

Western Australian Bar Association

President's Report 2018

Welcome to my farewell Report:

During one of the rushes of ceremonial welcomes and farewells, I had the following exchange with a member:

Member: you've been very busy with these speeches.

Me: well, the good thing is that they are so remunerative.

Member: oh, that's good.

I would like to say this is one of my favourite anecdotes from my time as President, but it isn't. But it is one which I can tell without breaching a confidence or creating a storm.

The Association has had another busy and productive year.

I am hopeful that as you are reading this, the new website has "finally" gone live. It will be, perhaps, the most tangible of this year's activities; but by no means the only, or most important.

I have attached a more detailed Operations Report for members' consideration.

The Bar in this State is, I think, subject to the most competition of any Bar in Australia. As we have always done, we continue to hold our own in the face of that competition and the challenges of practising in our changing society. There is much, I think, for us to be proud of.

Nonetheless, as we all know, there are constant challenges for the Bar here, including: to grow; to increase the diversity of membership; and increase our inclusiveness, both real and perceived.

It has been my honour and privilege to have been entrusted with the Presidency for the last three years and the Vice Presidency for the three years before that. I have sought to keep that trust at the forefront of my mind.

I have been greatly assisted by Bar Council and various other people who have taken on significant and demanding workloads for the benefit of members. The Association owes a great debt of gratitude, as do I, to those people who are too numerous for me to mention.

There is also a little group of people who have regularly and perhaps (painfully for them) given me the benefit of their ears, wisdom and (unvarnished) advice – you know who you are. Parts of the job at different times would have been much less tolerable without you.

Finally, but in no way lastly, I want to record the Association's and my personal thanks to Debbie Cole and Karen Knox for their huge workload and assistance over the journey. I have had the opportunity to meet CEOs and Executives of most of the Bars around Australia. No Bar is better served than our Association is by Debbie and Karen. While I am not sure how much of the job I will miss, I can say without hesitation that I will miss working with Debbie and Karen on a day-by-day basis. That has been a highlight for me.

Matthew Howard SC

OPERATIONS REPORT

Bar Council

The following members elected on 25 October 2017 comprised the Bar Council during 2017/2018:

President:	Matthew Howard SC
Vice President:	Stephen Davies SC
Members:	Martin Cuerden SC Brahma Dharmananda SC Asanka Gunasekera Geoffrey Hancy Elspeth Hensler Rachel Joseph Rachel Oakeley Terence Palmer Sarah Russell Joel Yeldon
Secretary	Asanka Gunasekera
Treasurer	Martin Cuerden SC

Bar Council met on 8 occasions for scheduled monthly meetings between November 2017 and October 2018.

General Meetings

Special General meetings of the Association were held on 1 May 2018 and 4 September 2018. The Association's Annual General Meeting will be held on 24 October 2018.

Committees

Access to Justice	Elspeth Hensler, Justin Edwards and Fraser Robertson
Bar Readers' Course	Marcus Solomon SC, Co-ordinator
CPD Autumn Festival	Marcus Solomon SC, Co-ordinator
CPD Annual Conference	Marcus Solomon SC, Co-ordinator
Disciplinary Committee	John Ley and Darren Jackson SC were elected as members of the Disciplinary Committee at the Annual General Meeting held on 25 October 2017, joining Paul Yovich SC.
Diversity at the Bar	Rebecca Lee, Paul Yovich SC, Wendy Gillan (until March 2018), Asanka Gunasekera and Rachel Joseph (from March 2018).

Essential Trial Advocacy Course	Matthew Howard SC, Co-ordinator
Group Life Insurance	Sarah Russell
Wellness Committee	Terry Palmer (until December 2017), Clinton Russell and David Blades
Pro Bono	Elsbeth Hensler, and Fraser Robertson
Professional Indemnity Insurance	Geoffrey Hancy
Professional Standards Scheme	Matthew Howard SC, Stephen Davies SC Sarah Russell and Asanka Gunasekera
Referral Service	Stephen Davies SC

Bar Readers' Course

This year's BRC was conducted over 7 weeks during May and June, with 17 new members completing one or more of the modules of the BRC this year.

The Association again conducted an Unconscious Bias Training Workshop as a component of the Ethics and Practice module of the BRC. The Workshop was also open to members and was very well received by those who attended. The training was provided by [Symmetra](#), a specialist international diversity and inclusion consultancy, who were engaged by the Law Council of Australia in December 2016, as the preferred service provider of unconscious bias training for the Australian legal profession.

A function to mark the closing of the BRC, award certificates and present prizes to the best performed readers was held on 18 July. Congratulations once again to Simon Majteles who was awarded the Chief Justice's prize for the best performed reader in the Ethics & Practice, Evidence, and Jurisdiction & Procedure modules, and to Fiona Stanton 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 Essential Trial Advocacy Course (ETAC) was run by the SABA between 2-6 July. There were 12 new members from WA who attended this year's ETAC. Darren Jackson SC, Marcus Solomon SC, Terry Palmer 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 1-5 July.

CPD - Autumn Festival

This year's Autumn Festival commenced with a presentation on *The Bar's role in dispute resolution* by the Honourable James Allsop AO, Chief Justice of the Federal Court of Australia.

The other seminars in the Festival included presentations on:

- *What's happening and what you need to know about costs scales;*
- *Sporting contracts and anti-doping – who said we could get rid of the privilege against self-incrimination?*
- *Did you miss the ILRA amendments? Time to catch up!*
- *Koorah, Nitja, Boordahwan: The South West Settlement*
- *Online Legal Research*
- *Brexit: the fallout*

Sincere thanks to all the speakers for their excellent presentations. Thanks also to Marcus Solomon SC for putting together an excellent program for the Festival.

2018 Spring CPD

Replacing our annual CPD Conference day, the 2018 Spring CPD has combined an excellent mix of topics and speakers, and a 'hands-on' workshop.

Included in the series are presentations on:

- *Terrorism and the Law*
- *Appearing before the Corruption and Crime Commission*
- *Tips from above: the do's and don'ts of presenting before the Court*
- *Conferral between Counsel –ethics and obligations – to each other and the Court*
- *Medical Ethics, Religion and the Law*
- *Workshop on evidence objections*

Diversity and Inclusion at the Bar

Indigenous Clerkships

The second of the Indigenous Clerkships offered by the Association were undertaken during June-July. Tenaiya Dickerson and Tyson McEwan were each allocated to cells lead by Silks, and one clerk served as "shadow" Associate to Justices Lindy Jenkins and Jennifer Smith.

Thank you to all who participated in the first of the clerkships, particularly Patricia Cahill SC, Brahma Dharmananda SC, Marcus Solomon SC, and Stephen Wright SC for taking on the role of cell leaders, and Rebecca Lee who, as Chair of the Diversity Sub-Committee, was responsible for coordinating the clerkships. We are also extremely grateful to the Chief Justice and Judges of the Supreme Court for their support of and willingness to participate in the Indigenous Clerkships.

Pro Bono

Over the past 12 months, the Association received 20 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 84 requests which were assessed as meeting the criteria for pro bono assistance. Of the 84 requests circulated to members, assistance was provided in 55 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 Fraser Robertson continue to provide outstanding assistance in assessing and coordinating pro bono requests received by the Association.

Representation of Practitioners before the LPCC and SAT

The Association continues to receive regular requests from practitioners for assistance through the Referral Service.

The Referral Service was established to formalise the provision of advice to practitioners who are the subject of complaint to the Legal Profession Complaints Committee (LPCC) and the State Administrative Tribunal (SAT).

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

During the past year, the Association received formal requests from 15 legal practitioners seeking assistance in relation to complaints to the LPCC and SAT. Very many more requests for assistance were received and dealt with informally by members of the Association.

Professional Standards Scheme

The Association's Scheme under the *Professional Standards Act 1997* (WA) is in its fourth year of operation and was due to expire on 30 June 2019. The Association sought and has received approval from the Attorney General for an extension of the Association's Scheme until 30 June 2020 to enable the Association's Professional Responsibility Committee to comprehensively review the Scheme.

Group Life Insurance Scheme

The Group Life Insurance Scheme, taken over by MetLife in 2015, provides cover of \$300,000 for death or diagnosis of a terminal illness, or upon assessment of total and permanent disability.

Judicial Welcomes and Special Court Sitings

Special sitting to welcome his Honour Judge Hylton Quail, District Court, 24 January 2018 (Matthew Howard SC)

Special sitting to welcome his Honour Judge Christopher Kendall, Federal Circuit Court of Australia, 29 January 2018 (Matthew Howard SC)

Special sitting to welcome her Honour Judge Kathleen Glancy, District Court, 1 February 2018 (Stephen Davies SC)

Special sitting to farewell the Honourable Justice John Gilmour, Federal Court of Australia, 9 February 2018 (Matthew Howard SC)

Special sitting to welcome her Honour Justice Gail Sutherland, Family Court of Western Australia, 16 February 2018 (Matthew Howard SC)

Special sitting to welcome the Honourable Justice Katrina Banks-Smith and the Honourable Justice Craig Colvin, Federal Court of Australia, 28 February 2018 (Matthew Howard SC)

Special sitting to farewell his Honour Judge Denis Reynolds, Children's Court of Western Australia, 8 March 2018 (Matthew Howard SC)

Special sitting to welcome the Honourable Justice Anthony Derrick, Supreme Court of Western Australia, 16 March 2018 (Stephen Davies SC)

Special sitting to welcome her Honour Judge Fiona Vernon and her Honour Judge Wendy Gillan, District Court, 23 March 2018 (Stephen Davies SC)

Special sitting to welcome his Honour Judge John Prior and her Honour Judge Amanda Burrows SC, District Court, 23 March 2018 (Stephen Davies SC)

Special sitting to farewell the Honourable Justice Antony Siopis, Federal Court of Australia, 30 April 2018 (Matthew Howard SC)

Special sitting to welcome the Honourable Justice John Vaughan, Supreme Court of Western Australia, 1 May 2018 (Matthew Howard SC)

Special sitting to farewell the Honourable Justice John Chaney, Supreme Court of Western Australia, 29 June 2018 (Matthew Howard SC)

Special sitting to farewell the Honourable Wayne Martin AC, Chief Justice of Supreme Court of Western Australia, 20 July 2018 (Matthew Howard SC)

Special sitting to welcome the Honourable Justice Jennifer Smith, Supreme Court of Western Australia, 24 July 2018 (Martin Cuerden SC)

Special sitting to welcome the Honourable Peter Quinlan, Chief Justice of Supreme Court of Western Australia, 20 August 2018 (Matthew Howard SC)

Functions

Held at Rambla on Swan on 5 October, this year's Bar and Bench Dinner was very well supported by the judiciary and members. Sincere thanks again to the Honourable Chief Justice Peter Quinlan and Kim Lendich for their excellent speeches.

Membership

There are currently 260 members, of whom 224 are local members. Of the local members, there are 54 women and 170 men. There are 2 women and 30 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:

Varun Nagarajan Ghosh
Chelsea Rebelle Walsh
Cedric David Williamson
Adrian William Duffy QC *
Nicholas Peter Van Hattem
Philippa Alyse Honey
Caroline Majella Kenny QC *
Carolyn Elizabeth Moss
Felicity Joy Maher *
Rishi Kashyap
Timothy Clive Russell
Rebecca Ann Collins
Bernard William Standish
Rachel Cosentino
Ben Colin Gauntlett
Mara Rita Barone
Arthur Raymond Moses SC *
Roman Kan
Tessa Jeanne Herrmann
Kathryn Alice Heslop
Nicholas Philip Rodda
Laura De Maio
Justin Podmore
Nunzio Lucarelli QC *
The Hon John Gilmour QC

(* Interstate Member)

Honorary Members

The following former members were elected as Honorary Members:

The Honourable John Gilmour QC
Her Honour Anette Schoombee
The Honourable Wayne Martin AC QC
The Honourable John Chaney SC
The Honourable Antony Siopis SC

Judicial Members

The following former members were elected as Judicial Members:

Her Honour Judge Belinda Lonsdale
The Honourable Justice Craig Colvin
Her Honour Judge Fiona Vernon

His Honour Judge Hylton Quail
Her Honour Judge Wendy Gillan
His Honour Judge Christopher Kendall
His Honour Judge John Prior
Her Honour Judge Amanda Burrows SC
The Honourable Justice John Vaughan
The Honourable Chief Justice Peter Quinlan
The Honourable Justice Jennifer Smith
Her Honour Judge Kathleen Glancy
The Honourable Justice Gail Sutherland

Matthew Howard SC