



Message from the CEO, Megan Pitt

Over the past 12 months I have had the opportunity to observe how the Uniform Law (UL) operates in practice and how it is developing, while becoming more familiar with different perspectives and views about the UL scheme.

With the prospect of the scheme expanding to other jurisdictions it is timely to consider how my office, under the auspices of the LSC, and together with the legal regulators and our stakeholders, can build on our solid foundations and deal most effectively and efficiently with UL issues in the future.

To this end, I have convened two UL Strategic Roundtables in NSW and Victoria to seek perspectives and discuss a preferred future approach to changes to the UL and rules. I also convened a joint Vic/NSW UL Summit in September to bring these perspectives and solutions together. We hope you enjoy this issue.

Council news

The LSC is moving!

On 10 October, the LSC Secretariat is moving from the MLC Centre to the Public Trustee Building. Our details are:

Street: **Level 3, 19 O'Connell Street, Sydney, NSW 2000.**

Postal: **PO Box H326, Australia Square, NSW 1215.**

T: **(02) 9692 1300.**

E: **lsc@legalservicescouncil.org.au.**

We look forward to meeting with our Council and stakeholders at the new premises soon.

The Audit and Risk Committee

The LSC's Audit and Risk Committee (ARC) is established as a committee of the Council to monitor and review the effectiveness and efficiency of the processes of the Council and the Commissioner. The ARC's Terms of Reference, approved by the LSC on 21 June 2018, contain the ARC's oversight of its responsibilities, and relevant activities are tracked through its annual plan.

The ARC's oversight of the Council is achieved via three meetings per calendar year and informal liaison including meeting with the NSW Audit Office and achieving Annual Report compliance timeframes.

Recent evaluation by the members of ARC for 2017-2018 found that the Committee's performance was regarded as "solid" to "outstanding" in most areas. The key areas of focus in the next two years will continue to be effective financial, management and budget reporting and risk review.



L-R: ARC Chair, Fiona Bennett, LSC Senior Executive Officer, Bridget Sordo, DOJ Finance Officer, Ashley Hawkins, DOJ Finance Officer, Harry Lan, Committee members Steven Stevens and Geoff Applebee.

Farewell Maureen, welcome Tina

Our hard working and inimitable Executive Assistant, Maureen Shaw retired in August. Maureen has made an outstanding contribution to our office and the UL over the last three years and will be much missed. We were pleased to welcome Tina O'Brien from the Australian Law Reform Commission as our new LSC EA on 27 August. We know our stakeholders will also make Tina feel welcome.



Maureen Shaw



Tina O'Brien

Working with our stakeholders

LPABNSW and VLAB working together

On 15 June, the Hon Justice Arthur Emmett AO, Chair of the Admissions Committee and Chair of the LPABNSW, the Hon Bernard Teague AO, Chair of VLAB, Megan Pitt, Cora Groenewegen, LSC Senior Policy Adviser, and Maria Di Palma, VLAB Project Manager, met in Melbourne to discuss the way forward with the Admissions Committee review of the admission of foreign lawyers in the UL States. The group settled the list of stakeholders to be consulted in the process.



L-R: Megan Pitt, the Hon Acting Justice Arthur Emmett AO, Cora Groenewegen, Maria Di Palma and the Hon Bernard Teague AO.

UL Commissioners' meeting

On 10 July, Megan Pitt, Commissioner for Uniform Legal Services Regulation, met with Fiona McLeay, Victorian Legal Services Commissioner and John McKenzie, NSW Legal Services Commissioner, to discuss UL issues of mutual interest. The agenda covered the LSC's current work and projects, including the Australian Legal Profession Register, costs disclosure thresholds, defining 'engaging in legal practice', PEXA, the High Court decision of *Burns v Corbett*, the Banking Royal Commission and sexual harassment in the legal profession.

The meeting provided an excellent forum for exchanging ideas and perspectives and drawing on the experience of both UL jurisdictions. The next quarterly Commissioners' meeting will be held in Melbourne on 21 November 2018.



L-R: Megan Pitt, John McKenzie and Fiona McLeay.

Meeting with VLAB

Following discussion with Kristen Murray, VLAB Principal Policy Officer, about the process used by VLAB to assess the suitability of foreign lawyers for admission in Victoria, Megan Pitt and Cora Groenewegen met with Maria Di Palma in June at the VLAB office. Maria explained conditional admission and the disclosure by applicants of matters relating to their fitness for admission.



L-R: Maria Di Palma and Cora Groenewegen.

Review of admission of foreign lawyers

On 4 July, members of the Foreign Lawyers Review Steering Committee met with Mitch Hillier, Executive Director of Law Firms Australia (LFA), to discuss LFA's perspective on the admission of foreign lawyers. Mitch advised of LFA's interest in the review and spoke of the experience of the large law firms in relation to foreign lawyers who wish to be admitted in Australia.

We discussed the meaning and application of the phrase 'sufficient legal skills or relevant experience' in s 18 of the UL, and conditional admission under s 20 of the UL. Mitch indicated that LFA will provide further information to the review as part of its submissions in response to the LSC's invitation to stakeholders, in accordance with the review's terms of reference.



L-R: Cora Groenewegen and Mitch Hillier.

Professional Standards Authority

On 30 July, Megan Pitt and Bridget Sordo, LSC Senior Executive Officer, met with Roxane Marcelle-Shaw, CEO, Professional Standards Authority, and John Rappell, Director Professional Schemes, to discuss how our two organisations might collaborate more in the future.

The PSA is the national regulatory agency which supports the Professional Standards Councils to protect consumers by improving professional standards in Australia through leadership and education, and by approving and supervising Professional Standards Schemes under professional standards legislation.

The LSC and PSA share similarities. They are both formed through the Council of Attorneys-General, and are designed to operate nationally to monitor and maintain professional standards. For the LSC, this is confined to legal profession regulation. The meeting was a useful exchange of ideas and information with agreement that we would consider possibilities for future work together.



L-R: John Rappell, Roxane Marcell-Shaw, Megan Pitt and Bridget Sordo.

The Future of Law and Innovation in the Profession (FLIP) Conference

The Law Society of NSW (LSNSW) held its inaugural Future of Law and Innovation in the Profession (FLIP) conference on 14 September at the Sofitel Hotel, Darling Harbour. The FLIP conference aimed to equip the legal profession with the knowledge and tools needed to survive and thrive in an ever changing landscape of disruption.

Keynote speakers included Professor Daniel Martin Katz, Associate Professor of Law, Chicago Kent College of Law. A host of local speakers including academics and legal and technology experts from the public and private sectors gave presentations.

Megan Pitt joined John McKenzie, NSW Legal Services Commissioner, Rod Henderson, Founder and Chief Tax Counsel, Acutax, Chrissie Lightfoot, CEO of Robot Lawyer LISA & CEO Entrepreneur Lawyer Ltd and Dominic Woolrych, CEO LawPath on a panel moderated by Kate Fazio, to discuss *Legal Information vs Legal Advice*.

Megan spoke about the difference between giving legal advice and providing legal information, the focus of the UL on consumer protection and the function of s 10 of the UL in protecting professional standards and consumers by prohibiting unqualified people from engaging in legal practice.

The conference which was also attended by Sonya Kim, LSC Senior Policy Adviser, and Cora Groenewegen, was an excellent opportunity to consider digital disrupters in the context of the UL Scheme.



L-R: Rod Henderson, Dominic Woolrych, Chrissie Lightfoot, Megan Pitt, John McKenzie and Kate Fazio.

LCA Legal Futures Summit

On 13 September, Megan attended the Law Council of Australia's Legal Futures Summit held at Allens in Sydney. The LCA brought together a diverse and experienced group of legal professionals to discuss national and international issues that will shape and influence the future direction of the profession.

The conference was opened by LCA President Morry Bailes with Jim Klotz, Secretary-General of the International Bar Association providing an overview of the international legal scene. Australian speakers shared their perspectives on the legal services of the future, characteristics of the profession and the ethical and regulatory implications of new technology and unbundling legal services. The conference identified significant challenges and opportunities for the legal profession in the future and was highly thought-provoking.

Strategic initiatives

UL Strategic Roundtable in Victoria

On 12 July, the LSC met with the Victorian Legal Services Board + Commissioner (VLSB+C) in a roundtable strategy meeting to reflect on the operation of the UL over the last three years, and to discuss an optimal approach for changes to the UL and rules in the future.

The roundtable was chaired by the Hon Michael Black AC QC, LSC Chair, and Megan Pitt. It was attended by Fiona McLeay, VLSB CEO & Commissioner, Russell Daily, Executive Director of Complaints & Intervention, Jennie Pakula, Manager of Assessment & Resolutions, and Kerri-ann Millard, Manager of Policy & Regulation.

The LSC shared its strategic plan for the next three years, flow-charts setting out the timeframes and processes involved in changing the UL and the rules, and our understanding of roles of the various parties in the change process.

Our VLSB+C colleagues shared their perspectives on the development of the UL to date and made helpful suggestions about future processes, including that a template for submissions about UL changes be developed. This template has now been drafted by the LSC for wider consideration. Once finalised, the template will be available for use by stakeholders via the LSC website.

The strategic approach suggested by the LSC which involves the DLRA's prioritising and batching their suggestions for UL changes was agreed to in principle by the VLSB+C. This process occurred during July/August. The next steps towards a joint UL prioritisation approach and bringing other stakeholders into the process were matters for discussion at the UL Strategic Summit in September 2018.



L-R: Russell Daily, Kerri-ann Millard, Jennie Pakula, Megan Pitt, Fiona McLeay and the Hon Michael Black AC QC.

UL NSW Priorities Meeting

On 15 August, the LSC met with the NSW local regulatory authorities to settle a list of NSW UL priority issues for consideration at the UL Summit in September 2018.

Megan Pitt chaired the meeting. Attending were Bridget Sordo, Sonya Kim and Cora Groenewegen, as well as Anne-Marie Foord, Director of Professional Standards, LSNSW, John McKenzie, Samantha Gulliver, Assistant Commissioner (Legal) OLSC, Greg Tolhurst, Executive Director, NSW Bar Association, Jennifer Pearce, Legal Director, NSW Bar Association, Louise Pritchard, Executive Officer, Legal Profession Admission Board and Rebel Kenna, Director & Prothonotary, Supreme Court of NSW.

The local regulatory authorities approached the task of agreeing on a priority list of issues in the spirit of collaboration and goodwill and achieved an agreed position for discussion with the VLSB+C in September.



L-R: Rebel Kenna, Louise Pritchard, Jennifer Pearce, Bridget Sordo, Sonya Kim, Megan Pitt, Cora Groenewegen, John McKenzie, Samantha Gulliver, Anne-Marie Foord and Greg Tolhurst.

UL Joint Summit

On 12 September, the LSC met with the DLRA's and LRA's from Victoria and NSW to settle on a joint jurisdictional UL list of priority issues to be considered by the LSC in 2018/2019.

This inaugural Summit provided a valuable opportunity for the legal regulators in Victoria and NSW to discuss issues relevant to their regulatory responsibilities and the ways in which the UL affects their operations.

The meeting was opened by the Hon Michael Black AC QC, chaired by Megan Pitt and supported by Sonya Kim and Cora Groenewegen. The legal regulators present included Fiona McLeay, Kerri-ann Millard, Michael Tidball, CEO, LSNSW, Anne-Marie Foord; Anna Verney, Strategic Legal Policy Advisor to CEO, LSNSW, John McKenzie, Samantha Gulliver, and Greg Tolhurst.

After an engaging and informative discussion about a range of UL issues, the meeting agreed on a set of UL legislative and rule change priorities to be addressed over the next year.

Megan Pitt expressed her appreciation to those attending for sharing their experiences and expertise, and for approaching this Summit in such a positive and collegial manner.

The next steps in this process involve engaging with other UL stakeholders and then consideration by the LSC of these priorities at its future meetings.



L-R: Fiona McLeay, Michael Tidball, John McKenzie, Greg Tolhurst, Anna Verney, Kerri-anne Millard, Cora Groenewegen, Sonya Kim, Jennie Pakula, the Hon Michael Black AC QC, Anne-Marie Foord, Megan Pitt and Samantha Gulliver.

Uniform Rule changes

New rule to revoke the status of external examiners

On 3 September, the Legal Profession Uniform General Amendment (External Examiners) Rule 2018 took effect to provide regulators with power to revoke on the basis of incompetence or unsuitability, the status of external examiners (EEs) as designated persons under the UL. The LSC completed two rounds of consultation from January to March 2018, in accordance with s 425 of the UL and the Standing Committee has approved the rule.

The new rule 65A of the Uniform General Rules empowers the designated local regulatory authorities to disqualify certain persons on reasonable grounds. The rule also ensures that procedural fairness applies to persons who are subject to proposed disqualification. The new rule seeks to advance the objective of ensuring that appropriate safeguards are in place to uphold the integrity of legal services.

As an additional measure, the LSC has issued a Direction to the LSNSW and the VLSB to maintain Public Registers of eligible EEs so that law practices, consumers of legal services, legal and financial regulatory authorities in all Australian jurisdictions, and the general public may be informed of persons who are eligible to be EEs under the UL. The LSC website has published the links to the NSW and Victorian Public Registers.

Public consultation on a new rule on indexation

The LSC is seeking public comment on a draft Uniform General Rule to be made in accordance with s 471 of the UL. Indexation will assist the Victorian and NSW Legal Services Commissioners' jurisdiction to determine costs disputes in line with inflation. The Council has considered different bases for indexation of amounts in the UL and consulted with DLRAs and other relevant stakeholders such

as VCAT and NCAT. The Council's proposal is to adopt a simple formula for the calculation of indexation of relevant amounts under the UL, which the Commissioner of Uniform Legal Services Regulation will arrange to be published each year on the NSW legislation website and on the LSC website. The formulation also takes into account the cumulative indexation from previous financial years.

There are currently no rules which relate to indexation. Following this process of consultation and subsequent approval by the Standing Committee, the Council anticipates that the new Uniform Rule may take effect from 1 July 2019.

This Consultation Draft Rule is publicly released for written submissions until **15 October 2018**. Please email your submissions to: submissions@legalservicescouncil.org.au.

Legal Profession Uniform Conduct (Barristers) Rules

In September, the Australian Bar Association (ABA) released for consultation, a proposed change to r 101(n) on briefs which must be refused or returned. The proposed new rule provides that while the prohibition against former judges appearing in the court they previously served should be preserved at five years, tribunal members, with limited tenure should be treated differently, and be prohibited from appearance as barristers in their tribunal division or list for only two years.

The ABA is the peak body representing nearly 6,000 barristers throughout Australia. It developed the ABA Model Rules for all barristers in Australia. The LSC made the rules developed by the ABA as the Legal Profession Uniform Conduct (Barristers) Rules 2015 in Victoria and NSW.

The development of these new rules follows the process outlined in s 427(5) of the UL. Submissions to the ABA will close on **13 October 2018**. The LSC will consider the proposed new rule at its next meeting in November.

UL 'Thank You' function

On 17 July, the LSC, with generous assistance from the LSNSW, hosted a small event at the Law Society to acknowledge NSW policy officers in the local regulatory authorities who have helped inform the work of the Council and supported the UL over the past three years. Attendees included Council member, Kim Boettcher and representatives of the LSNSW, NSW Bar Association, Office of the Legal Services Commissioner, LPABNSW and the Supreme Court of NSW.

The Hon Michael Black AC QC and Megan Pitt, addressed the audience and reminded us of how far the UL scheme has come. A similar event is planned to be held in Melbourne in the coming months.



L-R: The Hon Michael Black AC QC and the Hon Acting Justice Arthur Emmett AO.



Brendan Bellach (Supreme Court of NSW) and Rebel Kenna.



L-R: The Hon Michael Black AC QC and Michael Tidball.



L-R: Sonya Kim, Paul Monaghan (LSNSW) and Kevin Kwan (OLSC)



L-R: Louise Baber (OLSC), Maureen Shaw and Julia Langham (LSC)



L-R: Lee Bustin (LSNSW), Bridget Sordo and Slavica Nikiforovska (LSNSW).



L-R: Cora Groenewegen and Rachel Teo (OLSC)

For more information

Visit the LSC website:
www.legalservicescouncil.org.au
 or contact us:
lsc@legalservicescouncil.org.au

Council news just in!



LSC Senior Policy Adviser, Sonya Kim, will be on secondment to the Legislative Council of the Parliament of NSW for 3 months. Sonya will assist the Standing Committee of Law and Justice with reporting on the 2018 reviews of the Compulsory Third Party Insurance and the Lifetime Care and Support Schemes. We look forward to Sonya's return on 2 January 2019.



LSNSW President, Doug Humphreys