



**Professional Standards
Council
Western Australia**

**Annual Report
2006 – 2007**

Letter to the Minister

The Hon C Porter MLA
Attorney General

Dear Minister,

We are pleased to present the Professional Standards Council's Annual Report for the period ending 30 June 2007. The report is produced pursuant to Section 17(2) of the *Professional Standards Act 1997 (WA)* and in accordance with the *Financial Management Act 2006* and the *Financial Management Regulations 2007*.



Brian Rayment QC
Chairman
Professional Standards Council

THE COUNCIL'S VISION, MISSION, OBJECTIVES AND STRATEGIES

The Council's vision is to cover professionals and others by professional standards schemes, integrate high professional standards as part of professional practice and increase protection of consumers of professional standards.

The Council's mission is to promote consumer protection and excellence in professional standards by encouraging the self-regulation of occupational groups through *Cover of Excellence* schemes.

The objectives, and strategies for achieving them, are:

- **The adoption and implementation of professional standards legislation in all jurisdictions by:**
 - Supporting the adoption of national professional standards legislation; and
 - Establishing guidelines and policies for Councils in each jurisdiction.
- **Encouraging occupational associations to adopt best practice professional standards by:**
 - Developing best practice guidelines on risk management strategies and professional standards for occupational associations through research and consultation; and
 - Establishing rigorous practical guidance for occupational associations to apply for and administer professional standards schemes.
- **Ensuring the integrity of professional standards schemes by:**
 - Developing policies and procedures to ensure rigorous assessment and evaluation of applications for professional standards schemes and annual reporting requirements; and
 - Developing policies and procedures to ensure meaningful annual risk management reporting by participating occupational associations.
- **Building community awareness and demand for schemes by:**
 - Developing and promoting the use of the Council's trade marks by professionals and others enjoying the benefit of a professional standards scheme; and
 - Improving consumer awareness that professionals and others who enjoy the benefit of a professional standards scheme have made a commitment to engaging in risk management strategies and improving their professional standards.
- **Contributing to law reform to improve professional standards and consumer protection by:**
 - Participating in officers groups responsible for the national implementation of professional standards legislation to identify and recommend necessary legislative amendments.

HISTORY AND PROFILE

The Professional Standards Council is an independent statutory body established and administered under the *Professional Standards Act 1997 (WA)* that provides for the approval and monitoring of professional standards schemes that aim to improve professional standards, protect consumers and limit the civil liability of professional and other occupational groups.

The Western Australian Council was established in 1997. There were no members of the Western Australian Council between 3 July 2004 and 26 June 2005. Councils have been established in New South Wales (1995), Victoria (2005), the Northern Territory (2006), South Australia (2006) and Tasmania (2006). Councils were also established in the Australian Capital Territory and Queensland in 2007 thus covering all states and territories. The Commonwealth has also passed legislation which will allow occupational liability to be limited under the *Trade Practices Act 1974 (Commonwealth)*, the *Corporations Act 2001 (Commonwealth)* and the *Australian Securities and Investments Commission Act 2001 (Commonwealth)*.

All jurisdictions have entered into an intergovernmental agreement whereby all eight Councils will comprise the same 11 members. Each state and territory and the Commonwealth will nominate one member, and NSW and Victoria will nominate two members.

During the past twelve months there have been changes to the composition of the Councils, with the appointment of new members for South Australia and Victoria. The current Chairman since 27 June 2005, Brian Rayment QC, has presided over the changes.

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 made seed funding available to the Councils.

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

ORGANISATIONAL STRUCTURE

Council Members are appointed for up to three years and they are eligible for re-appointment at the expiration of their term. The Attorney General determines the remuneration of Council Members. The allowance consists of a sitting fee for attendance at Council and Committee meetings.

The remuneration of Council Members is \$361 for meetings up to four hours and \$75 for each hour thereafter. The Chairperson is paid \$593 and \$125 respectively. The Chairperson is also paid a retainer of \$2,575 per annum,

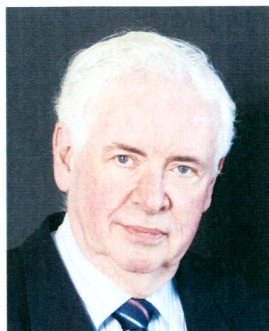
which includes expenses for Council related work. Meetings of the Council

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

The Council met eight times during the 2006-07 financial year. The table below shows Council Member's Attendance during the period.

Current Members	Council Meetings entitled to attend	Council Meetings attended
Esther Alter	8	7
Robert Beaton	8	7
Steven Cole	8	7
Terry Evans	6	6
Ronald Farrell	6	6
Joanne Metcalfe	8	8
Glen Milliner	3	3
Madeleine Ogilvie	8	8
Brian Rayment QC	8	8
Iain Summers	8	8
Warwick Wilkinson	8	8

COUNCIL MEMBERS



Brian Rayment QC BA, LLB Chairman

Brian Rayment was admitted to the Bar in 1970 and practices throughout Australia, specialising in insurance, transport law and general commercial law. From 1972 to 1974 he also 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

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 LLB, BArch (Hons), BSc (Arch), RAIA, ANZIIF (Senior Associate)

Robert Beaton is currently the National Underwriting Manager of Product and Underwriting at CGU Professional Risks Insurance. 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 and efforts to amend the Insurance Contracts Act 1984 (Cth).



Terry Evans LLB, LLM

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 for 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



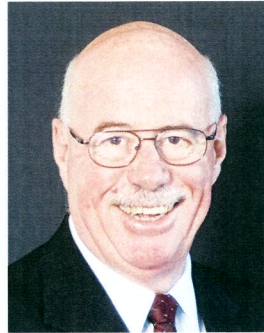
Steven Cole LLB (Hons), FAICD

Steven Cole is a Senior Partner of Allens Arthur Robinson Lawyers, operating from the West Coast office. 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 Law Society of WA, the Australian Institute of Company Directors, the Chamber of Commerce & Industry (WA) and not-for-profit community based organisations.



Joanne Metcalfe B.LArch (Hons), MBA

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



Glen Milliner

Glen Milliner was a member of the Queensland Legislative Assembly from 1977 to 1998. From 1977 to 1989 he served in a number of shadow portfolios including Survey and Valuations, Transport, Housing, Environment, Consumer Affairs, Corrective Services and Administrative Services. Upon a change of government Glen served as Minister for Justice and Corrective Services (1989-1992); Minister for Consumer Affairs (1992-1993); Minister for Corrective Services (1992-1996) and Minister for Administrative Services (1993-1996). He is currently a Director of Knowledge Consulting Pty Ltd.



Ronald Farrell

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, 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.

COUNCIL MEMBERS

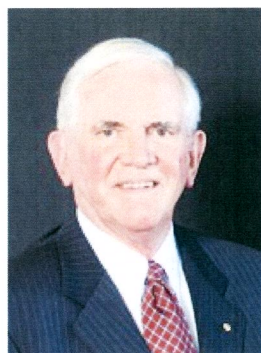


Iain Summers B Comm, FCA, FCPA, FAICD, FAIM

Iain Summers currently provides governance, management, policy evaluation and financial analysis advice and assistance primarily to community services and public sector entities. He is a director of two trading corporations, the chair of the finance and audit committees for each of those corporations, and the chair or member of the audit committees of two public sector entities. Previously, he served as the Northern Territory Auditor-General from 1995 to 2002, held a senior public sector management position from 1993 to 1994 and was a partner of a chartered accountancy firm in Darwin from 1982 to 1992, being its managing partner for the last seven of those years.

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

Madeleine Ogilvie is the principal of the legal practice Ogilvie & Associates 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, telecommunications, infrastructure project advice including tenders, and intellectual property commercialisation. Madeleine is also active in community life as a member of the board of Kidsafe (Tas), founder of the Early Years Parents & Friends (Tas) and provides pro-bono support to a range of Tasmanian not-for-profit organisations.



**Warwick J Wilkinson AM
RFD ED (Hons) M. Pharm. FPS**

Warwick Wilkinson had a professional career in both community pharmacy and the pharmaceutical industry for some 20 years in Sydney. He worked at Merck Sharp and Dohme from 1974 – 1993 where he was Director for 11 years. His previous positions include: National President of the Pharmaceutical Society of Australia and President of both the Australian Council of Professions and NSW Council of Professions. He was the Associate Commissioner of the Australian Competition and Consumer Commission from 1995 – 2005 and the inaugural Chairman of the NSW, WA and Victorian Councils during the period of 1995 – 2005. Warwick is currently the Director of the Australian Institute of Policy and Science and also a lay member of the Disciplinary Committee of CPA Australia.

MEASURABLE ACHIEVEMENTS

Intergovernmental agreement

The Professional Standards Agreement 2005 was endorsed and executed by the Standing Committee of Attorneys General (SCAG) in 2005, and signed by all state and territory Attorneys General and the Commonwealth Minister for Revenue and Assistant Treasurer 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 2006-07, professional standards legislation had commenced in all jurisdictions and Councils were operational in all jurisdictions.

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.

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 Council has 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.

Commonwealth Cooperation

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.

Through close cooperation a template for setting limits of liability for different classes of accounting professionals was developed. 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.

Legislative amendments

Costs-inclusive insurance amendment

The Council conveyed to the Attorney General advice that it has received that Professional Standards Legislation may not allow a person to whom a scheme applies to rely on costs-inclusive policy. Many professionals who have the benefit of a scheme typically hold 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. The Western Australian amendment is expected in 2008/2009.

Mutual Recognition of schemes

The Council has also identified the need for an amendment to the Professional Standards Legislation to allow mutual recognition of schemes across jurisdictions. Such an amendment would enable Professional Standards Legislation to work more efficiently across all jurisdictions. Professionals, associations and the Councils would benefit due to decreased compliance 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 in other jurisdictions in the coming financial year.

Self-funding Councils

The Council has been active in implementing a fee structure which will allow all the Professional Standards Councils to be self-funding. The Council has responded to associations' concerns about the timing of quarterly annual fee payments by requesting amendments to allow fees to be paid at the end of the calendar quarter rather than quarterly based on the anniversary of the commencement of a scheme. Regulations incorporating the proposal commenced on 26 December 2006 in Western Australia. Other states are progressively adopting the amendment.

PLANS FOR THE FUTURE

Work planned to be completed during the 2007/08 financial year includes:

- Completing the review of the Councils' decision-making processes.
- Developing and updating risk management guidelines for associations and revising draft guidelines for associations' annual reporting.
- A review of all other policies, and the adaptation of those policies for each jurisdiction.
- Finalisation of the provision of secretariat services to the Councils through a Service Agreement with the NSW Attorney General's Department.
- Updating the website to include a complaints handling mechanism.
- Continuing to contribute to legislative reform, including monitoring and encouraging the national implementation of the costs-inclusive amendments, amendments to provide for the mutual recognition of all schemes, and consistent regulations on fees and the prescribed form of disclosure.

AUDIT COMMITTEE MEMBERSHIP AND ROLE

The Council has established an Audit and Risk Management Committee pursuant to s14 of the Act.

The objectives of the Audit and Risk Management Committee are to:

- assist the Council to manage its natural risks;
- inform the Council about the Departmental audit requirements; and
- advise the Council on the financial position, budget management and internal controls

PERFORMANCE INDICATORS

The Councils report on performance indicators outlined in the *Financial Management Act 2006* and its associated Regulations. The Treasurer and the Minister may change the performance indicators.

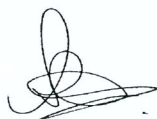
Statement of Certification

We hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Professional Standards Councils' performance, and fairly represent the performance of the Professional Standards Council for the financial year ending 30 June 2007.



Brian Rayment QC
Chairman

June 2008



Steven Cole
Council Member

June 2008



Indicators

Efficiency indicators will be determined once schemes are approved.

There were no schemes active in Western Australia during the reporting period.

Key Output/Service

Outcome	Schemes limiting the civil liability of the members of occupational associations.
Output	Schemes limiting the liability of occupational associations together with approved compulsory insurance, risk management strategies and appropriate provisions for complaints and disciplinary matters in relation to those associations for the protection of consumers of the services produced by the associations.
Description	<p>Schemes are schemes considered and approved by the Professional Standards Council and gazetted by the Minister. The Scheme becomes effective two months after gazettal and thereby limits the civil liability of the members of occupational associations. Schemes, once approved, may continue for a period of up to five years. Annual fees on a per member basis are payable by occupational associations annually.</p> <p>Consumers are protected by a requirement that persons under a scheme have insurance or assets to the approved level; the members engage in appropriate risk management strategies; and by an approved complaints and disciplinary process.</p>
Effectiveness	<p>The impact of schemes on the number of civil liability cases brought against members of occupational associations.</p> <p>Effectiveness of schemes on the occupational associations' perceptions of cost and availability of insurance for members of occupational associations with schemes including:</p> <ol style="list-style-type: none">1. Cost of Insurance (decreasing premium or increasing at a slower than market rate) and/or2. Better value insurance for same premium prices3. Available insurance <p>Consumers protected by compliance with insurance requirements of occupational scheme.</p> <p>As no schemes were in operation for the year ending 30 June 2007, the Council was unable to assess its effectiveness (2006 – nil schemes).</p>
Efficiency	<p><i>Cost per scheme:</i> Approved no schemes for the year ending 30 June 2007.</p> <p>The total administration costs of the Councils were \$11,900.</p>

