association

Schemes

Cover of Excellence[®] schemes approved and gazetted under Professional Standards Legislation

SCAG

Standing Committee of Attorneys General

Secretariat

Professional Standards Council business centre in the NSW Attorney General's Department

The Councils

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

DIRECTORY

Chairman

Brian Rayment QC

Deputy Chair

Steven Cole

Secretariat

Philippa Seagrave (Acting Executive Officer)

Rob Lawson (Policy Officer)

Mary McCrudden (Policy Officer)

Hau Wong (Assistant Analyst)

Ben Lumsdaine (Graduate)

Mary Abi-Younes (Administrative Officer)

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ISSN 1326-1770

Published in September 2007 by the Secretariat to the Professional Standards Councils of New South Wales, Northern Territory, Queensland, South Australia, Tasmania, Victoria and Western Australia.

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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 Attorney General's Department on 02 9228 7507 (after 11 November 2007: 02 8688 7507) (voice), 02 9228 7733 (after 11 November 2007: 02 8688 7733) (TTY - for people who are deaf or have a speech impairment) or diversity_services@agd.nsw.gov.au

Photography by Scott Wajon





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