

Western Australian Bar Association

President's Report 2014

Bar Council

The following members elected on 5 December 2013 comprised the Bar Council during 2014:

President:	Peter Quinlan SC
Vice President:	Matthew Howard SC
Members:	Stephen Davies SC
	Elsbeth Hensler
	Mark Holler (resigned February 2014)
	Kim Lendich
	Belinda Lonsdale
	Paul Mendelow
	Tina McAulay (resigned September 2014)
	Hylton Quail
	Sarah Russell
	Michael Rynne
	Marco Tedeschi (appointed February 2014)
Secretary	Tina McAulay
	Kim Lendich (from November 2014)
Treasurer	Mark Holler (until February 2014)
	Hylton Quail (from March 2014)

Disciplinary Committee

Gail Archer SC was elected a member of the Disciplinary Committee at the December General Meeting held on 5 December 2013, joining Laurie Levy SC and John Ley as other members of the Committee

Bar Council

Monthly Meetings

Bar Council met on 11 occasions between December 2013 and November 2014

Committees

Bar Readers' Course	Elsbeth Hensler, Paul Mendelow and Michael Rynne
Best Practice Forum	Peter Quinlan SC, Katrina Banks-Smith SC and Sarah Russell
CPD Autumn Festival	Stephen Davies SC, Belinda Lonsdale and Hylton Quail
CPD Annual Conference	Stephen Davies SC, Kim Lendich and Tina McAulay

Essential Trial Advocacy Course	Matthew Howard SC – Course Director
Intermediate Advocacy Course	Matthew Howard SC and Sam Vandongen SC
Members' Welfare - Group Life Insurance	Peter Quinlan SC & Sarah Russell
Professional Standards Scheme	Peter Quinlan SC, Sarah Russell & Tina McAulay
Professional Indemnity Insurance	Peter Quinlan SC
Pro Bono	Elspeth Hensler & Natasha Breach
Secretary	Tina McAulay and Kim Lendich
Treasurer	Mark Holler and Hylton Quail
Women at the Bar	Matthew Howard SC, Elspeth Hensler & Belinda Lonsdale

Included in Bar Council's initiatives implemented during 2014 was a proposal to circulate President's Reports to members throughout the year.

The purpose of the reports is to keep members informed about -

- key issues being considered by Bar Council;
- notices, news, important issues relevant to practising at the Bar;
- coming events - CPD seminars/conferences and functions conducted by the Association, and external conferences and events;
- requests for submissions/comments received by the Association;
- details of ceremonial sittings;
- new members of the Association;
- principal matters arising from meetings of the Australian Bar Association, and the Law Council of Australia, which are attended by the President/Vice President, or an appointed member of Bar Council;
- matters that may be of general interest.

Bar Council also sought input from members concerning matters that should be considered by Bar Council or communicated to members, or initiatives that could be implemented that might better serve the needs of members. A number of submissions were made for consideration by Bar Council. One such submission reiterated the importance of the Senior Bar in fostering collegiality.

Appointment to the role of Senior Counsel, of course, carries with it a number of responsibilities, including being available to provide advice and support to other members of the Bar, and indeed the legal profession more widely. As this role may not be as widely understood amongst newer members, it was resolved that I should reiterate to all members of the Association that they should not feel reticent about approaching silks, and other senior barristers, when in need of assistance, guidance and support. In addition, with the support of Bar Council, I wrote to all existing silk members seeking their assistance in making that support available in their respective chambers and floors of chambers.

Bar Readers' Course

The Bar Readers' Course is now well established as an important part of commencing practise at the Bar in this State, and is designed to ensure that members meet the recommended Australian Bar Association standards.

Once again, many members of the Bench and senior members of the Bar willingly contributed their time and energy as Presenters and/or Course Coordinators. Their support ensures the ongoing success of the BRC and is greatly appreciated by both the Association and participants.

Conducted over 6 weeks during May and June, 15 new members completed one or more of the modules of the BRC this year.

A function to mark the closing of the BRC, award certificates and present prizes to the best performed readers was held on 29 July. Congratulations once again to Edward Greaves who was awarded the Chief Justice's prize for the best performed reader in the Ethics, Evidence, and Jurisdiction and Procedure modules. There was a two-way tie in the Essential Trial Advocacy Course, with Edward Greaves and Nathan Landis awarded prizes for the best performed readers.

Sincere thanks to LexisNexis for their continued sponsorship of the BRC, and to all involved in the BRC, particularly Elspeth Hensler, Paul Mendelow and Michael Rynne who were responsible for coordinating the BRC.

Essential Trial Advocacy Course

The ABA Essential Trial Advocacy Course (ETAC) is widely recognised throughout Australian Bars. The success of the ETAC is, in no small part, due to the effort and commitment which members of the bench and senior members of the Bar have been prepared to make.

Organisation of the course alternates between the WABA and the South Australian Bar Association (SABA). This year, the ETAC was hosted by the SABA between 30 June – 4 July. There were 12 new members from WA who attended this year's ETAC. Katrina Banks-Smith SC, Craig Colvin SC, Stephen Davies SC, Matthew Howard SC and I joined current and former members of the South Australian judiciary and senior members of the SABA and other Australian Bars on the coaching faculty. Their contribution as coaches was invaluable to this year's participants, and their efforts are greatly appreciated by the Association.

Special thanks to Matthew Howard SC for his work on the organising committee.

The course will be held in Perth next year.

CPD Seminars

The Autumn Festival of CPD is now a regular feature in the Association's CPD programme.

Held over 5 days from 24-28 March, the Festival is a popular event that enables members who have not acquired the requisite 10 CPD points, to do so prior to the conclusion of the 'CPD period'.

Many thanks to all those involved in the *Autumn Festival*, particularly, Stephen Davies SC, Belinda Lonsdale & Hylton Quail, for their work in arranging an excellent programme.

CPD Conference

Held on Wednesday, 22 October on Level 31 Allendale Square, the conference commenced at noon with an excellent session on Risk Management. The Communication Workshops and Mindfulness sessions followed and were, as I indicated at the start of the conference, an attempt to more creatively address the objectives of the CPD program.

Psychological stress and depression are an ever increasing problem in the legal profession, including the Bar. Offering a session to members in relation to mindfulness or meditation as a technique to address the stresses of current legal practice was an attempt at addressing this very real problem. Taking such an approach inevitably involves risks, but the sessions, particularly the Mindfulness sessions, were I thought successful and generally well received.

The conference concluded with excellent presentations in the Ethics sessions during dinner by Grant Donaldson SC, Michael Nicholls QC, Tom Percy QC and Marcus Solomon SC.

Many thanks to all who participated as speakers, and to Stephen Davies SC, Kim Lendich and Tina McAulay for their work in compiling an excellent programme.

Bar Council is always open to suggestions from members as to improvements to the CPD Conference and any new initiatives that might be explored for next year's conference.

Pro Bono

The work undertaken by Elspeth Hensler and Natasha Breach in assessing and coordinating pro bono requests received by the Association, is outstanding. Their efforts, for which we are truly grateful, ensure the prompt and efficient processing of requests.

The Association has continued to work closely with Law Access and community legal centres in coordinating and providing pro bono assistance.

Elspeth has also represented the Association at meetings convened by the Law Society and others to consider the feasibility of establishing a pro bono clearing house in Western Australia to better coordinate pro bono services.

The response from members to pro bono requests is commendable; it is heartening to note that we are rarely required to re-circulate requests due to a lack of response, and more often than not receive multiple offers of assistance from members.

In 2014, of the 76 formal inquiries received, assistance was provided in 48 matters.

Sincere thanks to all members who offered and/or provided assistance in these matters.

Representation of Practitioners before the LPCC and SAT

In 2011, the Association established a register of members available to advise and appear for practitioners who are the subject of complaint to the LPCC and SAT.

During the past year, the Association received requests from 11 legal practitioners seeking assistance in relation to complaints to the LPCC and SAT.

WABA Membership of Committees

Civil Practice Consultation (Craig Colvin SC, Katrina Banks-Smith SC, John Ley, Wendy Gillan and Brendan Ashdown)

Australian Bar Association – Women at the Bar (Elsbeth Hensler)

Legal Profession Reform Committee (Hylton Quail)

ATO Legal Practitioners Forum (John Hockley)

LCA Judicial Issues Working Group (Kanaga Dharmananda SC)

Old Treasury Building Library (John Hockley)

Functions

- President's At Home on 8 December 2013
- Informal Lunch for Prospective Women Barristers held on 13 March 2014 on Level 31, Allendale Square
- Bar and Bench Dinner held on 19 September 2014 at Mosmans Restaurant

Judicial Welcomes and Special Court Sittings

Special sitting to welcome Justice Jeremy Curthoys, Supreme Court, 14 February 2014 (Peter Quinlan SC)

Speech to farewell Justice Christopher Pullin, Supreme Court, 30 April 2014 (Peter Quinlan SC)

Special sitting to welcome Justice Robert Mitchell, Supreme Court, 15 October 2014 (Peter Quinlan SC)

Special sitting to welcome her Honour Judge Vicki Stewart, District Court, 29 October 2014 (Peter Quinlan SC)

Special sitting to pay tribute to the late the Honourable David K Malcolm AC CitWA QC, Supreme Court, 19 November 2014 (Peter Quinlan SC)

Submissions

Submissions on the following topics were made on behalf of the Association.

- Review of Legal Practitioners (Supreme Court) (Contentious Business) Determination 2012; Legal Practitioners (District Court Appeals) (Contentious Business) Determination 2012; Legal Practitioners (Supreme Court and District Court) (Contentious Business) Determination 2012
- Chief Justice's Gender Bias Taskforce Report re Part-time Judicial Appointments
- Proposal with Respect to Orders that Each Party Bear Their Own Costs in a Limited Class of Cases
- Invitation to Public Hearing (held on 10 September) - Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples

New Members

The following new Members were elected to the Association:

Jason Francis RAFTOS

Darren Bruce SOUTH

John Patrick TARRANT *

Brian Arnold MILLAR
Stephen John HOWELLS *
Edward William Ley GREAVES
Nico BURMEISTER *
Thomas James PORTER
James Edward SCOVELL
Neil Francis MORRISSEY
Adam David HILLS-WRIGHT
Vicky Marie PRISKICH *
Julian Louis SHER
Bridie Kathleen NOLAN *
Jessica Lorraine Walker HENDERSON
Nolan Cormac SHARKEY *

(* Interstate Member)

Judicial Members

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Honorary Members

The following former members were elected as Honorary Members

Ros Fogliani
The Hon Christopher Pullin QC
Robert Richardson

Membership

There are currently 241 members, of whom 203 are local members. Of the local members, there are 39 women and 164 men. There are 4 women and 30 men practising as Senior Counsel in Western Australia who are members of the Association.

Distinguished Service Award

Established to recognise and acknowledge a member or members who have significantly contributed to the objects of the Association, the inaugural award was announced at the Bar and Bench dinner held on 19 September. Elspeth Hensler and Natasha Breach were the worthy recipients of the award for their contributions to pro bono work at the Bar, both on behalf of all members of the Association, and the community in general. The contribution by Elspeth and Natasha is significant, and they are commended for their valuable work.

Professional Standards Council

The Association's Scheme under the *Professional Standards Act 1997 (WA)* (Act) commenced on 1 July 2014. The Scheme will remain in force for 5 years from its commencement and will operate as a Scheme of Western Australia, New South Wales, Queensland, South Australia, Victoria, the Australian Capital Territory and the Northern Territory.

The Scheme will apply to all members of the Association (as set out in cl. 2.1 of the Scheme) and will, subject to the provisions of the Scheme, limit the liability of members to whom the Scheme applies (**Scheme Participants**) to damages in the amount of \$2 million. (The Scheme does not apply to Interstate, Honorary, Judicial, Magistrate or Ex Officio members of the Association.)

The decision to award a professional association with a Professional Standards Scheme that limits liability is awareness that we, as an association, are committed to the Professional Standards Legislation and that members are committed to protecting clients and improving professional standards.

Being covered by a Professional Standards Scheme also means that the Association and Scheme Participants are required to meet statutory obligations. All members play a vital role in ensuring these obligations are met.

A Professional Responsibility Committee (PRC) has been established as a standing committee of Bar Council for the purpose of assuming overall responsibility for administration of the Association's Professional Standards Scheme. The PRC will comprise the President, Vice President and Secretary on an ongoing basis, and one other member of the Association co-opted each year. The PRC presently comprises Matthew Howard SC, Sarah Russell, Kim Lendich and me.

Group Life Insurance Scheme

The Suncorp Group Life Insurance Scheme (Scheme), implemented by the Association in July 2012, continues to be available to new members.

Effective from 2013, new members are informed of their entitlement to the Scheme, the premium for which will be added (as a separate item) to the annual subscription invoices issued to members. If new members do not wish to participate, they may opt out.

Members have raised issues as to whether, and how, the Scheme might be extended. We are in the process of addressing those issues in consultation with Suncorp and its broker, Peter Steele from MLIG.

The Constitution of the Western Australian Bar Association

At a Special General Meeting held on 26 May 2014, a motion to amend the Constitution to provide for the Association's Professional Standards Scheme was unanimously carried.

Sponsorship

LexisNexis continue their involvement as sponsor of the Bar Readers' Course. We are grateful for their ongoing support.

The Association provided sponsorship to AustLII of \$5,000.

Finances

Many thanks to Mark Holler and Hylton Quail for their work as Treasurer. Though still modest, the Association's financial position remains sound.

General Meetings

A special General meeting of the Association was held on 26 May. The Association's Annual General Meeting was held on 29 October.

Australian Bar Association

Peter Quinlan SC attended ABA meetings held on 4 February, 2 May, 26 July, 20 September (held in Perth) and 22 November.

Law Council of Australia

Hylton Quail attended Directors' meetings of the Law Council on 15 March, 14 June and 6 September, as an alternate Director for the President.

Members of Council

I record my thanks to all members of Council for all their hard work and support during the year.

Peter Quinlan SC
President