



Message from the CEO, Megan Pitt

Welcome to our June newsletter

This quarter marked another period of change in the Uniform Law (UL) world, and not only due to the impact of the COVID-19 pandemic.

In March, the introduction of the Legal Profession Uniform Law Application Bill 2020 (WA) into the Western Australian Parliament was a significant milestone in the expansion of the Uniform Law scheme. In the lead-up to this legislation passing, we will continue to enjoy working with our WA partners and to factor their regulatory experience and perspectives into the work of the Legal Services Council.

In May, I was delighted to be invited to participate in a Uniform Law Forum conducted by the Law Society of South Australia (LSSA) to further examine issues relevant to South Australia's consideration of joining the Uniform Law scheme. The Deputy Premier and Attorney-General of South Australia, the Hon Vickie Chapman MP was involved in this forum, as were other key stakeholders. We look forward to continuing discussions with the LSSA in the coming months.

The COVID-19 pandemic has generated challenges for our Council, Committees, designated local regulatory authorities (DLRAs), stakeholders and the staff of all UL bodies. All responded quickly and efficiently with changes that included implementing remote operations with staff working from home; making changes to conduct admissions electronically; adjusting CPD and PLT workplace experience requirements; authorising online teaching to replace accredited face to face hours and carrying out trust account external examinations remotely.

The professionalism, responsiveness and flexibility of our UL partners in modifying their operations to ensure that legal regulation continues to operation effectively, has been impressive. The LSC has played our part in encouraging a consistent approach to COVID-19 responses across UL jurisdictions.

This edition contains many examples of how the Uniform Law and our stakeholders have adapted to these changes, and have continued to work successfully in this 'new normal'.

Council news

Legal Profession Uniform Law Application Bill 2020 (WA) introduced

On 18 March, the Legal Profession Uniform Law Application Bill 2020 (WA) was introduced into the Western Australian Parliament. The purpose of the Bill is to apply the Uniform Law in WA, bringing Australia another step closer to having a national legal profession.

The Uniform Law has been operating in NSW and Victoria since 1 July 2015 and currently regulates around 68 per cent of all legal practitioners Australia-wide. When Western Australia joins the scheme, this will increase to 76 per cent of the profession nationally.

The LSC would like to acknowledge the enormous amount of work that has gone on behind the scenes – by the Standing Committee including the WA Attorney General, the Hon John Quigley MLA; the WA Solicitor General, Joshua Thomson SC; the Legal Practice Board of WA; the WA State Solicitor's Office; WA legal professional bodies; the DLRAs; the NSW and Victorian Departments of Justice; our stakeholders and our small Secretariat – all have worked together to help achieve this significant milestone.



L-R: Hon John Quigley MLA, WA Attorney General, and Mr Joshua Thomson SC, WA Solicitor General

The LSC looks forward to continuing to work with all parties in the lead-up to WA joining the Uniform Law scheme.

Council meeting on 7 May

On 7 May, the LSC considered a report on the consultation paper on proposed amendments to the Uniform Law and endorsed a number of modifications to the proposals. DLRA representatives from the Law Society of NSW (LSNSW), the Victorian Legal Services Board and Commissioner (VLSB+C) and the NSW Bar Association participated in the discussion by teleconference, their contributions proving valuable to the Council.

Murray Hawkins, Director Regulatory Policy and Research, Law Council of Australia (LCA) also attended the meeting to provide an overview of the LCA's draft report on its review of the Australian Solicitors Conduct Rules. The review has resulted in several proposed rule changes, including harmonisation with the Barristers' Conduct Rules, and informed consent in the context of conflict of duties.



L-R: Murray Hawkins, LCA and Chelly Milliken, LSC

The Council also encouraged continued discussion between DLRAs about the eConveyancing draft guideline prepared by VLSB+C.

Admissions Committee and Law Admissions Consultative Committee

On 19 March, the first meetings of the Council's Admissions Committee (AC) and Law Admissions Consultative Committee (LACC) for 2020 were held by teleconference.

In October 2019, the Council of Chief Justices of Australia and New Zealand decided that the AC and LACC should have as many members in common as possible. Following the resignation of the Hon Justice Kyrou from the AC, the AC and LACC now have five people in common: the Chair, the Hon Acting Justice Arthur Emmett AO, the Hon Justice Patricia Henry, the Hon David Habersberger SC, the Hon Justice Rene Le Miere and Professor Lesley Hitchens, GAICD.

At the AC meeting, the Chair noted the important contribution of Justice Kyrou and welcomed new members. The AC resolved to undertake a scoping study on whether LACC's revised subject descriptions should be adopted into Sch 1 of the Legal Profession Uniform Admission Rules 2015.



The Hon Acting Justice Arthur Emmett AO, Chair of Admissions Committee and Law Admissions Consultative Committee

At the LACC meeting, the Chair expressed appreciation of the significant contribution of the former Chair, Professor Sandford Clark; welcomed the new members; informed the meeting about the AC meeting matters and reported that the LSC would provide Secretariat services to LACC.

Both meetings considered the effect of COVID-19 on admissions matters, including ceremonies, the inability of law course and PLT providers to comply with the face to face teaching component of their accreditation; and PLT students

experiencing difficulty completing a requirement of three weeks' workplace experience. Members were encouraged to share strategies, with the LSC Secretariat acting as a central repository and dissemination point for COVID-19 admission issues.

The on-going collaboration between the AC and LACC ensures that policies and procedures relating to admission are consistent, uniform and transparent throughout Australia.

Working with our stakeholders

Lawcover Claims Prevention Seminar

On 6 March, Bridget Sordo, LSC Senior Executive Officer, attended the 13th annual Lawcover seminar conducted by four senior Lawcover officers and six experienced legal practitioners who reviewed recent claims through a risk management lens.

The sessions were both practical and thought provoking, using case studies covering the most claims-prone areas of law. It is unsurprising that conveyancing, litigation, commercial law, probate and Wills continue to attract the highest number of claims. The session on cyber fraud and hacking was also particularly instructive.



L-R: Jen McMillan, Lawcover Legal Risk Manager, Bridget Sordo and Janice Purvis, Lawcover Practice Support Services Manager

Policy meetings with NSW and Victorian Departments

On 17 March, Megan Pitt and Chelly Milliken, LSC Senior Principal Policy Officer, hosted a teleconference with Michelle Gardiner, Kajhal McIntyre and Jonathen Rose from the NSW Department of Communities and Justice (DCJ). Discussion topics included the Uniform Law First Priority Amendments Project, the WA Uniform Law Project, the review of the managed investment scheme rules and the Department's role in relation to these projects.

On 5 May, Megan and Chelly hosted a teleconference with Michelle and Kajhal as well as Brittany Quayle and Lauren Schultz from the Victorian Department of Justice and Community Safety (DJCS), to discuss the First Priority Amendment Project and five year review of the Uniform Law.

Finance meeting

The Secretariat regularly meets with Ken Chaves, Strategic Finance, DCJ Finance Business partner to the LSC, to review the Council's financial statements, ensure compliance with auditing requirements and discuss any issues raised by the LSC Audit and Risk Committee, as part of its oversight role.



On 20 March, Ken provided the Secretariat with a useful month end check list to ensure that expenses incurred during the year are accrued if not invoiced at 30 June.

Work also commenced on a position paper outlining the approach to be taken under the new accounting standard AASB 16, regarding the LSC lease with NSW Trustee and Guardian, and how the lease arrangements will be reflected in the LSC's financial statements.

Meeting with Acting Deputy Secretary, NSW DCJ

As NSW is the host jurisdiction for the Legal Services Council and Commissioner, our office is in NSW and we are supported by the Law Reform and Legal Services Division of the NSW Department of Communities and Justice. Accordingly, Megan Pitt regularly meets with the Deputy Secretary of that Division to discuss relevant issues.

On 12 May, Megan met with the newly appointed Acting Deputy Secretary Paul McKnight to update him on the work of the LSC and discuss priorities for the next six months. In April the former Deputy Secretary Kathrina Lo, with whom Megan met regularly, was appointed as the NSW Public Service Commissioner and we wish her all the best in her new role.



L-R: Acting Deputy Secretary Paul McKnight and Former Deputy Secretary Kathrina Lo

Uniform Law presentation to the NSW LRLS Executive

On 27 May, Megan Pitt gave a presentation to the Executive team of the Law Reform and Justice Division of the NSW Department of Communities and Justice about the Uniform Law framework the LSC's achievements and current and future priorities.

The meeting was hosted by the Acting Deputy Secretary Paul McKnight and the group included representatives from the Department and various NSW Justice bodies including Lida Kaban, General Counsel, Legal; Andreas Heger, A/Executive Director, Policy, Reform and Legislation; John McKenzie, NSW Legal Services Commissioner; Elizabeth Wing, Executive Manager, Anti-Discrimination NSW; and Ruth Heazlewood, Chambers Manager, NSW Public Defenders Office.

This presentation was a useful way to raise awareness about the Uniform Law within the NSW Government and relevant Justice organisations.

DLRA meetings

On 23 March, the first Designated Local Regulatory Authorities (DLRA) teleconference for 2020 was attended by John McKenzie, NSW Legal Services Commissioner; Heather Moore and Anthony Lean, LSNSW; Greg Tolhurst, NSW Bar Association; Libby Fulham, Legal Practice Board WA (LPBWA); and Russell Daily, WA Legal Profession Complaints Committee.

Megan Pitt encouraged DLRA's to share their experiences, strategies and responses to COVID-19 issues with the LSC and each other, in order to provide a coordinated and consistent approach to these issues in Uniform Law States.



L-R: John McKenzie, Greg Tolhurst, Megan Pitt, Fiona McLeay

On 14 May, Megan Pitt hosted another meeting with the DLRA's from NSW, Victoria and Western Australia, as part of this regular series of meetings. Attending were Fiona McLeay, Victorian Legal Services Commissioner; Kerri-anne Millard, VLSB+C; Heather Moore, Anthony Lean, John McKenzie, Greg Tolhurst; Libby Fulham and Russell Daily.

Topics discussed included a report on the recent LSC meeting, DLRA's policies, guidelines and directions, various VLSB+C initiatives, the LSNSW's National Profile of Solicitors 2020, the upcoming Sydney CORO conference and an update on WA joining the UL scheme.

WA Uniform Law Project Team meeting

On 23 March, the LSC hosted by teleconference the first meeting of the WA UL Project Team. Attending were John McKenzie, OLSC; Heather Moore, LSNSW; Natalie Neal VLSB+C; Libby Fulham, LPBWA and Russell Daily; Michelle Gardiner and Kajhal McIntyre NSW DCJ; and the Victorian DJCS, Lauren Scholz.

The WA UL Project Team discussed the introduction of the *Legal Profession Uniform Law Application Act (WA)* and other key updates to the project schedule.



L-R: Libby Fulham and Russell Daily, LPBWA

Law Society of South Australia Uniform Law Forum

On 4 May, the Law Society of South Australia (LSSA) conducted a Uniform Law Forum to discuss issues relevant to South Australia's consideration of joining the UL scheme. The Forum was chaired by the LSSA's President, Tim White, and arranged by its Chief Executive, Stephen Hodder. Attending were members of the LSSA Council, its Committees and managing partners.

Rosalind Burke, LSSA's Director (Ethics and Practice), gave an informative presentation, providing an overview of the UL scheme and the issues identified by South Australia as requiring further consideration.

Members of a panel comprising the Deputy Premier and Attorney-General (SA), the Hon Vickie Chapman MP; Michael Tidball, CEO LSNSW; Graeme Arnold (Arnold Costs Solicitors); Megan Pitt, LSC; John McKenzie, OLSC and Greg May, Legal Profession Conduct Commissioner (SA), gave individual presentations and answered questions from the audience.



L-R: The Hon Vickie Chapman MP, Tim White and Stephen Hodder

This forum was a valuable opportunity to discuss issues relevant to South Australia and the Uniform Law. The LSSA has convened working groups to further consider key issues over the coming months.

COVID-19 issues

CPD compliance

On 6 March, the LSNSW contacted the LSC seeking urgent assistance regarding the impact of COVID-19 on the ability of solicitors to comply with CPD requirements by 31 March. The LSC, the LSNSW and VLSC+V collaborated to develop consistent guidance for the profession, which was issued on 13 March in NSW and on 17 March in Victoria. A similar approach was taken in Western Australia.

External examinations of trust accounts

On 13 March, CPA Australia contacted the LSC about the potential impact of COVID-19 on deadlines for trust money statements (30 April) and external examination reports (31 May). The LSC liaised with the LSNSW and VLSC+V and both regulators agreed that it was not necessary to postpone the examinations. However, alternate arrangements have been made enabling 'virtual' examinations in which scanned documents are sent to the external examiner.



Admissions

On 30 March, the LSC contacted the Legal Profession Admission Board of NSW and Victorian Legal Admissions Board to suggest that they coordinate their response to COVID-19 admission-related issues. The Boards agreed, facilitating a consistent approach in NSW and Victoria.

The LSC also shared the coordinated responses of the Uniform Law Admissions Authorities with their counterparts in the non-participating jurisdictions, in order to promote national consistency.

Recent consultations

Proposed amendments to the Uniform Law

On 7 May, the LSC considered the submissions received about proposed amendments to the Uniform Law, and in response, modified a number of recommendations. Council reported to the Standing Committee on the outcome of the consultation and awaits its response.



Uniform Rules

Uniform General Rule 111A on Indexation

Since 1 July 2019, the rule on Indexation, rule 111A of the Legal Profession Uniform General Rules 2015, has applied to sections 291-293 of the Uniform Law and section 99 of the *Legal Profession Uniform Application Act 2014* (Vic). The rule ensures that the Legal Services Commissioners and the Victorian Civil and Administrative Tribunal maintain their jurisdiction to determine costs disputes in line with inflation.

The Legal Profession Uniform Law (Indexed Amounts) Notice 2020 shows the actual indexed amounts that will apply to sums of \$10,000 (\$11,665); \$100,000 (\$116,635) in the Uniform Law; and \$25,000 (\$29,160) in the Victorian Application Act from 1 July 2020 to 30 June 2021. The calculation of the indexed amounts is based on the latest CPI number published by the Australian Statistician and in accordance with rule 111A.



Secretariat news

Farewell Julia !

Julia Langham left the Secretariat at the end of May after three years in the role of Communications Officer. Julia supported the LSC in all communication matters including our annual reports, website, newsletters and press releases. We wish her all the very best for the future.



For more information

Visit the LSC website: www.legalservicescouncil.org.au

Or contact us at lsc@legalservicescouncil.org.au