

Western Australian Bar Association

President's Report 2016

It has been my privilege to serve as President of the Association over the last year.

I have attached to this Report a longer, more comprehensive "Operations Report" for the Association.

The following are things which I consider to be deserving of special mention.

In the last year Bar Council has established, more formally, some sub-committees. The intention is that such sub-committees will continue beyond the life of any one Bar Council and will provide greater continuity for the initiatives and the activities of the Bar.

The sub-committees established include:

- Education;
- Diversity;
- Wellbeing;
- Access to Justice; and
- Promotion of the Bar.

Bar Council has resolved to undertake a strategic planning program. The first phase of that will be to seek members' feedback which will then be used to develop the next stage of the planning. It is hoped that through such a planning process the Association can better understand and meet members' expectations and requirements.

The Association, in general meeting, has supported, in principle, the Model Equitable Briefing Policy of the LCA and will, like other Bars within the ABA, look to its implementation of it during the next year.

The Association, in general meeting, also adopted the LCA's Diversity and Equity Charter.

The Association has created, with the Supreme Court of Western Australia, an Indigenous Clerkship program. An Indigenous law student (or pre-law student) will spend two weeks with members of the Association and then a week as a "shadow" Associate to a Supreme Court Judge.

It is expected that this will first occur in the Semester break in 2017. Unfortunately, logistics have prevented the program starting at the end of the 2016 academic year.

As part of the Ethics component of the Readers' Course, readers this year were required to undertake unconscious bias training. That session was not limited to readers and a number of other members participated as well.

The Association is the first Bar in Australia to mandate such training.

This year has seen the introduction of the weekly bulletin “Without Prejudice”. It is hoped that this has assisted with the dissemination of information to members in one “bite sized” bulletin.

The Association is very well served by many members who give up hours of their time to run or be involved in the work necessary for the Association’s activities. The Association is also very well served by its Executive Officer, Debbie Cole and by its Administration Assistant, Karen Knox. On behalf of the Association, I thank them all warmly for their continued and stellar work.

Matthew Howard SC

OPERATIONS REPORT

Bar Council

The following members elected on 28 October 2015 comprised the Bar Council during 2015/2016:

President:	Matthew Howard SC
Vice President:	Stephen Davies SC
Members:	Katrina Banks-Smith SC (* appointed to the Supreme Court July 2016) Geoff Hancy Elspeth Hensler Rachel Oakeley Darren Renton Clinton Russell Sarah Russell Maria Saraceni
Secretary	Asanka Gunasekera
Treasurer	Terry Palmer

Bar Council met on 10 occasions for scheduled monthly meetings between November 2015 and September 2016.

A special meeting of Bar Council was held on 6 September 2016 to discuss longer term matters such as:

- the strategic direction of the WABA over the next 3 years;
- development of a plan for implementing agreed strategies; and
- review current initiatives, including the standing committees in the last year.

General Meetings

Special General meetings of the Association were held on 9 December 2015, 30 March 2016, and 4 July 2016. The Association's Annual General Meeting will be held on 25 October 2016.

Committees

Access to Justice	Elspeth Hensler, Natasha Breach, Justin Edwards and Fraser Robertson
Bar Readers' Course	Review Group/Organising Committee: Marcus Solomon SC, Sarah Russell, Clinton Russell, Rachel Oakeley, Simon Davis & Helen Tiplady
CPD Autumn Festival	Elspeth Hensler, Sarah Russell & Darren Renton
CPD Colloquium for French CJ	Matthew Howard SC & Henry Jackson

Disciplinary Committee	Paul Yovich SC was elected a member of the Disciplinary Committee at the Annual General Meeting held on 28 October 2015, joining Gail Archer SC and John Ley.
Diversity at the Bar	Matthew Howard SC, Katrina Banks-Smith SC (until July), Asanka Gunasekera, Rebecca Lee & Wendy Gillan (since July)
Essential Trial Advocacy Course	Matthew Howard SC
Group Life Insurance	Sarah Russell
Members' Wellbeing	Terry Palmer, Clinton Russell and David Blades
Pro Bono	Elsbeth Hensler & Natasha Breach
Professional Indemnity Insurance	Peter Quinlan SC & Geoffrey Hancy
Professional Standards Scheme	Matthew Howard SC, Stephen Davies SC Sarah Russell & Asanka Gunasekera

Bar Readers' Course

A comprehensive review of the Bar Readers' Course (BRC) was undertaken earlier this year by a committee chaired by Marcus Solomon SC. The review did not result in any wholesale changes but provided an opportunity to consider the inclusion of some new topics and presenters.

Presenters were also invited to a short "information" session to discuss important aspects of the course and its objectives, and the sharing of ideas for the improvement of the course.

This year's BRC was conducted over 8 weeks during May and June, with 17 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 9 August. Congratulations once again to Peter Ward who was awarded the Chief Justice's prize for the best performed reader in the Ethics & Practice, Evidence, and Jurisdiction & Procedure modules, and to Rachel Joseph who was awarded the prize for the best performed reader in the Essential Trial Advocacy Course.

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.

Sincere thanks to LexisNexis for their continued sponsorship of the BRC, and to all involved in the BRC.

Essential Trial Advocacy Course

This year, the ETAC was run by the SABA between 27 June and 1 July. There were 13 new members from WA who attended this year's ETAC. Gail Archer SC, Martin Cuerden 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.

The course will be held in Perth next year from 10-14 July.

CPD - Autumn Festival

Held over 6 days during February and March, this year's Autumn Festival commenced with a presentation during dinner by the Hon John Mansfield AM. The programme also included presentations on:

- *Identifying and understanding Mental Health* by Marie Jepson;
- *Statutory Unconscionable Conduct* by Kim Lendich, Faith Cheok and Tim Massey;
- *Regulating Barristers: risks, prosecuting, defending, supporting* by Katrina Banks-Smith SC and Martin Cuerden SC
- *Effective information security* by Tony Sutherland
- *Foetal Alcohol Spectrum Disorder and its consequences on the justice system* by Chief Justice Wayne Martin AC, Magistrate Catherine Crawford (Chair) Dr Tamara Tulich, Dr Raewyn Mutch, and Amanda Forrester

CPD Conference 2016

This year, the French Colloquium will be held in place of our annual CPD conference. The Colloquium, which will be held ahead of His Honour's retirement as Chief Justice early in 2017, is scheduled to take place on Thursday, 24 November 2016 at the University of Western Australia, and will be followed by a Dinner with Chief Justice French as the guest of honour, at Frasers Restaurant.

The Colloquium will bring together distinguished speakers who will trace his Honour's influence in certain areas of the law, as well as key areas of the law developed by the "French" High Court.

CPD Seminar – *The Australian Bar Association – current projects and new challenges*

ABA President, Patrick O'Sullivan QC spoke to members on a range of matters including: current work and initiatives being undertaken by the ABA; challenges for the Bar going forward; and international legal markets, with particular focus on Asia. The seminar on 8 September 2016 was followed by drinks with members.

Diversity at the Bar

Diversity and Equality Charter

The *Diversity and Equality Charter*, developed by the LCA, is a statement of principles to acknowledge publicly a commitment to diversity and equality by the Australian legal profession.

I am pleased to report that at a Special General Meeting held on 9 December 2015, there was unanimous support for adoption of the Charter. By adopting the Charter the Association is making a commitment to building and maintaining diversity and equality, which in the first instance will be implemented through the work of the Diversity Sub-Committee of Bar Council.

National Equitable Briefing Policy

The *National Equitable Briefing Policy*, developed by the LCA and the ABA, was adopted in principle by the Association at a Special General Meeting held on 30 March. At a meeting held on 22 June 2016, Bar Council endorsed the revised Equitable Briefing Policy, and through its Diversity Sub-Committee, is working on initiatives to promote and implement the Policy.

Pro Bono

Over the past 12 months, the Association received 17 requests from members of the public which were referred to Law Access and/or other organisations for assessment/further assistance.

In addition, the Association received 39 requests which were assessed as meeting the criteria for pro bono assistance. Of the 39 requests circulated to members, assistance was provided in 28 matters, and in most matters multiple offers of assistance were received from members.

While most requests for pro bono assistance received by the Association from individual members of the public are redirected to Law Access for assessment, the Association continues to accept referrals/requests from the Courts, community legal centres, from members of the public seeking family law assistance (in which case, requests are referred to FLAPA), and from members of the public who have approached the Association at the request of their pro bono solicitor.

Elsbeth Hensler and Natasha Breach continue to provide outstanding assistance in assessing and coordinating pro bono requests received by the Association.

Representation of Practitioners before the LPCC and SAT

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

Requests from practitioners were referred to the Vice President, Stephen Davies SC for assessment and referral.

During the past year, the Association received requests from 16 legal practitioners seeking assistance in relation to complaints to the LPCC and SAT.

Indigenous Clerkships

Bar Council resolved to offer annually two, 3 week paid clerkships to indigenous students who are studying law at a Western Australian University, or who are intending to study law. It is proposed that the students be allocated to a small number of barristers, after an appropriate induction period. The Chief Justice has indicated that the Supreme Court will participate in the program so that the student would have an opportunity of spending a week of the clerkship as a “shadow” Associate to a Judge.

It is anticipated that the first clerkships will be offered in 2017.

Professional Standards Scheme

The Association’s Scheme under the *Professional Standards Act 1997* (WA) (Act) is now in its second year of operation. As required under the Professional Standards Legislation, the Association submitted is required to submit an annual report to the Professional Standards Councils (PSC) in relation to operation of the Association’s Scheme. The reporting requirements are onerous and a significant amount of time and effort is involved in preparing the report. The administrative burden of Scheme compliance is significant and it is considered impractical not to engage some for external assistance next year. Earlier this year Bar Council approved a fee of \$75 per member (for those participating in the PSS) to cover the cost of engaging external assistance.

Group Life Insurance Scheme

The Group Life Insurance Scheme was taken over by MetLife in 2015 on the same terms as the Scheme offered by Suncorp. Metlife has increased the level of cover to \$300,000.00

Judicial Welcomes and Special Court Sittings

Special sitting to farewell his Honour Judge Allan Fenbury, District Court, 12 February 2016 (Christopher Zelezis QC)

Special sitting to welcome his Honour Judge Michael Gething, District Court, 18 February 2016 (Matthew Howard SC)

Special sitting to farewell the Honourable Justice Jane Crisford, Family Court, 3 March 2016 (Penelope Giles)

Special sitting to farewell his Honour Judge Richard Keen, District Court, 23 March 2016 (Peter Quinlan SC)

Special sitting to welcome the Honourable Justice Richard O'Brien, Family Court, 23 March 2016 (Matthew Howard SC)

Special sitting to welcome his Honour Judge Alan Troy, District Court, 30 March 2016 (Matthew Howard SC)

Special sitting to farewell the Honourable Justice Ralph Simmonds, Supreme Court, 30 June 2016 (Stephen Davies SC)

Special sitting to welcome the Honourable Justice Katrina Banks-Smith, Supreme Court, 22 July 2016 (Matthew Howard SC)

Special sitting of the Supreme Court to mark the occasion of the move of the General Division of the Supreme Court to the David Malcolm Justice Centre, 27 July 2016 (Matthew Howard SC)

Women Lawyers National Conference

The Association was proud to be the named sponsor for the *Australian Women Lawyers* Gala Dinner held during their 6th National Conference in Perth on 8-10 April 2016. The Association is committed to promoting its women members, and is keen to support and encourage women in the legal profession generally, and in particular, those who may be contemplating a career at the Bar. Sponsorship at the AWL National Conference was an excellent opportunity for the Association to demonstrate its commitment.

Functions

- The Bar and Bench Dinner held at the Western Australian Art Gallery on Friday, 12 August was a wonderful night and a great send off for the former President of the Court of Appeal . The support from both the judiciary and members was excellent and genuinely appreciated by The Honourable Carmel McLure AC QC and her family.
- The Association and the Law Society jointly hosted a very successful Gala Dinner marking 10 years of service by the Hon Wayne Martin AC as Chief Justice of Western Australia at the Perth Convention Centre on Friday, 9 September 2016.

Membership

There are currently 241 members, of whom 207 are local members. Of the local members, there are 45 women and 162 men. There are 3 women and 34 men practising as Senior Counsel in Western Australia who are members of the Association.

New Members

The following new Members were elected to the Association:

Antoinette Dorethea Cornelia SMIT
Nolan Cormac SHARKEY
Gary Richard DEAN
Steven CASTAN
Michael James SIMS
Fraser Alexander ROBERTSON
Debbie Glenis TAYLOR
Amanda Rose THACKRAY
Peter Jeffery WARD
Rachel Reena JOSEPH
Helen Alison TIPLADY
Alexander James Cotgrave MOSSOP
Kaminni KUMAR
Sarah Emily MAURIKS
Heather Rose MILLAR
Geoffrey Paul BOURHILL
Carly SLUITER
David Charles JONES
Matthew George Sawers CROWLEY
Marilena BARTOLE
Timothy COYLE
Sarah Jane OLIVER
Damian Anthony CREEDON (to be formally elected)
* Joseph Morris GERSTEN (to be formally elected)

(* Interstate Member)

Honorary Members

The following former members were elected as Honorary Members

The Honourable Eric Heenan QC
The Honourable John McKechnie QC
The Honourable Jane Crisford SC
His Honour Allan Fenbury
His Honour Richard Keen
The Honourable Carmel McLure AC QC (to be formally elected)
The Honourable Ralph Simmonds (to be formally elected)

Judicial Members

The following former members were elected as Judicial Members

The Honourable Justice Michelle Gordon

His Honour Judge Alan Troy

The Honourable Justice Katrina Banks-Smith (to be formally elected)

Matthew Howard SC
President