

Annual Report

2020-2021

Protecting consumers by improving professional standards





In this report

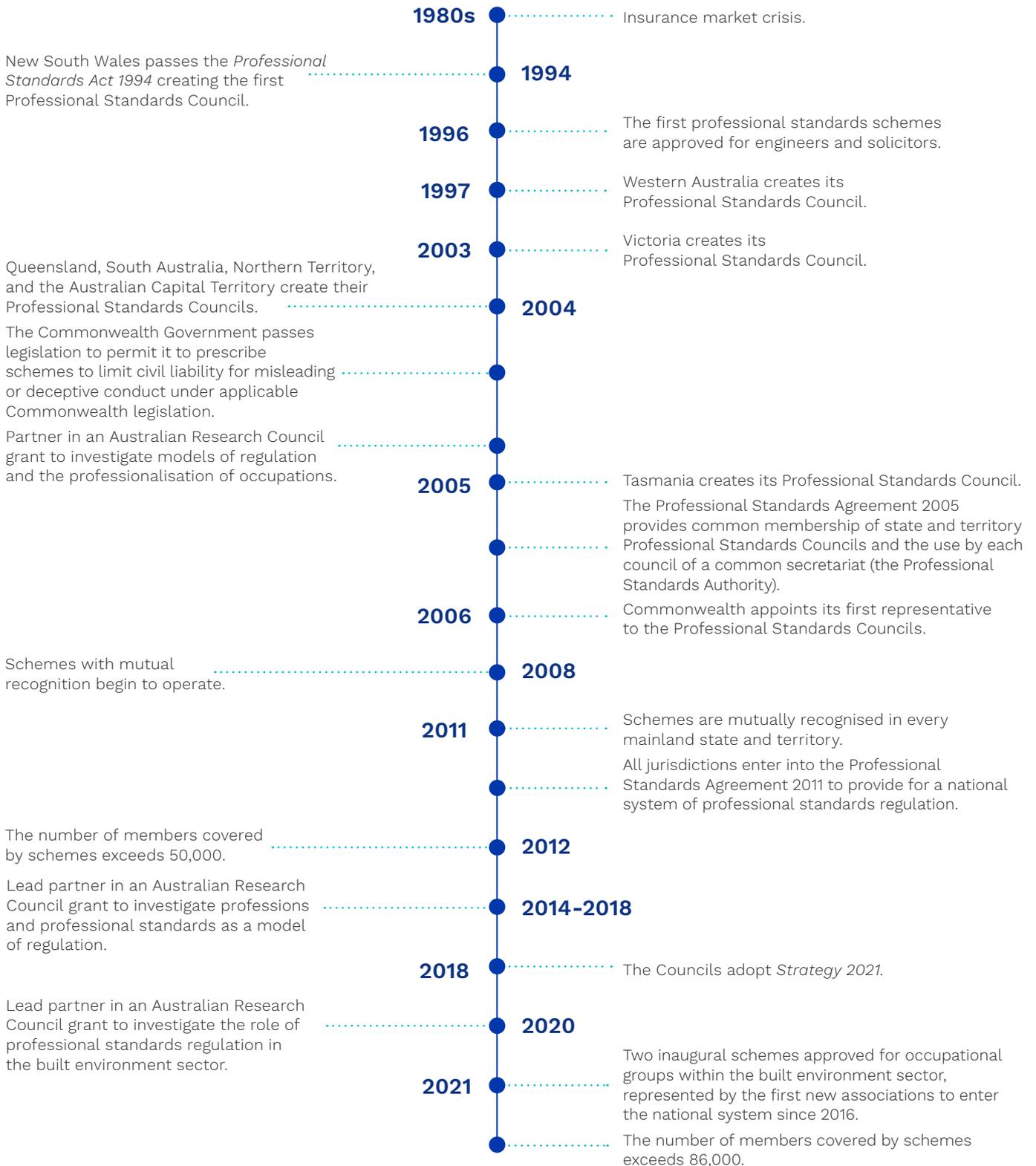
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Introduction

How we began

The Professional Standards Councils are independent statutory bodies established in each Australian state and territory under professional standards legislation. The Councils and its regulatory agency, the Professional Standards Authority, work to improve professional standards and protect consumers of professional services across Australia.



Following the economic challenges of the 1980s and 1990s, professional indemnity insurers were retreating from the market and consumers were at risk of receiving services from insured providers at higher and higher costs, or uninsured providers with no protection for consumers at all.

Governments recognised a need for an efficient and cost-effective system to raise the occupational standards of professionals and others, and to provide for some guarantee of payment for consumers if a claim was made. To promote self-regulation by occupational associations, Professional Standards Councils were established to assist and encourage the associations, and to approve and supervise the operation of professional standards schemes.

Following the passage of the *Professional Standards Act 1994* (NSW), the Professional Standards Council of New South Wales was formed, with Western Australia following in 1997.

Professional standards schemes are legal instruments that limit the civil liability of association members and commit occupational associations to continuously improve the professional standards of their members to protect the consumers of their services.

The reach of professional standards legislation was extended following the collapse in 2001 of insurance giant, HIH Insurance Limited, resulting in widespread unavailability and unaffordability of professional indemnity insurance. This significant event, which affected people across Australia, highlighted the importance of maintaining liability practices to protect consumers. Professional standards legislation was passed, and Councils were established in each remaining Australian state and territory.

Subsequently, the Commonwealth Government passed legislation that permitted the civil liability of occupational association members to be limited under the *Trade Practices Act 1974* (now the *Competition and Consumer Act 2010*), the *Corporations Act 2001*, and the *Australian Securities and Investments Commission Act 2001*.



Letter to Ministers



Dear Ministers

I am pleased to present the responsible Ministers in each state and territory with the 2020/21 Annual Report of the Professional Standards Councils of the Australian Capital Territory, New South Wales, the Northern Territory, Queensland, South Australia, Tasmania, Victoria, and Western Australia.

The Annual Report is a consolidated volume on the Councils' work and activities over the past year and includes financial statements for the period 1 July 2020 to 30 June 2021. It has been prepared in accordance with the relevant professional standards legislation in each Australian state and territory, to be tabled in your respective parliaments.

I commend this report to you.

A handwritten signature in black ink, which appears to read "John Vines". The signature is written in a cursive, flowing style.

John Vines OAM
Chair
Professional Standards Councils

Our vision, mission and mandate

Our vision

Professional and occupational associations lead the way in advancing the highest standards of professional services to Australian consumers.

Our mission

To regulate occupational associations in order to facilitate and promote consumer protection through improvement in professional standards under the professional standards schemes.

Our mandate

Protect consumers

Our aim is to protect consumers of professional services across Australia by demanding high levels of professional standards from those who participate in the national system of professional standards regulation. Occupational associations with an approved professional standards scheme have committed to ensuring competent and ethical conduct by their members in providing services and ensuring avenues of resolution and redress are available to consumers.

Improve professional standards

Our aim is to encourage and assist associations to improve the professional standards of their members by implementing occupational risk management strategies and professional integrity systems.

We encourage the development of professional standards and regulatory capacity through research, publishing information, providing guidance, and delivering forums. We promote discussion and better regulation in the areas of risk management, membership requirements, codes of ethics and practice, resolution of complaints, discipline of members, continuing education, insurance standards and quality management.

Help associations

Our role is to approve and supervise the operation of professional standards schemes. This involves helping occupational associations to develop their professional standards and regulatory systems, as well as to comply with the professional standards legislation.

2020/21 Performance Highlights

Scheme application framework redesign

Approved a new scheme application framework for pilot commencing from July 2021. The new framework was co-designed with occupational associations and delivers a simpler, clearer way for associations to apply for professional standards schemes, with a strong focus on consumer protection and management of professional risks.

See page 20

Professional Standards Improvement Program

100% of Program reports were provided by associations on time.

See page 49

Streamlining registration regimes

Professional standards schemes recognised for the first time as a pathway for meeting occupational registration requirements, in the *Design and Building Practitioners Regulation 2020* (NSW).

See page 71

Submissions to inquiries and reviews

Six submissions made, contributing recognised professional standards and occupational risk management expertise to inquiries and reform processes.

See page 77

Australian Research Council Linkage Project

Commenced a three-year Australian Research Councils Linkage Project on Constructing Building Integrity: Raising Standards through Professionalism.

See page 75

Professional Standards Forum

Delivered two online forums – putting the consumer first in ethics and responding to community expectations – to over 120 delegates from all states and territories in Australia.

See page 72

Research on sexual harassment risks in the legal profession

Commissioned a rapid evidence review to critically appraise existing evidence in relation to sexual harassment as a potential cause of consumer harms, to help inform the development of professional standards responses.

See page 69

Net Promoter Score

The Councils' Net Promoter Score for Forums and Roundtables is 76, an increase of 20 points from the 2019/20 reporting period.

See page 80

2020/21 Year at a glance

17



schemes in force nationally

71%



of associations reported they undertook root cause analysis of complaints, of which **83% incorporated elements into risk management strategies**

86,000

association members subject to schemes, an **increase of 4.7%**

4



schemes extended by a period of 12 months each

1



scheme not approved

4



public consultations conducted for proposed schemes

3



new member appointments to the Councils

30%



decrease in complaints to associations about their members across three sectors

57%



decrease in number of claims **exceeding 50%** of the scheme monetary ceilings

3



schemes approved including 2 inaugural schemes in the built environment sector

60%



increase in legal profession associations reporting on sexual harassment as part of their risk analysis or risk management strategies

1



new published framework for developing, reviewing and retiring regulatory guidance

2



requests to remit/waive a fee were decided

Chair's Report

I am pleased to introduce this Annual Report on behalf of the Professional Standards Councils, outlining our work and achievements in 2020/21 and the outlook for 2021/22.

At the outset, I would like to acknowledge how adeptly everyone in the national system for professional standards regulation has responded to the uncertain and challenging environment created by the COVID-19 pandemic. It is a testament to the commitment, good will and resilience of all involved that we have not only continued the important work of regulating for consumer protection and advancing professional standards but also improved upon it.

The Councils prioritised our statutory function to enable professional standards schemes, continuing our focus in the built environment sector. As the sector faced diminishing public confidence in the industry's capacity to meet expected standards, we engaged with Building Ministers and occupational associations to help offer practical solutions. This work has involved us in advising occupational associations on the benefits of professional standards regulation and assisting them to develop risk management strategies and systems that can deliver consumer protection and continuous improvements in the competence and conduct of their members. We are now seeing applications for professional standards schemes come forward. We have approved two new schemes this reporting period. We continue to encourage and assist a broad range of occupational associations committed to developing their regulatory capacity and professional standards for their members that are responsive to consumer expectations.

We also prioritised our work to ensure our scheme application processes are modern and easy to deal with. The application process is the gateway for occupational associations to join a community of professional standards regulators with direct access to the Councils' help and resources. This positions them to develop their professional standards and regulatory systems to improve professional standards and better protect the consumers of their members' services. Once approved, a scheme sets an association apart in its commitment and work to ensure its members are recognised for their competent and ethical conduct in providing services and ensuring avenues of resolution and redress are available to consumers. It is a significant undertaking. We have redesigned the process, through a collaborative effort with our stakeholders, to be less resource intensive for occupational associations and the Councils, so that efforts are directed to supporting better quality applications and scheme operations over their life. The pilot phase has started and will be a big focus in the year ahead.

Additional priorities for us in the year ahead are focused on the final steps to achieving our goals published in *Strategy 2021* - building the evidence base to demonstrate effectiveness, being enabled by digital service delivery, and delivering clear and practical encouragement and assistance. We will then take stock, engage with our stakeholders on their expectations, and set course for our next strategic horizon in 2022 and beyond.

Chair's Report (cont.)

I would like to thank all of the Councils' members who have served this year, for their excellent advice and regulatory stewardship. We farewelled Mr Terry Evans AM, who retired after more than 15 years exemplary service as a member of the Councils, and welcomed the appointments of Mr Richard Shields, Mr Tim Mellor and Ms Rebecca Fogerty. And I extend my appreciation to the whole team at the Professional Standards Authority, who have supported the work of the Councils with dedication and professionalism. In particular I would like to thank the Chief Executive Officer of the Professional Standards Authority, Roxane Marcelle-Shaw, for her great leadership of the Authority. I look forward to working together in the year ahead to assist occupational associations in their efforts to regulate their members for the benefit of consumers and communities across Australia.



John Vines OAM

Chair

Professional Standards Councils

Professional standards regulation

The Councils lead the national system of professional standards regulation. We approve and then supervise the operation of professional standards schemes. The Councils encourage, assist, and advise associations in the regulation of their members under those schemes, to facilitate the improvement of professional standards and better protect consumers.

The objectives of professional standards regulation are to provide greater protection to users of services provided by members of associations by requiring members to hold appropriate insurance, participate in risk management activities and be subject to a complaints and disciplinary structure.

The objects of the professional standards legislation are to:

- a) **enable** the creation of schemes to limit the civil liability of professionals and others
- b) **facilitate** the improvement of occupational standards of professionals and others
- c) **protect** the consumers of the services provided by professionals and others
- d) **constitute** the Professional Standards Council to supervise the preparation and application of schemes and to assist in the improvement of occupational standards and protection of consumers.

As envisaged when the legislation was first introduced into the New South Wales Parliament in 1994:

“There will be considerable benefits to consumers from choosing to deal with a professional who is part of a scheme under the legislation... It is unique in the way in which it combines, in an effective scheme, a range of priorities concerned with the provision of professional services.”

J P Hannaford, then Attorney General, Minister for Justice, and Vice President of the Executive Council, 14 September 1994

By operating a professional standards scheme, occupational associations distinguish themselves as being able to ensure consumers who use the services of their members are receiving advice from professionals who participate in regulatory arrangements that minimise risks of unethical or incompetent practice.

If there are failures in professional standards, a professional standards scheme ensures consumers have avenues available for complaint resolution, disciplinary action against members to prevent recurrence, and assurance that compensation is available for economic losses.

“The benefit to consumers of the Scheme is an assurance that the professional standards of Scheme Members meet those required by the AIBS, which include formal education and experience requirements for registration by state and territory governments, and the Professional Standards Council. This ensures that consumers are well served by appropriately qualified, experienced, ethical, and responsible building surveyors.”

Australian Institute of Building Surveyors, 2 March 2021

A central feature of the professional standards regulatory system is the collection of comprehensive data on a profession-wide basis about emerging issues, claims and complaints, enabling risk management strategies to systemically improve professional practice and reduce the risk that consumers will suffer loss in the future.

The national system aims to sustain and embed improvements in professional standards so that members of occupational associations are held accountable for the continuous improvement and maintenance of standards higher than statutory regulation may require, and higher than associations that are not regulated by the Councils.

In return, the members who agree to professional regulation by their association benefit from continuously improving standards of conduct and competence, and the possibility of a limitation of civil occupational liability.

Professional Standards Councils' Strategy 2021

For more than two decades, the national system of professional standards regulation has successfully supported participating occupational associations in well-established professions to maintain high standards in the delivery of services to Australian consumers.

While the core work of the professional standards regime has remained consistent over this time, it is necessary for the regulatory system to adapt to changing needs and expectations of government, industry, and the community. In particular, the professional standards legislation anticipates a broader range of occupational groups participating in the national system. *Strategy 2021* was approved by the Councils in June 2018 to respond to this need, setting out five strategic goals with fifteen supporting initiatives to be achieved over three years.

The goals and initiatives that form *Strategy 2021* are:

Strategic goals	Strategic initiatives
 <p>Make a practical and transparent change to Councils' regulatory focus to enable schemes, including for occupational groups</p>	Develop and publish the Councils' regulatory philosophy and principles to guide the way Councils regulate.
	Raise the profile of the system of professional standards regulation as a self-regulatory and consumer protection solution.
	Promote self-regulatory responses to government policy requirements, changing market conditions and community expectations.
 <p>Drive improvements in professional standards for better consumer protection</p>	Strengthen scheme supervision and reporting, and the accountability of association governing bodies.
	Identify and report on sectors where consumers would benefit from the operation of professional standards schemes.
	Promote the benefits of professional standards schemes to occupational associations facing increased risk to consumers of their members' services.
 <p>Build an evidence base to demonstrate effectiveness</p>	Modernise data and analytics capability to support supervision and measure improvements in professional standards.
	Align and leverage relationships with researchers and co-regulators.
	Identify and report on trends and emerging issues to assist efforts to improve professional standards.

Strategic goals	Strategic initiatives
 <p data-bbox="145 342 408 427">Ensure the regulatory system is robust and protects consumers</p>	<p data-bbox="588 219 1386 241">Refresh and streamline the scheme application and supervision frameworks.</p> <hr/> <p data-bbox="588 286 1353 338">Work with jurisdictions to pursue legislative and regulatory harmonisation and reform where beneficial.</p> <hr/> <p data-bbox="588 383 1299 434">Develop clear risk parameters for Councils and more structured and evidence-based risk data, measurement systems and benchmarks.</p>
 <p data-bbox="145 645 448 703">Make the regulatory system easy to deal with</p>	<p data-bbox="588 510 1361 591">Deliver clear and practical encouragement and assistance to occupational associations to develop self-regulatory capacity and improvement in the professional standards of their members.</p> <hr/> <p data-bbox="588 636 1166 663">Be enabled by and engaged with digital service delivery.</p> <hr/> <p data-bbox="588 707 1361 734">Introduce and respond to a stakeholder satisfaction measurement source.</p>

Strategy 2021 is targeted towards enhancing the Councils’ efforts as a rigorous regulator, promoting the offer of professional standards improvement and increased consumer protection, and strengthening the effectiveness and accessibility of the national regulatory system. It builds on the Councils’ work that has supported the steady growth of regulatory coverage in established professions and the growth of regulatory expertise and resources in professional standards. It also reflects the Councils’ strategic effort to enable professional standards schemes for occupational associations who want to join the national system because their members wish to actively participate in protecting consumers by raising standards through self-regulation.

This is the final year of *Strategy 2021*. The Councils’ next strategic plan will be developed at a collaborative strategy session in the 2021/22 reporting period. The new strategic plan will build upon the outcomes of *Strategy 2021*. Development of the strategic plan will include a process of sounding out stakeholder views and expectations to help build a picture of the most important areas for the Councils to address in leading the national regulatory system.

Progress in meeting our strategic goals

Through the implementation of *Strategy 2021*, the Councils have increased their focus on:

- assisting governments and occupational associations in developing regulatory responses to improving the standards and protections in delivering professional services to consumers across a broader range of occupational groups
- sharing the available data and evidence to drive and measure improvements in professional standards
- delivering clear and practical regulatory guidance.

Advancing consumer protections and professional standards in a broader range of occupational groups was an area of significant focus in 2020/21, with the approval of two new professionals standards schemes for occupational associations in the built environment - the Australian Institute of Building Surveyors and Strata Community Association (NSW).

Professional standards schemes have an important role to play in the reforms that Building Ministers are leading in the building and construction sectors across Australia. Schemes help occupational associations in the built environment sector respond to government and community expectations for long term solutions to compliance and enforcement of standards, minimising risk and improving the cost and availability of professional indemnity insurance.

The Councils' Chair, John Vines OAM, presented certificates to Australian Institute of Building Surveyors and Strata Community Association (NSW) in recognition of their new schemes. Mr Vines stated:

“We look forward to continued strong and cooperative regulatory relationships, assisting with improvement of members’ professional standards and enhancing consumer protections.”



The Councils' Chair, Mr John Vines OAM presenting Australian Institute of Building Surveyors' Chief Executive Officer, Mr Brett Mace, with a certificate in recognition of their new scheme in June 2021



The Professional Standards Authority's Director, Mr John R Rappell, the Councils' Chair, Mr John Vines OAM, Strata Community Association (NSW)'s President, Mr Chris Duggan, Senior Vice President, Mr Tony Irvine and General Manager, Ms Sadiye Ince at the presentation of a certificate in recognition of Strata Community Association (NSW)'s new scheme in June 2021

The Chief Executive Officer of Australian Institute of Building Surveyors, Brett Mace, acknowledged having a scheme as a privilege to Australian Institute of Building Surveyors members and their clients. Senior Vice President of Strata Community Association (NSW), Tony Irvine, commended the scheme application process as rigorous and highly rewarding.

A further area of significant focus in 2020/21 has been the Councils' advancements in delivering clear and practical regulatory guidance and assisting occupational associations through the development of a new Scheme Application Framework. This project used a co-design approach with associations to deliver a modularised application process that will encourage a consumer-centric focus and allow for support and encouragement at key points in the application process. From this comes an application experience that will be easier to engage with, comprehensive in its approach and will facilitate the uptake of professional standards schemes.

Strategic goals and initiatives

Achievements 2020/21



Make a practical and transparent change to Councils' regulatory focus to enable schemes, including for occupational groups

- Enabled first-time schemes proposed by two associations for occupational groups in the built environment, broadening participation in the national system
- Addressed the Australian Council of Professions Emerging Professions Roundtable to engage occupational groups in the benefits of becoming professional standards regulators
- Engaged with eight associations at their request to discuss their potential interest in applying for a professional standards scheme
- Engaged with the National Disability Insurance Agency to promote self-regulatory responses to changing market conditions and propose a joint approach on regulating intermediaries for better consumer outcomes



Drive improvements in professional standards for better consumer protection

- Shared the Councils' insights on risk management best practice and emerging consumer risks
- Conducted Professional Standards Improvement Program engagement to provide individualised reporting feedback and consult on reporting experience
- Encouraged and assisted associations operating schemes to incorporate elements of root cause analysis
- Made influential submissions to reviews and inquiries about enhancing consumer protection and lifting professional standards
- Raised the profile of sexual harassment risks in the legal profession as a potential cause of consumer harms with legal services regulators and associations in all jurisdictions



Build an evidence base to demonstrate effectiveness

- Executed the Councils' third Australian Research Council Linkage Project Agreement with preparatory work underway to commence research related to the built environment sector
- Collated more targeted data on claims and professional indemnity insurance from associations to effectively identify emerging professional and consumer risks
- Delivered two Professional Standards Forums featuring presentations from regulatory, academic and association experts and launched an online resource for ongoing access to Forum content: psc.gov.au/forums



Ensure the regulatory system is robust and protects consumers

- Increased consumer protection through greater participation in schemes from 70,000 to 86,000 practitioners – an increase of 21% over three years.
- Reached more stakeholders by using digital channels including the New South Wales Government's 'Have Your Say' website in the public notification of professional standards schemes



Make the regulatory system easy to deal with

- Undertook a scheme application modernisation in consultation with associations and other stakeholders, resulting in six modules and a scalable application process with a strong focus on consumer protection and the public interest in schemes
- Expanded use of stakeholder satisfaction surveys to collect feedback for continuous improvement
- Received scheme applications by two new occupational associations, presented to the Councils, and approved in a nine-month timeframe

Case Study 1:

A new application Framework with many benefits

In 2019, the Councils set out to redesign the way in which associations apply for a professional standards scheme. The delivery of the project represents a major outcome for the Councils on a core regulatory responsibility. The project followed human centred design principles, engaged with key stakeholders in co-design, and utilised agile project management philosophy to produce a new Scheme Application Framework. At the heart of the new Framework is a renewed focus on the objects of professional standards legislation, with greater emphasis on how the Councils can work more effectively with occupational associations to improve professional standards and consumer protection. The new Framework is designed to deliver key strategic benefits on behalf of state and territory governments, including:

- a clear focus on consumer protection and the public interest
- modern and integrated regulatory processes
- evidence based decision-making capable of demonstrating achievement of the statutory objectives
- regulatory excellence through collaborative engagement.

The Councils expect that the new approach will require fewer resources from associations and the Councils for the preparation of higher quality applications.

The new Framework has already met with enthusiasm from associations eager to apply for a professional standards scheme using the new modules, templates, and guidance. A pilot phase in the next reporting period will encourage applicants to use the new Framework for new schemes and remake applications. This will give the Councils and the Authority feedback through practical trial runs on what works and what can be improved.

Why is the Framework important?

Applying for a scheme, or the remake of a scheme, is a significant undertaking. It brings the association into a community of professional standards regulators with direct access to the Councils' help and resources to develop their professional standards and regulatory systems. It sets an association apart in its commitment and work to ensure its members are recognised for their competent and ethical conduct in providing services. It requires an occupational association to demonstrate, through evidence, that it has the capacity to regulate its members to reduce risk of harm to consumers and ensure the quality of professional services they deliver. The application process must enable the Councils to determine whether the association and its scheme will be capable of meeting the objectives of professional standards legislation in a dynamic professional services environment across Australia. It is fundamental to bringing an occupational association into the national system as a professional standards regulator.

What did the Councils set out to achieve?

The Councils had the benefit of feedback from stakeholders about improvements that could be made in the process to apply for a scheme - to make it more straightforward and more flexible without compromising its rigour. This presented an opportunity for the Councils to develop the regulatory processes for:

- improved relationships between the Councils and associations, and associations and their members
- greater integration between scheme applications and scheme annual reporting
- greater opportunities to evidence the success of schemes using data.

The Councils undertook to redesign the Framework to ensure the application process is robust and contemporary, without creating unnecessary burden.

A new Framework with many benefits

In June 2021, the Councils endorsed the new scheme application framework to begin its pilot phase. The new Framework is a ‘toolkit’ of modules which include forms, guidance and templates, and instructions on how an association can successfully address the relevant statutory considerations for approval of a scheme.

It does so in a streamlined, easy to understand and complete format, all of which will greatly assist associations as they move through the application process to make, amend, or remake a scheme.

The Councils anticipate the new Framework will improve supervision of the preparation and approval of schemes. Importantly, the new Framework will reduce time and compliance costs associated with preparing a scheme. The Councils also anticipate more occupational associations will apply for schemes and, where these are approved, more consumers will be protected by improved occupational standards.

What did associations have to say?

The Councils are pleased that a high degree of user acceptance was received during the testing phases, in consequence of the quality stakeholder engagement in the development of the Framework.

Co-design gave us the opportunity to draw upon the wisdom of the professional standards community through a Framework Reference Group, alpha and beta testing of the Framework modules, and stakeholder engagement. Stakeholders were engaged to:

- help define and clarify current problems during a discovery phase where user narratives were mapped
- help the Councils test iterations of the framework in a two-way dialogue which allowed for continuous improvements
- socialise the changes using multiple communications channels.

“I had hoped we might achieve a lot but I have to say we’ve achieved more, and I have to say ‘we’ because I feel like I was a part of this process, but the PSC has achieved much more than I possibly could have hoped...”

“I’m really excited about a modularised application process!”

“We found the application process tremendously introspective for our association, we learnt a lot about ourselves...”

“I strongly support the notion of streamlining and the work you’re doing... and making sure the guidance is as current as possible...”

What does the new framework include?



Six modules



New workshops,
including a 'readiness
to regulate' session



New templates
and additional
guidance



**Modularised
format,**
where separate modules
can be completed
free-standing

**Different
application
pathways**



for new schemes,
remakes and
amendments

Greater
emphasis on
**consumer
protection**



The pilot phase for the new Framework

In the next reporting period, we will test the design through practical trial runs in a pilot phase, where we will seek further feedback as well as introduce further enhancements including a plain English presentation of the Framework.

The Councils will continue the successful and rewarding co-design approach during the pilot phase.





01

About the Professional Standards Councils

About the Professional Standards Councils

The Councils are independent statutory bodies with powers to consider and approve applications from occupational associations for a professional standards scheme under professional standards legislation.

Composition of the Councils

There are eight Professional Standards Councils – one in each Australian state and territory. Each Council has 11 members, with agreement from all states and territories to appoint the same 11 members to each Council, referred to collectively as the Professional Standards Councils. New South Wales and Victoria nominate two members each and designate the Chair and Deputy Chair roles, while all other states and territories and the Commonwealth nominate one member each. The Councils meet as one body to facilitate uniform national decision-making.

Role of the Councils

The Councils administer the professional standards legislation in each state and territory to assist in the improvement of occupational standards and the protection of consumers by:

- enabling the creation of professional standards schemes that limit the civil liability of professionals and others
- supervising the operation of professional standards schemes by occupational associations
- monitoring how well occupational associations and their members meet the standards demanded by their professional standards schemes
- encouraging and assisting professional standards regulation by occupational associations
- ensuring protection of consumers who use the services provided by professionals and others through insurance, complaints, and disciplinary arrangements.

Professional standards legislation

Professional standards legislation seeks to protect consumers by striking a balance between:

- placing a ceiling on the amount of civil liability to which a member of an association participating in a scheme may be exposed
- ensuring sufficient compensation is available to consumers for the vast majority of claims where liability results in an award of damages
- requiring associations operating schemes to continuously improve the standards of competence and conduct of its members, so that claims are reduced in quantity and severity.

Professional standards schemes

Unique to Australia, professional standards schemes limit the civil liability of association members who have professional indemnity insurance and business assets commensurate with the maximum liability amount set in the scheme. Members must comply with their association's insurance standards, assessed, and approved by the Councils.

Each scheme is a regulatory instrument and has a maximum duration of five years. The responsible Minister may choose to extend a scheme once for up to 12 months on application by the association.

No less than a year before a scheme expires, if the association seeks to provide continuous protection to the customers of its members, it must apply for an entirely new scheme. There is no automatic renewal available for a scheme. This facilitates regular consideration in light of current issues, scrutiny of scheme construction, and limitations of liability set in schemes by the Councils.

As members of occupational associations may work across multiple Australian states and territories, the professional standards legislation provides mutual recognition for approved schemes to operate nationally.

Unique to Australia, professional standards schemes limit the civil liability of association members who have professional indemnity insurance and business assets commensurate with the maximum liability amount set in the scheme.



Improving standards and protecting consumers

Occupational associations and their members participating in professional standards regulation are required to improve the standards of members by implementing robust professional integrity systems and detailed risk management strategies designed to protect the consumer.

The legislation requires those who are subject to a professional standards scheme to hold sufficient professional indemnity insurance cover and/or business assets to protect consumers in the event a successful claim is made.

Professional Standards Authority

The Professional Standards Authority provides regulatory and support services for the Councils, working with associations that have a professional standards scheme to help them:

- increase consumer protection, including by improving professional standards
- develop their systems to regulate professional conduct and competence
- comply with the legislative requirements to have an approved scheme.

The Authority works across government to ensure the proper constitution and statutory operations of the Councils.

Councils' Members

The Councils' members have diverse experience across a range of sectors and specialities, including law, health, financial services, accounting, standards development, risk management, compliance, engineering, auditing, public affairs and regulation.

Members are selected for their qualifications, experience, and ability to contribute to the Councils' work. The Chair and Deputy Chair are nominated on an alternating basis by New South Wales and Victoria.

Members' current term of office, photo and short biography are provided below.



John Vines OAM

Chair

MBA, BEc, Dip Civil Engineering,
FIEAust, FAICD

John Vines is a Victorian representative to the Professional Standards Councils. John brings a wealth of experience in governance. He is the Chair of Coassemble Pty Ltd and is a Director of Carroll and Richardson Pty Ltd and Premium Plantations Project Pty Ltd. He is a Fellow of the Australian Institute of Company Directors and Engineers Australia.

From 1984–2008, he was Chief Executive Officer of the Association of Professional Engineers, Scientists and Managers, Australia. He has been a member of several government boards and inquiries.

John was awarded the Order of Australia medal in 2001, and in 2003 he was awarded a Centenary of Federation Medal.

Appointed Chair: 1 April 2018 — 31 December 2021.

Appointed to Victorian Council: 1 January 2019 — 31 December 2021.



Andrew Lumsden

Deputy Chair

BA LLB, MAICD, SA Fin, FCI

Andrew specialises in Mergers & Acquisitions, securities transactions, and corporate governance. Andrew has expertise in foreign investment laws, real estate, infrastructure, energy and resources and media. Andrew is listed as a leading lawyer by legal directories and publications including Chambers and Partners and Best Lawyers for his work in corporate governance, equity capital markets and Mergers & Acquisitions.

He was a member of the Takeovers Panel for 12 years. From 1998 to 2001, Andrew was the Chief of Staff for the Hon. Joe Hockey MP, then the Minister for Financial Services & Regulation. He was a founding member of the Australian Reinsurance Pool Corporation from 2001–2010.

Andrew is a Member of the Corporate Committee of the Law Council of Australia and Fellow and Member of the Subject Advisory Committee for the Governance Institute of Australia. He is also an Adjunct Faculty Member for the Faculty of Law at the University of Sydney.

Appointed Deputy Chair: 3 June 2021 — 31 December 2021.

Appointed to New South Wales Council: 1 April 2021 — 31 March 2024.



Terry Evans AM

LLM, FAICD, FUniSA

Until recently Terry Evans was engaged as Special Counsel with Minter Ellison in Adelaide. Prior to that he was the Deputy Chief Executive of the South Australian Justice Department and Attorney-General's Department from 2004–2006. Terry was the Chief Commercial Counsel for the Crown Solicitor's Office from 1996–2004 and, before that, he was a partner with Minter Ellison. Terry holds several board positions in the corporate, government, education and not-for-profit sectors.

Appointed to South Australian Council: 22 March 2017 — 31 December 2020.
Term concluded in reporting period.



Rebecca Fogerty

BA (Psych), LLB,
Grad Dip (Legal Practice)

Rebecca Fogerty is a Queensland criminal defence lawyer and Partner at Jasper Fogerty Lawyers. In addition to criminal law, her practice encompasses occupational regulation, inquests, commissions of enquiry and corporate regulatory advice. She is the Attorney-General's representative on the Queensland Law Society Council, Chair of the Queensland Law Society Criminal Law Committee and sits on the QLS Specialist Accreditation Advisory Committee (Criminal Law) and Legal Aid Queensland's Complex Criminal Cases Barristers Panel. She was named as a leading Queensland Criminal Lawyer in the Doyles' Guide of Leading Lawyers in 2018, 2019 and 2020, and featured in the National List. She is a Queensland Law Society Accredited Specialist in Criminal Law.

Appointed to Queensland Council: 15 September 2020 — 14 September 2022.



Will Hamilton

BBus, Grad Dip Applied
Finance, MBA (Melb), SF FIN,
FAICD, FHCSI

Will Hamilton is the Managing Partner of Hamilton Wealth Partners. Prior to this, he was the General Manager Wealth Services at the National Australia Bank. Will previously held the position of Head of Private Wealth Management at Goldman Sachs JBWere, and prior to this he was the Managing Director and Chief Executive Officer of Deutsche Securities Asia in Hong Kong. Will is a fellow of the Hong Kong Securities and Investment Institute, a fellow of the Australian Institute of Company Directors, and a Senior Fellow of Financial Services Institute of Australasia.

Commonwealth nominee: 10 August 2017 — 9 August 2020.
Term concluded in reporting period.



Caroline Lamb

BA (Econ), LLB, MBeth, GAICD

Caroline commenced her professional career as a solicitor at a major commercial law firm. Attracted to commerce, she joined a steel manufacturer as general counsel. An interest in organisational development and corporate operations led naturally towards general management, including several challenging executive positions in both the public and private sector.

Caroline established, and for several years operated, a successful consulting business, becoming recognised for expertise in risk management and organisational change programs.

Appointed to New South Wales Council: 1 April 2021 — 31 March 2024.



Timothy Mellor

LLB

Tim Mellor is a lawyer with over 40 years' experience, specialising in litigation – particularly in planning, development and environmental law, wills and estates, and general commercial matters. He is a partner at a leading law firm, where he has developed an extensive practice with a focus on rural issues, including acting for pastoralists, fishers, and local government in relation to native title matters.

In 2018 he was the President of the Law Society of South Australia, having served for 15 years on its Council and in various roles on the Executive. He is also past state and national president of the National Environmental Law Association. In 2019 and 2021, he was awarded Lawyer of the Year for Planning and Environment in Adelaide by Best Lawyers Australia. He is a serving officer in the Australian Army Legal Corps in which he holds the rank of Lieutenant Colonel.

Appointed to South Australian Council: 1 January 2021 — 31 December 2023.



Dr Pam Montgomery

BA (Hons), PhD

Pam Montgomery has many years' experience in developing and improving professional standards in the health sector.

She currently holds several Board positions with government, statutory and not for profit organisations. These include the Medical Board of Australia, the Victorian Department of Justice and Consumer Safety and local community groups. Pam also provides consultancy services in medical education and standards development.

Prior to retirement from full time employment, Pam was Deputy Chief Executive Officer and Director of Fellowship & Standards at the Royal Australasian College of Surgeons. She trained initially as a forensic psychologist and worked in private and public clinical practice, and at Monash University.

Appointed to Victorian Council: 1 July 2020 — 30 June 2023.



Tiina-Liisa Sexton

BCom, FCA, FAICD

Tiina-Liisa Sexton is a chartered accountant with a background in risk and financial management, governance, and ethics. She has worked in the private, public, academic, and not-for-profit sectors, and was the national Professional Standards Adviser in ethics and corporate governance at CPA Australia for 14 years until 2011.

Tiina-Liisa is Director of St Giles Society and a Community Member on the Paramedicine Board of Australia. She is a former director of Housing Choices Australia, Aurora Energy Pty Ltd, Hobart Water and Connect Credit Union.

Appointed to Tasmanian Council: 28 March 2018 — 28 September 2021.



Richard Shields

BA, MBA

Richard Shields has many years' experience in politics and public affairs, working in senior government, private sector and political party-related positions.

Richard is the Head of Government Affairs at Westpac, where he leads the advocacy for consumer and business banking. He has previously held several executive roles across a peak financial services association, an ASX-listed company and government, as well as working as an adviser to federal ministers.

Commonwealth nominee: 10 August 2020 — 9 August 2023.



Iain Summers

BCom, LLB (Hons), Grad Dip
Mgt Psych, FCA FCPA FAICD
FIML

Iain Summers has been a member of the Councils since 2006 and chairs the Finance, Audit and Risk Management Committee. He is a chartered accountant and governance consultant.

Iain is a board member and Chair of the Audit Committee of Traditional Credit Union Limited. He has been the chair of audit and risk committees for a wide range of community services and public sector entities.

Appointed to Northern Territory Council: 1 January 2021 — 31 December 2023.



Rachel Webber
BJuris, LLB

Rachel Webber's primary areas of expertise include corporate and commercial law, with an emphasis on ASX and Corporations Act compliance, financial services regulation, managed investments, and credit regulation. She holds the role of Senior Legal Counsel with a major financial institution.

Rachel is an executive member of the Business Law Section (BLS) of the Law Council of Australia, a peak industry body which advises governments, courts and federal agencies on the ways in which the law and the justice system can be improved for the benefit of the community. She also serves as a member of the BLS Corporations Committee and of the Commercial Law Committee of the Law Society of Western Australia.

Appointed to Western Australia Council: 16 January 2019 — 31 December 2021.



Catherine (Cate) Wood AM
BSocSc, Fellow AIST

Cate is a director of Sunsuper Pty Ltd and has held many board positions in the profit to member superannuation sector, including as Chair of CareSuper and a director of the Industry Superannuation Property Trust. Cate has served on the boards of superannuation industry bodies including the Australian Institute of Superannuation Trustees as President and Industry Super Australia. She was Chair of Women in Super (WIS) and a member of the WIS founded Mother's Day Classic Foundation Board. Cate was a member of the Victorian Legal Services Board and Chair of the Finance and Investment Committee.

Appointed to Australian Capital Territory Council: 1 July 2018 — 30 June 2021.



02

Councils' work and activities

Chief Executive Officer's Report

This Annual Report sets out our performance as a national system for professional standards regulation. It reflects the work of the Authority on behalf of the Councils, and the work of the occupational associations in their operation of schemes and implementation of risk management strategies. A defining feature of the year has been the adaptation by all of us in responding to the COVID-19 pandemic. I am pleased to say that we continued to work in ways that support the wellbeing of our staff and stakeholders, keeping connected and using new and innovative tools to help us achieve our shared objectives.

Over the course of the year, we worked with 17 regulated associations to supervise the operation of their professional standards schemes and compliance with the professional standards legislation. Regulated associations expanded consumer protection with the number of association members subject to a professional standards scheme increasing to over 86,000 practitioners. Regulated associations also made significant improvements to their schemes and regulatory initiatives, as detailed in the review of regulatory operations that follows.

We delivered new and revised regulatory guidance, worked with researchers to commence an evidence review of sexual harassment and risks of consumer harm in the legal profession, delivered two Professional Standards Forums online to share insights on codes of ethics and consumer expectations, and worked directly with regulated associations and stakeholders through workshops, consultations and reviews to contribute expertise on improving professional standards and consumer protection.

As foreshadowed last reporting period, we stepped up our work across government and with occupational associations to assist consideration of professional standards regulation as a solution in responding to failures in ethical conduct or professional competence.

In the year ahead, we will work closely with policy officers in the responsible departments in each state and territory and the Commonwealth to review our cost-allocation model under the Professional Standards Inter-Departmental Service Agreement 2016. This review is necessary to accommodate the full implementation of the mutual recognition provisions in the professional standards legislation. We will also work with policy officers to develop a proposal for a suite of important legislative amendments to improve harmonisation across the national system and support the achievement of the objects of the legislation.

In all that we do and achieve, it is the people that make the difference. I am fortunate to serve a Chair, Deputy Chair and Councils members that offer outstanding leadership and wise counsel to guide our efforts and encourage our best. I am also fortunate to work with a team in the Authority that is expert, dedicated and supportive. It is evident in the large programme of work delivered by a small group of staff that they are smart and efficient in delivering excellent regulatory and operational services. My thanks to each of them for the many successes recorded in this Annual Report. I look forward to continuing our collective efforts to advance the national system for the regulation of professional standards.



Roxane Marcelle-Shaw
Chief Executive Officer
Professional Standards Authority

Councils' work and activities

Overview

As soon as practicable after 30 June, but before 1 October, in each year, the Councils must prepare and forward to the Minister a report on the Councils' work and activities for the period of 12 months ending on 30 June in that year. The Councils' work and activities include the regulatory operations undertaken to fulfill their functions as specified in professional standards legislation. The Councils' progress with implementing *Strategy 2021* during 2020/21 is also reported.

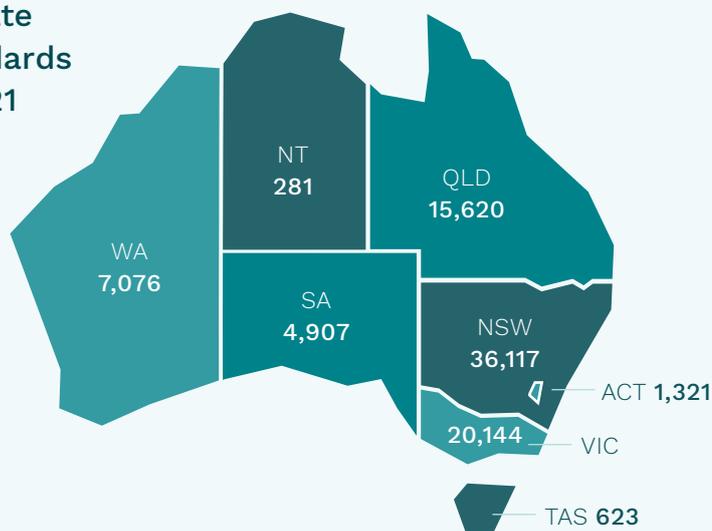
In addition to reporting on their own performance, the Councils are required to incorporate into this report, each occupational association's annual report to the Councils relating to the association's implementation and monitoring of their detailed risk management strategies.

The incorporation of occupational associations annual report data and each of the key measures in *Strategy 2021* are discussed in relevant sections below. The data used to assess performance is drawn from a number of sources, and the range and quality of data - as well as the measures themselves - are continually assessed to ensure they provide useful insights.

Professional standards schemes

As at 30 June 2021, there were 17 schemes in force nationally. The number of occupational association members subject to these schemes has increased over the year from 82,193 to 86,089.

Average number of persons by state and territory in professional standards schemes for Financial Year 2020/21



Regulated occupational associations as at 30 June 2021

- Association of Consulting Surveyors National Ltd
- Australian Computer Society Inc
- Australian Property Institute Valuers Ltd
- Bar Association of Queensland Ltd
- Chartered Accountants Australia and New Zealand Inc
- Chartered Surveyors Ltd (change of name 16/07/2020, formerly RICS Valuers Ltd)
- CPA Australia Ltd
- Institute of Public Accountants Ltd
- Law Institute of Victoria Ltd
- Law Society of New South Wales Ltd
- Law Society of South Australia
- Law Society of Western Australia Inc
- New South Wales Bar Association Ltd
- Queensland Law Society Ltd
- South Australian Bar Association Inc
- Victorian Bar Association Inc
- Western Australian Bar Association Inc

Professional standards legislation

ACT	<i>Civil Law (Wrongs) Act 2002, Civil Law (Wrongs) Regulation 2003, Civil Law (Wrongs) (Fees) Determination 2014</i>
NSW	<i>Professional Standards Act 1994, Professional Standards Regulation 2019</i>
NT	<i>Professional Standards Act 2004, Professional Standards Regulations 2007</i>
QLD	<i>Professional Standards Act 2004, Professional Standards Regulation 2017</i>
SA	<i>Professional Standards Act 2004, Professional Standards Regulations 2006</i>
TAS	<i>Professional Standards Act 2005</i>
VIC	<i>Professional Standards Act 2003, Professional Standards Regulations 2017</i>
WA	<i>Professional Standards Act 1997, Professional Standards Regulations 1998</i>
Cth	<i>Treasury Legislation Amendment (Professional Standards) Act 2004</i>

Figure 1 shows an increase in the number of members of associations subject to a professional standards scheme. This increase reflects continuous improvement in the operation of schemes to comply with professional standards legislation in order to deliver comprehensive coverage of practitioners and maximum consumer protection.

Figure 1: Number of members in schemes and associations operating a scheme over the past 10 years



Figure 2: Number of persons by state and territory in professional standards schemes over the past five years (yearly average)

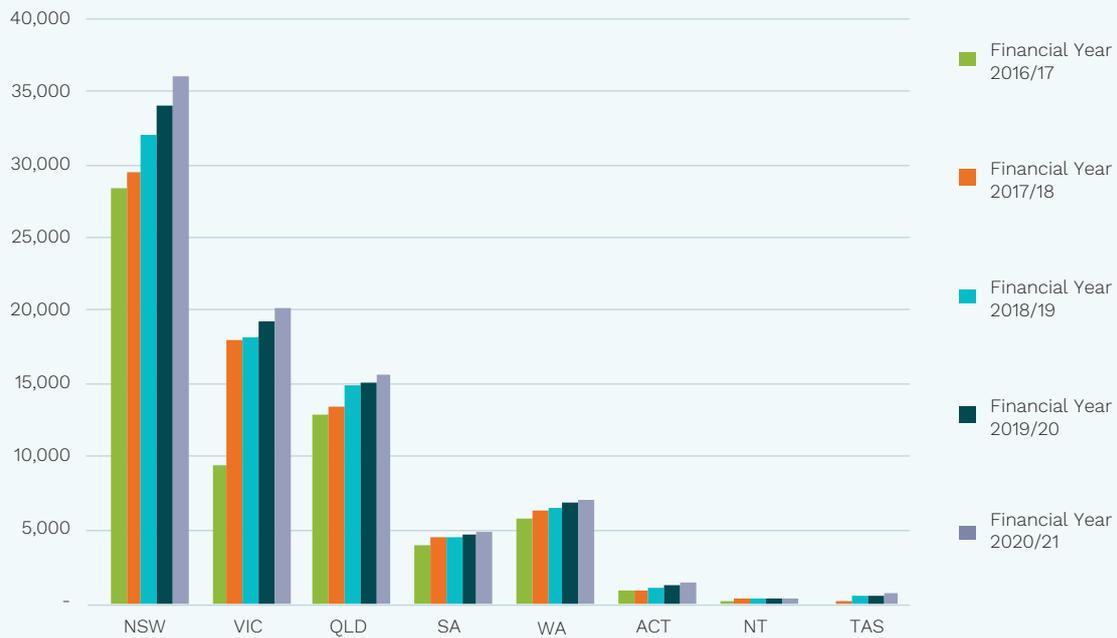


Figure 2 shows the increase in the number of persons in each state and territory over the past five years.

Table 1 Professional standards schemes mutually recognised in each state and territory during the period 1 July 2020 to 30 June 2021

Australian Capital Territory		
Mutual Recognition	NSW	CPA, ACS, APIV, RICSV, NSW Bar, LSNSW, CA ANZ, ACSN
	VIC	Vic Bar, LIV, IPA
	QLD	BAQ, QLS
	SA	SA BA, LSSA
	WA	WABA, LSWA

New South Wales					
Association	Profession	Participants	Limitation Liability	Start date	End date
CA ANZ	Accountants	31,968	\$2m to \$75m	08/10/19	07/10/24
CPA	Accountants	6,658	\$2m to \$75m	23/12/19	22/12/24
ACSN	Surveyors	175	\$2m to \$10m	01/7/20	30/6/25
NSW Bar	Barristers	2,232	\$1.5m	01/07/20	30/06/25
ACS	IT	2,040	\$2m	01/01/19	31/12/23
LSNSW	Lawyers	16,138	\$1.5m to \$10m	22/11/18	21/11/23
APIV	Valuers	3,920	\$1m to \$20m	01/09/16	31/08/21
RICSV	Valuers	60	\$1m to \$10m	01/01/16	31/12/21*
Mutual recognition	VIC	Vic Bar, LIV, IPA			
	QLD	BAQ, QLS			
	SA	SA BA, LSSA			
	WA	WABA, LSWA			
Northern Territory					
Mutual Recognition	NSW	CPA, ACS, APIV, RICSV, NSW Bar, CA ANZ, LSNSW, ACSN			
	VIC	Vic Bar, LIV, IPA			
	QLD	BAQ, QLS			
	SA	SA BA, LSSA			
	WA	WABA, LSWA			
Queensland					
Association	Profession	Participants	Limitation Liability	Start date	End date
BAQ	Barristers	988	\$1.5m to \$50m	01/07/19	30/06/24
QLS	Lawyers	6,387	\$1.5m to \$10m	01/07/16	30/06/22*
Mutual recognition	NSW	CPA, ACS, APIV, RICSV, NSW Bar, CA ANZ, LSNSW, ACSN			
	VIC	Vic Bar, LIV, IPA			
	SA	SA BA, LSSA			
	WA	WABA, LSWA			

South Australia					
Association	Profession	Participants	Limitation Liability	Start date	End date
SA BA	Barristers	211	\$1.5m to \$50m	01/07/17	30/06/22
LSSA	Lawyers	1,600	\$1.5m to \$50m	01/07/17	30/06/22
Mutual recognition	NSW	CPA, ACS, APIV, RICS, NSW Bar, CA ANZ, LSNSW, ACSN			
	VIC	Vic Bar, LIV, IPA			
	QLD	BAQ, QLS			
	WA	WABA, LSWA			
Tasmania					
Mutual Recognition	NSW	CPA, ACS, APIV, NSW Bar, CA ANZ, LSNSW, ACSN			
	VIC	Vic Bar, IPA			
	SA	SA BA, LSSA			
	WA	WABA, LSWA			
Victoria					
Association	Profession	Participants	Limitation Liability	Start date	End date
Vic Bar	Barristers	1,346	\$2m	01/07/19	30/06/24
LIV	Lawyers	5,187	\$1.5m to \$10m	01/07/16	30/06/22*
IPA	Accountants	4,784	\$2m to \$20m	01/01/19	30/12/21*
Mutual recognition	NSW	CPA, ACS, APIV, RICS, NSW Bar, CA ANZ, LSNSW, ACSN			
	QLD	BAQ, QLS			
	SA	SA BA, LSSA			
	WA	WABA, LSWA			
Western Australia					
Association	Profession	Participants	Limitation Liability	Start date	End date
WABA	Barristers	261	\$2m	01/07/20	30/06/25
LSWA	Lawyers	1,934	\$1.5m to \$10m	01/07/19	30/06/24
Mutual recognition	NSW	CPA, ACS, APIV, RICS, NSW Bar, CA ANZ, LSNSW, ACSN			
	QLD	BAQ, QLS			
	SA	SA BA, LSSA			
Total		86,089			

Notes: * the expiration date of this scheme was extended for one year beyond its original term by application from the occupational association and subsequent authorisation by the responsible Minister (this may only occur once for each approved scheme term).

Making, approving, amending, or revoking schemes

An occupational association makes the application for a scheme to be considered for approval to the respective Council in their home jurisdiction. The Councils collectively consider scheme applications for approval from associations made under the respective professional standards legislation, which requires each state and territory Council to act co-operatively with one another in the exercise of their statutory functions.

If an application for a scheme is approved, the respective Council provides advice of that approval to the responsible Minister(s) within each of the jurisdictions that the scheme is intended to apply. The responsible Minister(s) may then authorise the approved scheme to be notified in their Government Gazette, to commence from the date stipulated within the notice. More detail on the steps required for a scheme application are as follows.

Expression of commitment

The Councils request an association seeking a scheme to first provide a written letter of commitment from the association's governing body. Once a letter of commitment is received, the Councils request the Authority to allocate resources to encourage and assist the association in developing a scheme. During 2020/21, two letters of commitment were progressed successfully through to scheme applications and approval. The Councils received a further three written intents to submit a letter of commitment. This is expected to result in up to three new applications for a scheme in the 2021/22 year.

Scheme application

A successful application for a scheme will be founded on the construction of an effective scheme instrument as well as the association demonstrating that it has, or will soon have, in place important professional integrity system elements to operate the scheme pursuant to professional standards legislation including:

- robust and transparent organisational governance
- clear arrangements, and resources, for the operation of a scheme
- clear consumer protection objectives
- detailed professional risk management strategies
- defined continuing professional development programs
- effective, timely and accessible consumer complaints resolution and member discipline systems
- ongoing monitoring of members' professional conduct obligations.

In 2020/21, five scheme applications were received from occupational associations in the areas of the built environment, accounting, and law. Assistance was given to these associations, and a further two associations – one that had submitted an application in the previous financial year and one association prior to submitting in the current financial year. This assistance was provided consistent with the needs of and in consultation with the association to ensure timely progress of each application and completeness of information provided. This ranged from requisitions in writing or verbal and written feedback on draft documents for some associations, to weekly progress meetings for others.

Strategy 2021 Performance Measures

- i. Increasing participation in the professional standards regime: schemes and members. An increase of 4.7% in members of associations subject to a scheme over the year to a total of 86,089 members.
- ii. Conversion rate of occupational associations providing a letter of commitment into applications for professional standards schemes.
 - Two associations progressed letters of commitment to scheme applications.

Public notification

The Councils have an overarching obligation to act in the public interest. Before approving a scheme, the Councils must invite comments and submissions from the general public and interested stakeholders about the proposed scheme, by publishing a notice in state and national newspapers. To maximise opportunities for stakeholders' feedback, the Councils also alert potentially interested parties by email.

One feature designed to aid the process of public notification is the Public Consultation Document. This document is a core requirement of the Councils' scheme application process and is drafted by the occupational association. The purpose of this document is threefold: to highlight the nature and significance of the proposed professional standards scheme; to advise where a copy of the scheme can be obtained and viewed; and to invite comment or submissions for a period no less than 21 days.

The document allows the association to articulate in its own words the purpose and vision for its professional standards scheme and to frame its discussion in such a way as to resonate with those who work in their particular field as well as the general public.

The Councils continued expanding public notification channels to include online state and territory government public consultation websites where possible, including formalising the process for publishing public notifications on the New South Wales Government's 'Have Your Say' website. Public notifications intend to be extended to other jurisdictions' public consultation websites over time.

The public notification of schemes, as required by the professional standards legislation, facilitates comments and submissions to inform the Councils of the views of the public, whose interests are to be considered. Increasing the reach of the public notification process will improve the Councils' ability to inform the community, and to gain insight into the views of the public, for better decision making.

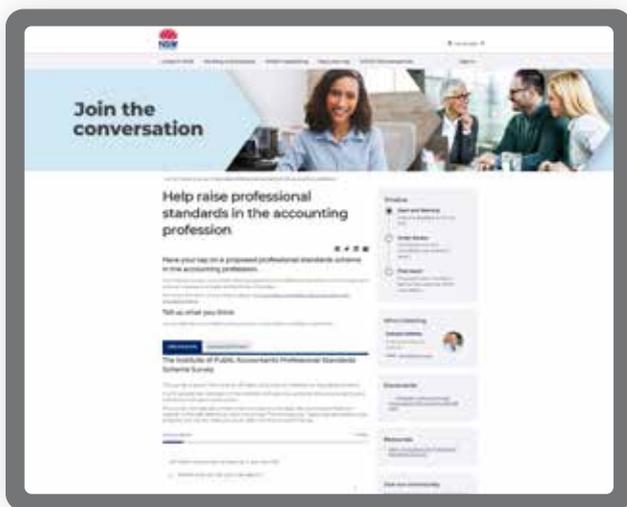


Image: Public consultation of the Institute of Public Accountants Professional Standards Scheme on the New South Wales Government's Have Your Say website in June 2021

Scheme approval

Once the Councils are satisfied that the applicant is an occupational association for the purposes of the professional standards legislation, and therefore eligible to apply for a scheme, the Councils assess the components of the application against the requirements of the legislation – including but not limited to the following mandatory considerations:

- impact of limiting liability on consumers
- impact of limiting liability on association members
- nature and level of occupational liability claims made against members of the association
- risk management strategies of the association and how they will be implemented and monitored, including the association’s codes of ethics and practice, quality management system, mediation services, membership requirements and continuing occupational education
- cost and availability of professional indemnity insurance
- association’s professional indemnity insurance standards
- association’s complaints and member discipline systems
- solvency and governance of the association
- comments and submissions received during the public notification process.

During the year, there were three schemes approved (see Table 2).

Table 2: Schemes approved 2020/21			
State	Association	Decision	Commencement
NSW	Strata Community Association (NSW)	16 April 2021	1 July 2021
NSW	Australian Institute of Building Surveyors	16 April 2021	1 July 2021
Vic	Australian Property Institute Valuers	16 April 2021	1 September 2021

During the year, there was one scheme not approved (see Table 3).

Table 3: Schemes not approved 2020/21		
State	Association	Decision
NSW	Chartered Surveyors Ltd	18 June 2021

Scheme gazettal

If a Council exercises its discretion to approve a scheme, the responsible Minister is provided advice of the Council's approval in the relevant jurisdiction. The responsible Minister may authorise notification of the scheme according to the statutory requirements. A scheme approved by the Council cannot commence until it has been published in the relevant government gazette or otherwise notified with ministerial authority.

Scheme amendment

The Councils received no applications to amend a scheme during the year.

Extending the expiry date of a scheme

The Minister responsible for the professional standards legislation in each jurisdiction has the discretion to extend the expiry date of a scheme once only and for up to 12 months upon application to the Minister by an association. During the reporting period, four schemes had their expiry date extended by authorisation of the Minister responsible.

Recognition of schemes under Commonwealth laws

The *Treasury Legislation Amendment (Professional Standards) Act 2004* (Cth) enables members of an occupational association, who are subject to an approved scheme, to have capped civil liability in relation to misleading or deceptive conduct under Commonwealth laws, in the same way that the scheme limits occupational liability under state or territory law. A scheme may be prescribed under Commonwealth regulations to limit liability for the purposes of:

- the *Competition and Consumer Act 2010* (Cth), section 137 (for a contravention of section 18 of the Australian Consumer Law)
- the *Corporations Act 2001* (Cth), section 1044B (for a contravention of section 1041H)
- the *Australian Securities and Investments Commission Act 2001* (Cth), section 12GNA (for a contravention of section 12DA).

An occupational association may request their approved scheme be prescribed under regulations for one or more of these three Commonwealth laws. Where an occupational association seeks to have its approved scheme prescribed, the Councils co-operate with the Commonwealth Treasury to facilitate this process.



The following 14 schemes are prescribed in Commonwealth legislation:

Table 4: Schemes prescribed under Commonwealth Regulations

Scheme
The Australian Computer Society Professional Standards Scheme
The Australian Property Institute Valuers Professional Standards Scheme
The Bar Association of Queensland Professional Standards Scheme
Chartered Accountants Australia and New Zealand Professional Standards Scheme
The CPA Australia Ltd Professional Standards (Accountants) Scheme
The Institute of Public Accountants Professional Standards Scheme
Law Institute of Victoria Limited Scheme
The Law Society of New South Wales Professional Standards Scheme
The Law Society of South Australia Professional Standards Scheme
The Law Society of Western Australia Professional Standards Scheme
The New South Wales Bar Association Scheme
The Queensland Law Society Professional Standards Scheme
RICS Valuers Limited Scheme
The South Australian Bar Association Inc Professional Standards Scheme
The Victorian Bar Professional Standards Scheme
The Western Australian Bar Association Scheme

Expected scheme applications

A professional standards scheme is approved for a duration of up to five years and may be extended for a further year by the responsible minister. Based on the expiry dates of schemes currently in force, the Councils anticipate that applications for a scheme to be re-made to ensure scheme continuity and ongoing consumer protection may be received from the following occupational associations during the next reporting period:

- Chartered Surveyors Ltd (formerly known as RICS Valuers Ltd) – expiry 31 December 2021
- Queensland Law Society Ltd – expiry 30 June 2021, extended to 30 June 2022
- Law Society of South Australia – expiry 30 June 2022
- Law Institute of Victoria Ltd – expiry 30 June 2021, extended to 30 June 2022
- South Australian Bar Association Inc – expiry 30 June 2022.

Case Study 2:

Strengthening consumer protection for occupational groups

To achieve our consumer protection mandate, the Councils' regulatory initiatives have focused on enabling professional standards schemes for occupational groups beyond the traditional professions. Schemes are a powerful way in which occupational associations and their members can effectively respond to the demands for industry to take a share of the responsibility to improve occupational standards, and put consumer protection and serving their community at the centre of all that they do.

Professional standards in the built environment

In 2018, the Building Ministers' Meeting commissioned the Building Confidence report to assess the effectiveness of compliance and enforcement systems in the built environment.

The Councils worked closely with Building Ministers and key regulatory bodies in the built environment sector to promote the professional standards regulatory system as part of the response to the professional standards and professional indemnity insurance issues identified in the Report.

In turn, Building Ministers called on industry associations to develop schemes as a matter of priority to help rebuild community confidence and strengthen consumer protection in the building and construction industry.

Benefits for occupations operating a scheme were called out, including:

- national coverage of schemes and co-ordination of regulatory responsibilities across jurisdictions
- enabling occupational associations to regulate their members by identifying, and addressing competence and conduct issues
- collection of comprehensive data about claims and complaints, driving better risk management strategies to systemically improve professional practice and reduce consumer losses
- meeting increased public demand for robust consumer protection and professionalising industry occupations
- mandatory requirement for practitioners subject to the scheme to hold professional indemnity insurance in accordance with scheme requirements.

In 2021, the following occupational associations joined the community of professional standards regulators and will commence new approved schemes in the built environment sector:

1. Australian Institute of Building Surveyors (commences 1 July 2021)
2. Strata Community Association (NSW) (commences 1 July 2021).

Genuine professionalisation requires both community and government trust in associations and their capacity to regulate the standards of their members. With the strength of the national system of professional standards regulation behind them, occupational associations can step up as leaders in their industry, using professional standards schemes to catalyse improvements in the culture, conduct and competence of practitioners for the benefit of their consumers and the community.



Case Study 3:

For the first time, the Councils enable the creation of a scheme for strata managers

In April 2021, the Councils approved the Strata Community Association (NSW) Limited Professional Standards Scheme, expanding the national system for professional standards regulation to include, for the first time, strata managers and the users of their services.

Strata Community Association (NSW) is the industry association for strata managers serving the two million consumers that live in, own, or visit strata buildings in New South Wales. In the coming decades over half of consumers are expected to own or live in a strata title building compared to traditional standalone homes.

Strata Community Association (NSW) considers their achievement of a professional standards scheme as one of the most significant milestones in their Association's 40-year history.

Applying for a scheme was seen as transformational for their members in the recognition of improving occupational standards and consumer protection in the strata marketplace.

The New South Wales Government, and in particular the New South Wales Building Commissioner, have been advocating that the value-chain in building, purchasing and occupying strata buildings needs an overhaul. Strata Community Association (NSW) sees their Scheme as consistent and in direct alignment with the New South Wales strategy and leading the protection of consumers through professionalism.

The Scheme provides a clear choice for consumers when identifying their strata manager and the understanding that Strata Community Association (NSW) is focused through its Code of Ethics in protecting the interests of consumers.

Reflecting on their experience, Strata Community Association (NSW)'s Vice-President Tony Irvine said:

“Our journey to applying and being approved for a Scheme was very cathartic and our project team discovered more about our Association and how best to protect consumers through the professionalism of our membership. Importantly, our membership unanimously voted to amend our Constitution to enable the Scheme to be a reality.

SCA NSW undertook a 2-year project to gain the support and endorsement from the membership before beginning the application process. The team at the Professional Standards Authority were engaging and encouraging throughout the application. They assisted us in identifying areas that could be improved in our processes and standards.

We would encourage other occupational associations to embrace the new Scheme Application Framework that the Councils has developed. This new process provides the ability to submit milestone components of the application as they are completed, making the journey more efficient.

The SCA NSW Scheme approval is just the beginning of the journey for our Association and strata managers across Australia. Our intention is to learn from the experience to be gained in NSW, refine and improve standards, and then leverage this experience to apply for a professional standard scheme across Australia. This will ensure that all consumers have the protection that a scheme provides, regardless of where they are located.”

Strata Community Association (NSW) and the Councils have established a positive and productive regulatory relationship through the scheme application and approval process and will continue to work together to improve professional standards for the benefit of consumers and the association's members over the life of the scheme.



Supervision of schemes

The Councils supervise professional standards schemes operated by occupational associations for compliance with professional standards legislation and achievement of the objectives of the schemes. Schemes enable associations to self-regulate their members so that they can go beyond compliance with legislation – the professional standards regime is forward-looking and improvement-focused.

Supervisory actions taken by the Councils aim to encourage and assist associations to identify, mitigate and prevent harms to consumers of professional services so consumers are better protected. The Councils achieve this by producing and providing guidance to associations on their scheme obligations, to ensure that associations are effectively developing the necessary frameworks for their members to continuously improve professional standards and consumer protection.

The following legislative examples and strategic objectives inform the Councils' supervisory activities:

1. monitor, improve, advise and publish information on occupational associations' compliance with professional standards legislation and regulations, and the association's detailed consumer risk management strategies (ss 35(3), 37, 43(1)(f)-(g) *Professional Standards Act 1994* (NSW))
2. monitor and publish advice/information on the occupational standards of persons to whom schemes apply (ss 43 (1)(e)-(g))
3. enforce professional standards schemes including through review, amendment or revocation action (ss 16, 16A, 43(1)(j))
4. improve the quantity and quality of data received by the Councils and its analysis to assist the above. (*Strategy 2021*)

Strategy 2021 Performance Measures

i. Decreasing seriousness in complaints/claims in the professional standards regime.

- The Councils use several measures of seriousness. This includes the number of complaints to associations about scheme participants and the number of professional indemnity claims, as shown in figure 8. The volume, percentage and cause of all claims that exceed 50% of the monetary ceiling is also considered as a measure of seriousness.
- Complaints against members of associations decreased by approximately 30% since 2019 across the accounting, solicitor, and barrister sectors.
- Claims exceeding 50% of the monetary ceiling placed on practitioner's liability decreased from 30 in 2019, to 13 in 2020. While 'misappropriation, misleading and deceptive' formed 17% of the cause of actions in 2019 claims, this category has not been identified as a cause for the 13 claims in 2020. Associations are increasingly using tools of root cause analysis to better identify professional risks and implement changes to their professional standards, such as requiring a minimum level of ethics training.

ii. Improvement in compliance and risk management of approved schemes.

- 100% of associations submitted their annual Professional Standards Improvement Program report on-time.
- Associations completed additional risk identification reporting related to the provision of financial services and the impacts of COVID-19. This enabled the associations and the Councils to better identify and manage the risk of potential standards failures that may cause consumer harm.
- 88% of associations reviewed elements of their risk management plan in 2020. 53% of associations reviewed their risk management plan using data inputs and implemented some, or all, of their improvement plan.

iii. Councils are recognised for their occupational risk management knowledge and data.

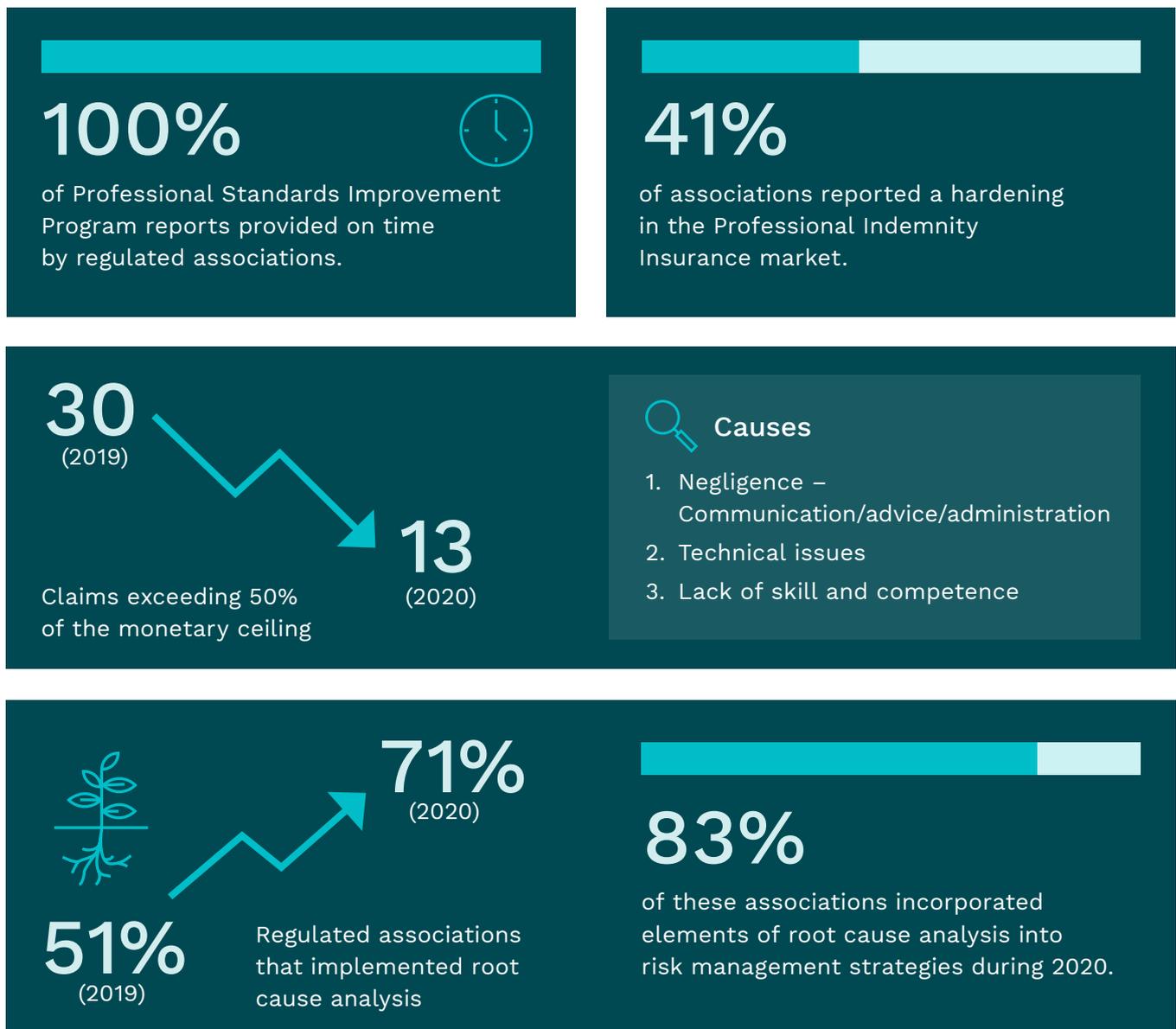
- During 2020–21, occupational associations, academics, and other regulatory agencies sought input from the Councils on the professional standards implications in a number of areas including continuing professional development, quality management system reviews and auditing systems.
- The Councils made a submission to the Victorian Legal Services Board + Commissioner's Issues Paper 'Continuing Professional Development in the Victorian legal profession'. The Councils were recognised for their 'considered and comprehensive' submission and their 'valuable insights as a meta-regulator of professions across Australia'.
- The Councils' submissions on the implementation of continuing professional development on the National Construction Code for building practitioners helped form part of the Australian Building Codes Board, Building Confidence Report Implementation Discussion Paper.
- The Councils approved their first Memorandum of Understanding with a peer regulator. The Memorandum of Understanding with the Tax Practitioner's Board allows both regulators to share permissible information and data on risks and issues relevant to the tax/financial services industry.
- The Councils were invited by the Tax Practitioners Board to join the Tax Practitioners Governance and Standards Forum as an *ex-officio* member to share their expertise in professional and ethical standards.

Professional Standards Improvement Program

Supervising and monitoring each association's compliance with professional standards legislation, and its commitments to regulate its members in order to protect consumers of their professional services, is at the heart of a successful and purposeful professional standards scheme.

Associations that operate a professional standards scheme are required to submit a Professional Standards Improvement Program report annually to the Councils. The report requires the association to specify the actions taken to improve the professional standards of their members, plus consumer-directed risk analysis and management, resolving complaints of the consumers of the services provided by their members, member discipline, occupational liability claims, and the cost, availability, and quality of professional indemnity insurance. This information and data, self-reported by the associations, is analysed and compared over time and across associations. This provides the Councils with insights on the operation of schemes and is part of the Councils' supervision approach.

The Councils are then required to report on the activity of the associations and their professional standards schemes in the Councils' annual reports, provided to the responsible Minister and Parliament of each state and territory. In this way the public are also advised of the professional standards improved. An overview of the 2020 Professional Standards Improvement Program is provided through the following infographic.



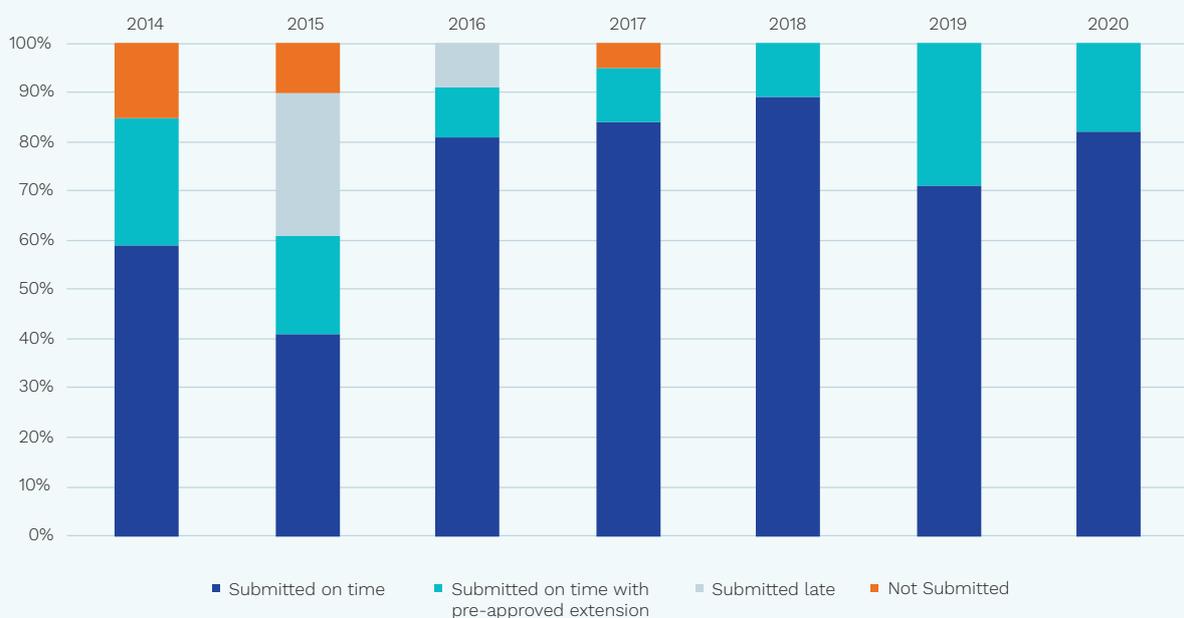
Reporting Guidelines and Template

The 2020 Professional Standards Improvement Program Guidelines and Template was refreshed to recognise and obtain information about the emerging risks faced by associations (such as those relating to COVID-19). The refresh was responsive to feedback provided by associations about the clarity and usability of the Guidance and Template, ensuring that it articulated requirements for data collection relating to associations' effectiveness in regulating professional standards and enhancing consumer protection.

In November 2020, the annual Program's satisfaction survey was distributed to all regulated associations regarding the operation of the previous year's annual report. Feedback provided by the associations requesting increased engagements with the Authority was highlighted, with action taken by the Authority to commence annual engagement meetings with each regulated association.

Engagement meetings were held with seven associations in 2020 and 2021 about feedback provided to associations from annual reporting and the updated 2020 Guidelines and Template. These meetings provided greater clarity to associations on how to address the requirements of the annual reporting, and to demonstrate their performance as a regulator of professional standards.

Figure 3: Improvement Program report submission times comparison: 2014 – 2020



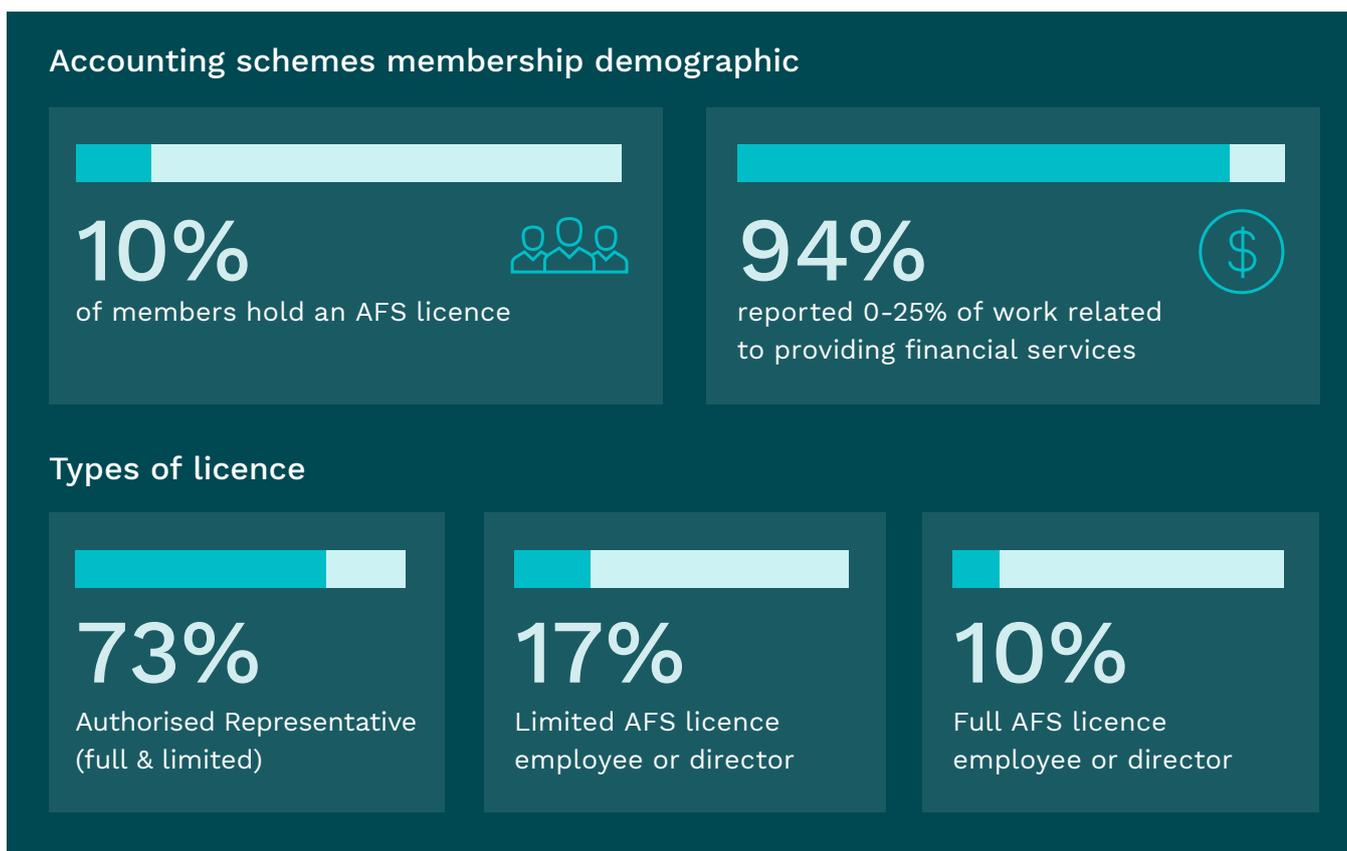
All regulated associations provided their annual reports on-time. This is the third consecutive year of 100% submissions, which is an improvement from 2017 where 95% of reports were received on-time. This improvement can be associated with providing associations with annual reporting templates earlier in the reporting cycle, and effectively engaging with associations in response to feedback.

The redesigned scheme application framework, which is being piloted in the first and second quarters of the 2021/22 financial year, will integrate the annual reporting from associations into the scheme application process. This new approach includes a post-approval workshop that allows the Authority to formally hand over the association from the Schemes team to the Supervision team and integrates the application with annual reporting to allow the continuation of the scheme lifecycle. This mitigates previous issues where associations were not prepared for annual reporting and emphasises the continuous improvement of standards required of an association operating a scheme. The redesigned annual reporting template and guidance will be developed, in consultation with associations, during the pilot phase of the new Framework. The annual reporting template and guidance will then be applied to the 2022 calendar year. Accordingly, the annual reporting template for the 2021 calendar year will use the Program's current reporting template.

Councils focus on financial services risk management

Since 2019, the Councils have been working with accounting associations operating a professional standards scheme to better understand and respond to the risks present and emerging for clients of their members providing financial services. Accounting associations have participated in additional reporting to the Councils on financial services activities including management of known risks and monitoring emerging risks.

The infographic below provides an overview of membership demographic trends across the professional accounting community, as identified in the reports provided:



The Councils commend the achievements and good practice risk responses by the accounting associations following the introduction of additional risk reporting. These include:

- internalising the reporting parameters into annual member surveys/declarations for better data collection and analysis
- incorporating risks identified by the Councils relating to financial services into yearly risk management activities to formulate targeted responses and assess their effectiveness
- reaching out to other regulators and relevant organisations to obtain better data on complaints and professional indemnity insurance claims
- conducting root cause analysis on member non-compliance trends and responding to those trends through their risk management activities
- shaping member education programs and conferences in direct response to the financial services risks identified by the Councils.

Initially, risks relating to the provision of financial services were not well understood and a comprehensive data set was not available to enable the associations or the Councils to identify risks. The Councils take a continuous improvement approach to encourage strong consumer protection by associations, so that evolving community expectations of high professional standards are met.

The additional risk reporting has now been incorporated into the Professional Standards Improvement Program for the accounting associations, supporting comprehensive and integrated risk identification and risk management activities.

The accounting associations have found the additional risk reporting parameters valuable in assisting with better collection of relevant data and in shaping their risk management response to financial services risks, with accounting associations commenting “it guided and influenced improvements” to their risk management and:

“I wanted to pass on to the [Councils] positive comments on the question set used for the additional risk reporting associated with the provision of financial services... The questions are well worded, relevant, and clear. This is important as it makes the questions easy to use and members can understand the questions.”

Professional Standards Improvement Program findings by topic area

Common areas of achievement

The Councils have assessed information provided by regulated occupational associations as required by the annual reporting obligations. Three common areas of achievement across the associations have been identified which demonstrates the strongest areas of performance of professional standards schemes.

Requirements to disclose the scheme by member participants

All occupational associations must ensure members that are scheme participants fulfil their disclosure obligations about their limited liability to consumers. Providing clear and accurate information about a professional’s limited liability status allows consumers to make informed decisions when using the services of a particular professional. Maintaining compliance on these disclosure requirements means suitable regulatory processes must be in place within an occupational association which monitors adherence to these obligations.

They must also have processes in place to monitor disclosure of limited liability that it is only members that are scheme participants that advertise or promote this limited liability status. Failure to disclose limitation of liability is an offence under professional standards legislation.

Occupational associations generally demonstrated improved practice in managing compliance with disclosure requirements including implementing robust systems for monitoring compliance with 94% of associations utilising some form of monitoring. These systems and practices included obtaining copies of documentation from scheme participants to monitor adherence to disclosure obligations, with 14 of the 17 associations auditing disclosure requirements and taking remedial actions against members who have not complied with disclosure requirements. Occupational associations also generally undertook regular and random auditing of members including auditing advertising or promotional material (whether or not they were scheme participants), with 11 associations conducting random audits.

Professional indemnity insurance standards

Each occupational association must provide evidence that they have appropriate systems in place to ensure that scheme participants have appropriate levels of professional indemnity insurance. A scheme participant may not be able to rely on a scheme in court if that person does not have the benefit of an insurance policy, indemnifying the person against the liability to which the cause of action relates and where the amount payable under such policy is not less than the monetary ceiling specified in the scheme (and/or the scheme participant has adequate business assets, to the same purpose, as may be provided for in the scheme). Non-compliant or inadequate levels of insurance (and/or business assets) may leave consumers without access to compensation to which they are entitled.

Occupational associations demonstrated good practice by generally having in place systems which set insurance standards and monitor compliance with the insurance standards by scheme participants, with 76% of associations having a monitoring system in place. These systems include the use of approved brokers in policies, monitoring upon joining and through membership renewals, monitoring top-up insurance and the number of overseas insurance policies, and systems for instigating compliance and disciplinary action in relation to non-compliance.

Compliance planning

Occupational associations and their governing bodies must ensure that they have in place an effective, organisation-wide compliance management system. This system should include processes which mandate the regular review of compliance management which is endorsed by their governing body. Under strong governance, compliance management integrated with risk management enables associations to reliably achieve their scheme objectives.

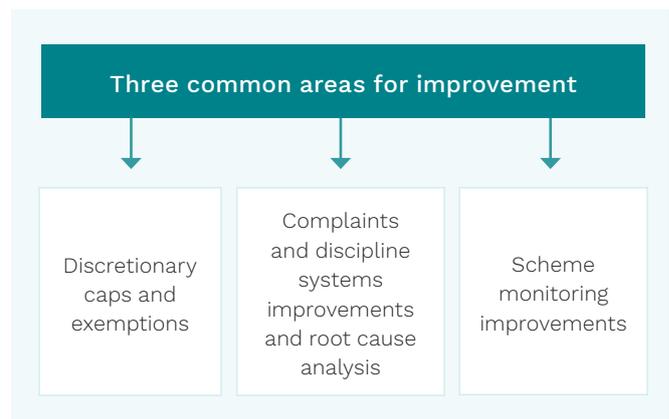
Occupational associations generally demonstrated achievement through creating or strengthening compliance planning. These plans increasingly focus on outputs and outcomes and include relevant obligations and processes that clearly articulate controls and their owners. 76% of associations' compliance plans align with the AS ISO 19600:2015 requirements. Out of these associations, 61% have updated or actioned their compliance plan. This alignment assists associations to strengthen compliance management. Such plans include timeframes which determine the frequency of process/control and monitoring and clearly distinguish criteria for identifying high, medium, or low obligations in reference to professional standards legislation.

Common areas for improvement

The Councils have assessed information provided by regulated occupational associations as required by the annual reporting obligations. Three common areas for improvement have been identified, which particularly focus on emerging consumer risks and continuing areas of non-compliance.

To align professional standards schemes with evolving community expectations, the Councils encourage and assist associations to take a continuous improvement approach to regulating their members. Regulatory innovation by associations is becoming more and more critical to deal with unaccounted risks, such as those relating to an occupation's COVID-19 response and changing global market conditions. The three common areas are considered and analysed below to respond directly to meeting the objectives of professional standards legislation – accordingly, consumers are at the core of the Councils' guidance to associations. This year, the common areas for improvement advise associations to:

- provide transparent and accountable information to consumers on the service provider's liability
- maintain robust complaints systems to instil consumer confidence to systemically respond to community concerns
- ensure systems ensuring member compliance are continuously improved to manage emerging risks to consumer protection.



Discretionary caps and exemptions

Professional standards schemes are intended to apply to all members of an occupational association, or specified class(es) of persons within an occupational association where it is not suitable for all members to be scheme participants. Under professional standards legislation, exemptions may be granted to members of an occupational association where an application is made by that member. The members of an occupational association to which a scheme applies generally hold the same amount of limited liability. However, the professional standards legislation confers a discretion on an occupational association to specify a higher maximum amount of liability to a scheme participant or class of scheme participants.

To maximise the benefit of the professional standards schemes for consumers and ensure consumers have consistent, accurate and clear information available to them, occupational associations must have appropriate systems and records for which members are scheme participants and the applicable monetary ceiling on professional liability. Specifically, such systems and records should include reliable, transparent and accessible policies, procedures and registers for managing exemptions and discretionary caps. The basis, consideration, and reasons for the occupational association's governing body's approval of a discretionary cap or exemption should be contained within these documents.

Complaints and discipline systems improvements and root cause analysis

The objects of professional standards legislation require occupational associations to facilitate the improvement of occupational standards and to protect the consumers of services. An important element of any professional standards scheme, which should be utilised to fulfil this objective and instil consumer confidence, is a robust complaints and discipline system. Occupational associations should take a continuous improvement approach to their complaints and discipline systems that responds to existing or emerging issues, prioritises complaints based on seriousness and takes appropriate enforcement and disciplinary action.

This system should also recognise that consumer complaints provide a rich source of information that can be analysed to provide evidence about systemic issues that may exist within a profession. This information and evidence should be used to develop risk management strategies. Using a root cause analysis approach to deal with and understand complaints enables occupational associations to look beyond the character of complaints (the symptoms) to identify and address the underlying factors that give rise to complaints (the causes). With root cause analysis, occupational associations will be better equipped to treat the competence and conduct failures that result in complaints and strengthen consumer protection by improving standards of practice in their professional community. For more information on how root cause analysis can be incorporated into risk management strategies, see page 57.

Scheme monitoring improvements

A continuous improvement approach to monitoring compliance with professional standards schemes requirements is significant for protecting consumers against harm. Maintaining an appropriate monitoring system improves compliance with professional standards such as continuing professional development obligations, limited liability disclosure requirements and other entry or ongoing scheme participation standards set by associations to improve professional practice. Such a system should be effective in identifying any regulatory risks or trends with respect to compliance with scheme requirements. These identified risks or trends can then be addressed through risk management and compliance plans.

Compliance monitoring becomes even more critical when dealing with emerging risks arising from substantial shifts in professional practices, which have been associated with the COVID-19 pandemic. To understand emerging risks and trends and manage practical implications caused by COVID-19, occupational associations need to ensure they have an approach to scheme monitoring that uses processes and systems which are agile and adapt to the changing environment. Such an approach to monitoring and improving scheme membership requirements is vital to ensuring ongoing compliance and managing risks to consumer protection.

Professional Standards Improvement Program findings by sector

Accountants

Figure 4: Accountants – average number of persons by state and territory subject to professional standards schemes

The accounting profession reported a number of improvements throughout the year including:

- sourcing of professional indemnity insurance data and expert insurance data and information
- conducting risk analysis with linkage to controls and evidence-supported strategies. New or emerging risks were identified, rated, and controlled
- one association undertook an external risk review and implemented the risk management recommendations.



Solicitors

Figure 5: Solicitors – average number of persons by state and territory subject to professional standards schemes

There were improvements in several areas by solicitors including:

- alignment with the AS ISO 19600:2015 compliance management system requirements
- undertaking auditing activities to monitor compliance with the scheme participant's obligation to disclose their limited liability to consumers
- one association conducted root cause analysis on claims and complaints data, including an assessment of the actions that could have been taken to prevent the issue. The analysis was used to implement continuing professional development sessions targeting problem areas.

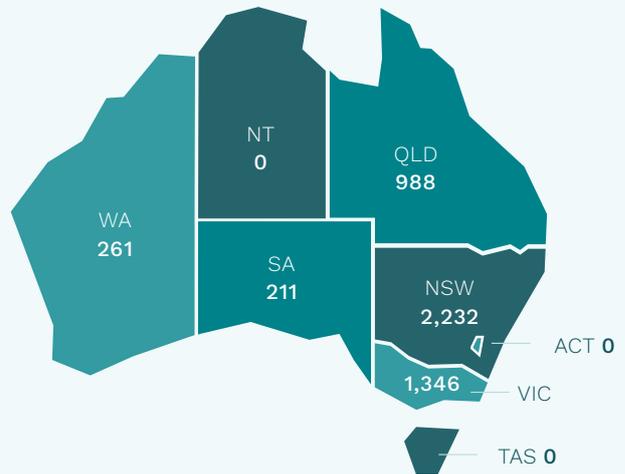


Barristers

Figure 6: Barristers – average number of persons by state and territory subject to professional standards schemes

Noticeable improvements were observed across several bar associations including:

- undertaking auditing activities to monitor compliance with the scheme participant's obligation to disclose their limited liability to consumers
- one association conducted their first annual continuing professional development audit
- two associations responded to risks of sexual harassment by providing specialised training for complaint handlers.

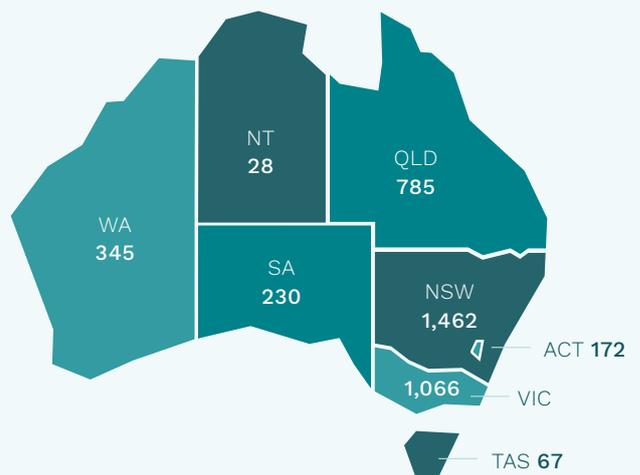


Built Environment

Figure 7: Built Environment – average number of persons by state and territory subject to professional standards schemes

Some of the highest performing areas for the built environment sector included:

- informing and educating scheme participants of their compliance obligations under the professional standards legislation and scheme
- compliance with the Annual Membership Assurance Report verifying the number of scheme participants for the annual fee period
- one association provided in-depth analysis of their comprehensive professional indemnity insurance claims data. The association used the insights to inform risk management strategies.



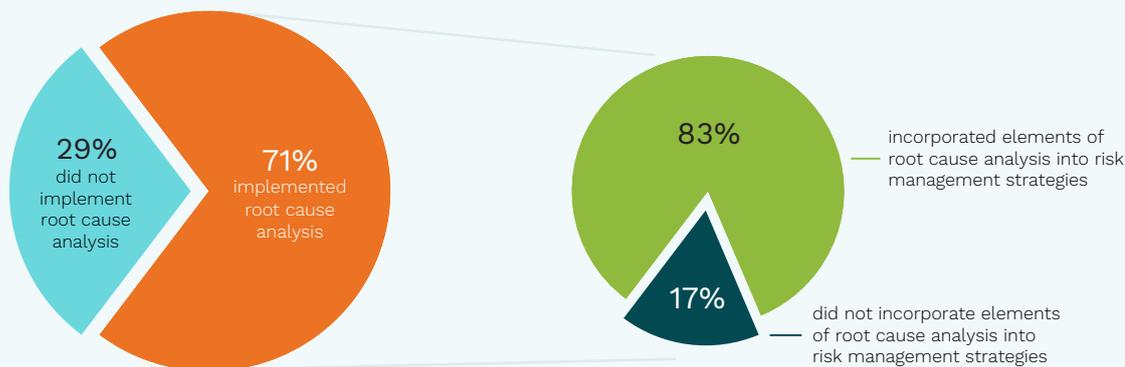
Professional Standards Improvement Program findings by focus area

Root cause analysis

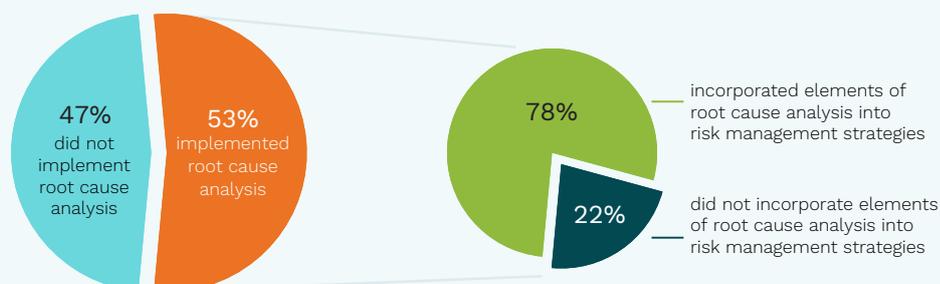
In the April 2019 Professional Standards Forum, the Councils introduced the methodology of root cause analysis as a practical risk management tool that associations are able to utilise to look beyond typology and detect the root causes of complaints and claims. By identifying the root causes of complaints and claims, associations are better equipped to respond to ongoing systemic issues and identify the underlying risks to consumers. Using methodology for identifying the root causes or underlying risks, associations are also better equipped to adjust their risk management strategies, allowing for an appropriate approach to be implemented to reduce the likelihood of re-occurrence of factors that lead to claims and complaints.

The Councils observed that the number of associations that undertake root cause analysis and use their analysis to inform their risk management strategies increased since 2019. Of the 71% of associations that undertook root cause analysis in 2020, 83% incorporated elements of root cause analysis into their risk management strategies. Of the 53% of associations that undertook root cause analysis in 2019, 78% incorporated elements of root cause analysis into their risk management strategies.

Associations that implemented root cause analysis in 2020



Associations that implemented root cause analysis in 2019

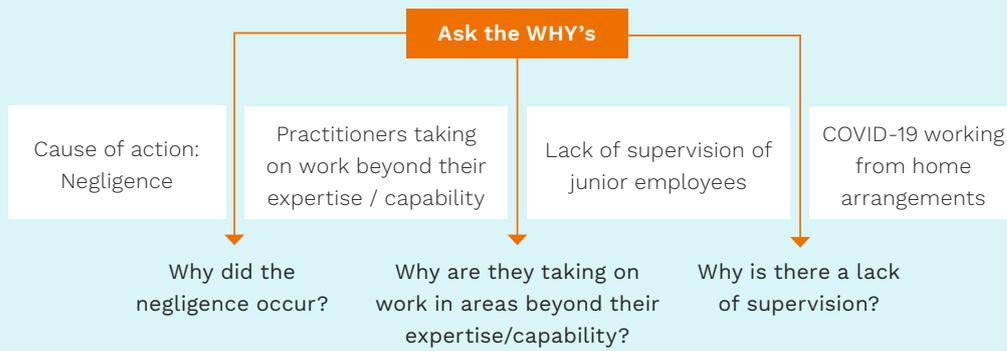


Below is an example of how root cause analysis can be incorporated into risk management strategies.

Incorporating root cause analysis into risk management strategies

1 Identify trends from data
e.g. the data identified a 20% increase in negligence claims

2 Implement root cause analysis using data sources



3 Formulate risk management responses that target the identified root causes



4 Monitor data and evaluate risk management strategies
e.g. Consider the following questions:



Data Sources



Complaints data



Claims data



Member Surveys



Reports



Media articles

Performance and trends indicated by associations' annual reporting

The data and information provided in the annual reporting from each association has been aggregated and analysed to identify any trends across all associations or within sectors of associations, for example, barristers. As associations only have access to their own information, this cross-association and cross-profession analysis of data and information represents a macro approach that is uniquely available to the Councils. This analysis enables the Councils to share system wide insights and potential responses with the associations and the professional standards community to inform continuous improvements and the adoption of good practices. The information and data presented within the below graphs reveal a number of changes between 2019 and 2020 in complaints and claims.

Figure 8: Industry sector comparison in complaints/claims 2019 – 2020

The volume of complaints decreased by approximately 30% across the accounting, solicitor, and barrister sectors between 2019 and 2020. The decrease is across all sectors, as opposed to a factor that impacted only one sector. This indicates an issue that is affecting all sectors in a similar way, and may be related to COVID-19 and its effects in the community and economy. The Councils note the unusual circumstances of the reporting period which may be causing an anomalous variation, and which will be monitored with associations. The volume of claims/notifications increased in the accounting sector, remained stable in the barrister sector, and decreased in the solicitor and 'other' sectors. It is noted that complaints data usually leads claims data, and any significant trend may be reflected in claims/notifications data in the next reporting period.



Key:

Slight increase / decrease: less than 5% Increase / decrease: between 5 – 20% Large increase / decrease: over 20%

*A small sample size was used and is not indicative of the whole sector

Explanation of terms

Complaints received: Number of consumer complaints made against members which are dealt by, or disclosed to, regulated associations in the reporting year including complaints made against members received by relevant regulators of the occupation.

Number of claims/notifications: Number of professional indemnity insurance claims and notifications made against members collated by regulated associations in the reporting year from available data sources.

Amount of claims paid: Number of reported settlements paid for professional indemnity insurance claims made against association members.

Note: These indicators are sourced from a comparison of current 2020 Professional Standards Improvement Program data against the 2019 Professional Standards Improvement Program data for each scheme association (where available).

Claims exceeding 50% of the monetary ceiling

The 2020 Professional Standards Improvement Program Guidelines and Template includes reporting on claims and notifications that exceed 50% of the monetary ceilings specified in the association's scheme. This informs more targeted reporting which enables the Councils to monitor and analyse the effectiveness of limitation of liability settings across the national professional standards system.

Claims exceeding 50% of an association's monetary ceiling occurred in the accounting, legal and built environment sectors. There were 13 claims in 2020 and this represents a large reduction from the 30 claims reported in 2019.

Figure 9: 2020: Number of claims exceeding 50% of the monetary ceiling per 1,000 members

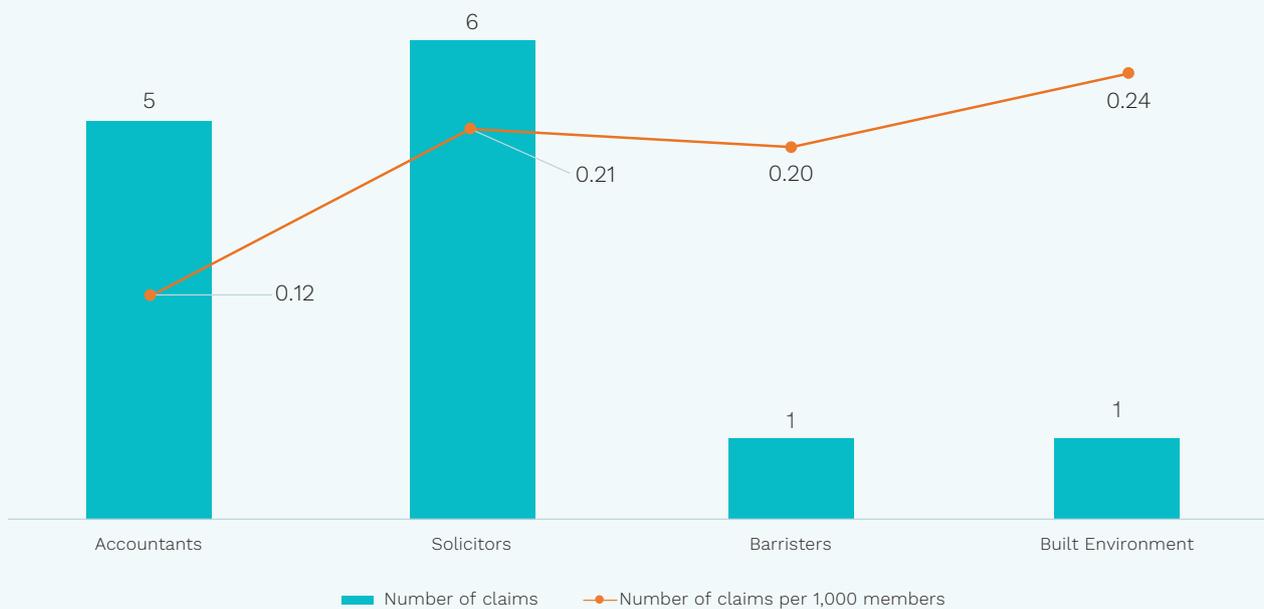


Figure 10: Claims exceeding 50% of the monetary ceiling trend comparison: 2019 – 2020

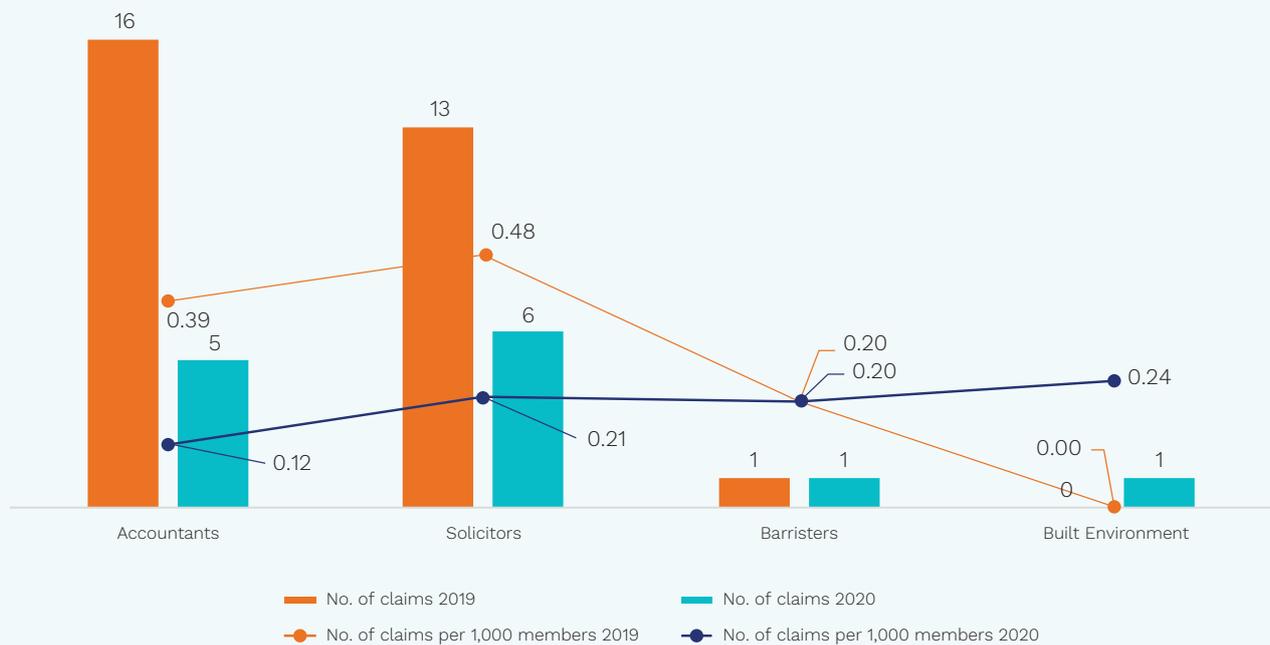


Figure 11: Claims exceeding 50% of the monetary ceiling per 1,000 members comparison trend: 2018 – 2020

It should be noted that this data only includes the accounting and legal sectors as data for the built environment was not available for 2018.

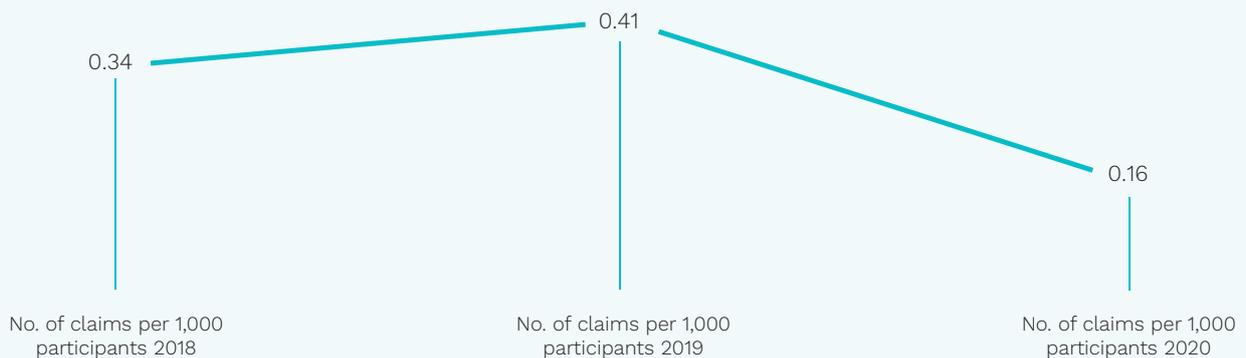
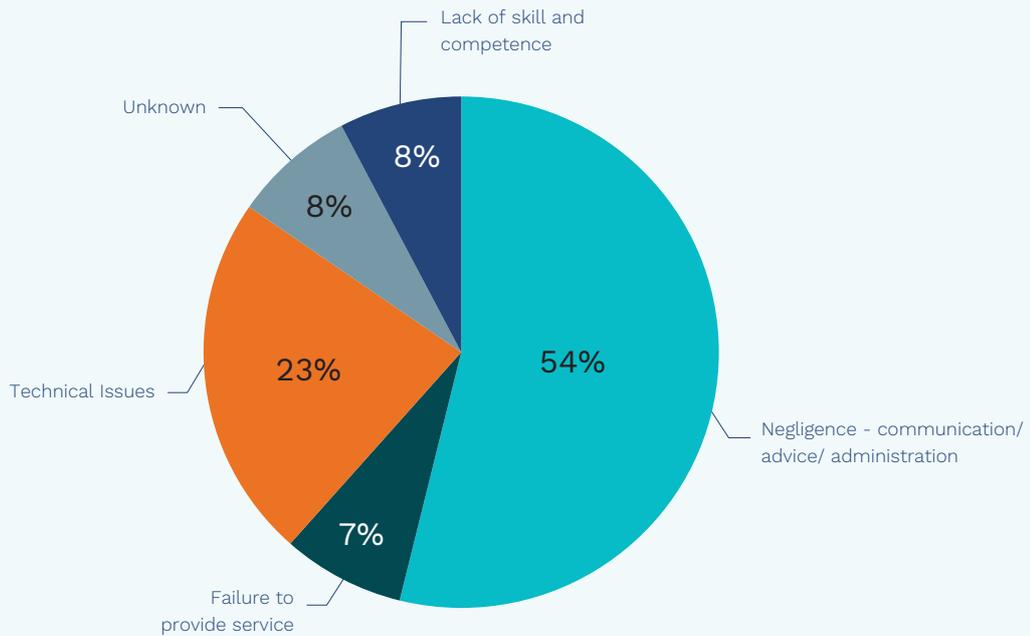


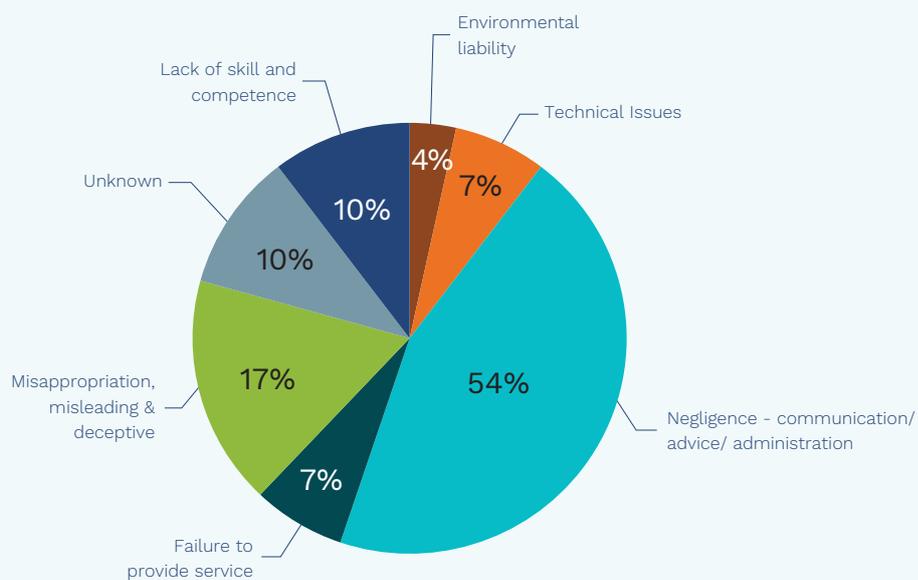
Figure 12: Causes for claims exceeding 50% of the monetary ceiling.

Unlike 2019, there were no claims that exceeded 50% of the monetary ceiling for the ‘misappropriation, misleading and deceptive’ or ‘environmental liability’ categories in 2020. There was an increase of claims in the ‘technical issues’ category. Taking on new work or clients in unfamiliar areas of practice leading to error was identified as one of the top two consumer risks arising out of COVID-19 during the Councils’ consultation with associations in April 2020. It therefore appears likely that the increase in ‘technical issues’ is at least in part due to the impact of COVID-19.

Causes for claims exceeding 50% of the monetary ceiling: 2020



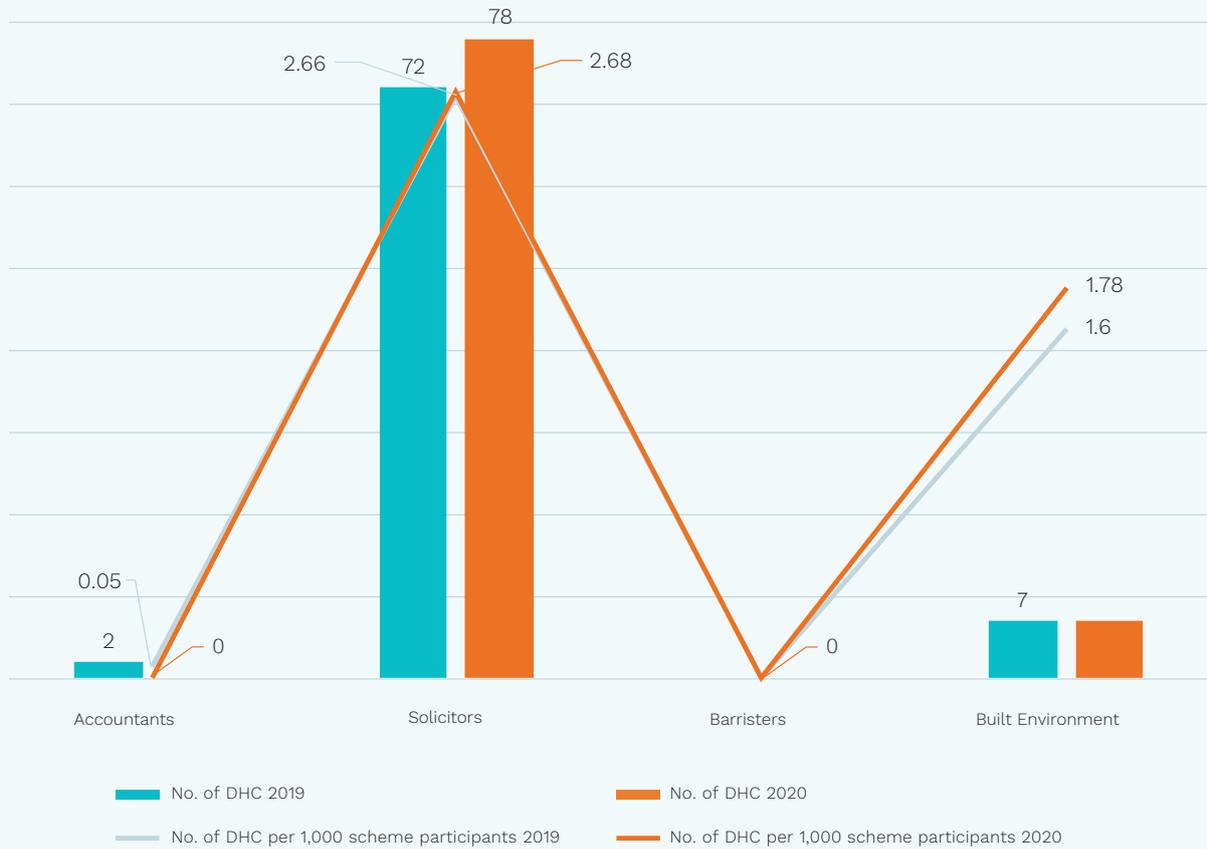
Causes for claims exceeding 50% of the monetary ceiling: 2019



Discretionary higher caps

A scheme may confer a discretionary authority on an occupational association, on application by a person to whom the scheme applies, to specify a higher maximum amount of liability than would otherwise apply under the scheme either in all cases or in any specified case or class of case.

Figure 13: Discretionary higher caps trend comparison 2019 – 20



Codes of ethics

The Councils encourage associations to make their occupation's Codes of Ethics/Conduct transparent to their members and accessible to the consumers of their members' services.

The October 2020 Professional Standards Forum discussed consumer-focused codes of ethics which invoke values, principles and standards that promote the delivery of the occupation's social goods and mitigates risks to consumers. Insights were shared on attaching ethical codes to the duty-bearers' existing moral convictions to achieve conscientious compliance from the occupation. The Behavioural Insights Team shared information on using behavioural science methods to help put the consumer first in professional ethics. Resources were provided on applying behavioural insights to ethics regulation, by way of the **EAST framework** which stands for Easy, Attractive, Social and Timely.

In maintaining a robust governance system, associations must ensure effective complaints and disciplinary processes are in place to hold members accountable for unprofessional actions. An evidence-informed and risk-based approach to regulating ethics requires close involvement of consumers and stakeholders from across the community, as well as the practitioners who will shoulder the code's responsibilities and duties. Associations are well-positioned with their members and their consumers to identify and mitigate ethics risks and anchor ethical behaviours.

In the next reporting year, associations will be requested to report on any actions or strategies encouraged by the above learnings through their Professional Standards Improvement Program. Actions will include reviews conducted on codes or strategies to raise code accessibility to the consumer and any behavioural interventions developed from adopting the EAST model.



The effect of schemes on consumer protection and professional indemnity insurance

The national system of professional standards regulation was developed in the 1990s, against a backdrop of escalating professional indemnity insurance claims that led to professional service providers either:

- leaving their profession
- reducing their insurance cover
- forgoing insurance policies completely.

This threatened to leave aggrieved clients with the prospect of being unable to recover damages from the negligent professional, even if their claim was successful in court.

Governments agreed it was preferable to provide some guarantee of payment for most consumers with a claim than to have a system of unlimited liability with no certainty of any. The vision was to strengthen consumer protection and raise standards of service delivery by occupations while ensuring better access to professional indemnity insurance.¹

What have we observed recently?

Approximately 40% of occupational associations operating a professional standards scheme reported a hardening of their industry's insurance market in 2020/21.

The 2020 Professional Standards Improvement Program encourages wide sourcing of expert insurance data and information by associations, of which a substantial amount expect:

- increased pricing in policy premiums for some industries
- tendency to restrict policy coverage terms for some occupations
- sensitivity towards occupations facing increased regulatory and litigation risks.

The impacts of COVID-19 were also reported to exacerbate economic uncertainty for professionals.

The Councils monitor industry data, which anticipates pressure on the availability of insurance across a range of occupations including:

- professional engineers
- financial advisors
- aged care service providers
- insolvency practitioners.

1. See particularly: David Ipp, Review of the Law of Negligence (Final Report, 30 September 2002).

Changes to professional indemnity insurance costs

Figure 14: Professional indemnity insurance costs (average premiums) comparison 2019 – 2020



Key:

Slight increase / decrease: less than 1% Increase / decrease: between 1–15% Large increase / decrease: over 15%

This graph cannot be used to compare between the individual associations represented in the graph. It does however provide a general overview of the changes in the professional indemnity insurance market for scheme participants. These indicators are sourced from a comparison of current 2020 Professional Standards Improvement Program data against the 2019 Professional Standards Improvement Program data for each scheme association (where available).

Each placement on the graph represents an association that reported the average cost of professional indemnity insurance for the 2019 and 2020 Professional Standards Improvement Program reporting periods. Whether the average cost of premiums in 2020 increased, decreased or remained stable in comparison to 2019 can be compared across sectors.

The average cost of professional indemnity insurance increased for 50% of the 12 associations who provided the data in 2019 and 2020. However, the percentage by which costs have increased or decreased cannot be compared across associations due to differences in the way associations obtain data. This includes:

- comparing the average cost of insurance as a proportion of gross fees/income
- comparing the average premium costs using member surveys to identify any changes to members' premium costs.

They do however show the percentage by which costs increased or decreased for the association's scheme participants.

Developing a deeper understanding

The Councils have scoped a piece of research to evidence the effect of professional standards schemes in meeting the objects of the professional standards legislation by measuring the:

- availability, affordability and quality of professional indemnity insurance (as consumer protection is premised on claimants being able to recover losses when professionals carry appropriate professional indemnity insurance)
- number and size of notifications and claims (as improved professional standards are premised on effective management of risk and reduction in negligence).

The report will be commissioned in the next reporting period.

The commissioned report will assist the Councils to engage with government, insurers and occupational associations on how the professional standards system can help respond to insurance pressures and consumer protection risks.

Regulatory assurance action

The Councils take measured regulatory assurance actions when associations are non-compliant, or at risk of non-compliance, with professional standards legislation.

The Councils took regulatory assurance action, including:

- targeted engagements with associations operating schemes to progress resolution of identified issues of concern and corrective actions occurring/pending
- provision of feedback letters to associations on their 2019 Professional Standards Improvement Program results, identifying areas for improvement
- continued monitoring of COVID-19 risks to professional standards regulation through incorporation of the Councils' survey into the 2020 Professional Standards Improvement Program Guidelines and Template. 76% of association identified operational and consumer risks relating to COVID-19. 65% of associations reported on plans and actions conducted in response to identified risks
- continued additional risk reporting by accounting profession associations and analysis of the responses on emerging risks to consumers that may require further risk management. 100% of the associations responded to risks that the Councils identified in the sector, including lessons learnt from the Hayne Royal Commission for better protection of consumers. The Councils provided feedback and advice, enabling associations to implement strategies responding directly to the identified risks such as developing mandatory professional ethics training and improving member quality assurance systems
- development of a workplan to revise and publish guidance on the payment of scheme fees and fee remittances/waivers. This will guide associations on their obligations under professional standards legislation and regulations including information on how to maintain robust governance systems for regulated fees.

Providing assistance and advice to associations

As a meta-regulator, the Councils have statutory functions to assist, advise and encourage occupational associations to improve their occupational standards.² They can also facilitate the sharing of knowledge and experience across the professions within the national professional standards regulatory system, aligning improvements in professional standards, and strengthening consumer protections.

Victorian Royal Commission into the Management of Police Informants

On 30 November 2020, the Royal Commission delivered its final report and recommendations. Specific recommendations for Victorian legal profession associations were proposed and related to matters such as restoring public and client confidence in the legal profession, developing ethics guidance and guidance on professional boundaries.

The Councils engaged with the Law Institute of Victoria and the Victorian Bar Association on their responses to a number of the recommendations, including relevant escalation practices for accumulative complaints and professional standards risks detected when resolving complaints. Both associations are working to implement relevant risk management strategies. The Councils will continue to work with the associations on areas for improvement in professional standards and translating these to strengthen consumer protection for clients of legal services.

Workshops and guidance

The Councils delivered guidance and conducted workshops with associations during the year. The workshops focused on identifying the underlying causes of failures in occupational standards to enable associations to develop strategies that effectively target and treat risk. These activities are tailored to meet the needs of each association.

At their request in 2020, a workshop was conducted with CPA Australia on 'Quality Assurance Systems'. Discussions involved:

- elements for consideration when designing a quality assurance system, such as complaints data, organisational culture, and membership requirements
- reports and learnings from other regulators in similar professions
- the importance of linking the findings of a quality assurance system to consumer outcomes.

At their request in 2021, the Councils delivered guidance in a webinar organised by CPA Australia's Ethical & Professional Standards Centre of Excellence on proposed changes to the APES 110 Code of Ethics for Professional Accountants. The proposed changes included enhancements to the fundamental principles of integrity, objectivity, and professional behaviour.

The Councils have also delivered guidance and workshops to associations on several other topics including:

- code of ethics development and review
- the review of risk management plans, linkage to controls, and the importance of identifying consumer risks
- identifying emerging risks through horizon scanning for professional standards issues
- root cause analysis of claims and complaints data
- association membership and scheme eligibility requirements
- avenues for the association to consult a consumer voice for their projects by sharing learnings and contacts from other sectors who implemented similar programs
- complaints and disciplinary systems, including the links between poor practices of professionals in their workplace interactions and poor customer outcomes
- limited liability disclosure obligations under professional standards legislation.

In delivering guidance and workshops, the Councils encourage and assist associations to deliver improved consumer protection and develop their regulatory capacity.

2. Professional Standards Act 1994 (NSW) s 43.

Case Study 4:

A consumer-protection lens: sexual harassment risks in the legal profession

In the previous reporting period, the Councils undertook to promote assistance and advice to legal profession associations in response to the identification of sexual harassment as an issue in the profession's workplaces. The Councils engaged with associations, legal services regulators, and academics to bring into focus the consumer protection and ethics issues involved in sexual harassment. The Councils identify and report on trends and emerging issues to assist efforts to improve professional standards.³

An initial scan of research indicated sexual harassment as a failure in professional standards in a number of occupations which also risks harm to consumers. For example, unprofessional behaviour:

- affects wellbeing and stress levels, reducing the concentration, communication and collaboration required to competently deliver professional services
- is associated with client dissatisfaction, error in provision of services and increased litigation risk.⁴

During August 2020, the Councils consulted with all legal profession associations on the identification and treatment of risks to professional standards objectives arising out of sexual harassment in the profession. The Councils also consulted on what form the Councils' encouragement, assistance and advice could take to best assist associations and other legal services regulators in proactively addressing norms to eliminate or reduce the incidence of sexual harassment in the legal profession and its harms. The Councils identified from their feedback:

1. interest in better understanding the risks or potential harms associated with sexual harassment for consumers of legal services
2. requests from associations to receive further resources on professional standards responses to combat sexual harassment in the legal profession
3. lack of data with a consumer-protection focus in existing discussions and reviews.

Through the Councils' engagement, the following risk responses by associations were identified:

Overview of risk responses to sexual harassment in the legal profession



50%

Collaborating with peer regulators in same/other jurisdictions



63%

Contributions to reviews/ reports/ inquiries



63%

Developed CPD events/seminars or mandatory CPD units



63%

Adopting new policies or guidelines OR reviewing existing rules

3. *Strategy 2021*, Goal 3, Strategic Initiative 3.

4. Rosenstein AH, O'Daniel M. A survey of the impact of disruptive behaviors and communication defects on patient safety. *Jt Comm J Qual Patient Saf.* 2008;34:464-471; Endemic unprofessional behaviour in health care: the mandate for a change in approach Johanna Westbrook, Neroli Sunderland, Victoria Atkinson, Catherine Jones and Jeffrey Braithwaite *Med J Aust* 2018; 209 (9): . || doi: 10.5694/mja17.01261

Three leading practices were also identified. Good practice responses enforced an effective and collaborative response to mitigating risk of sexual harassment across the legal sector, with a focus on consumer protection:

Leading practices



Launch of online portal for complaints and better data collection



Shifting culture through education



Collaborative delivery of online seminar from leaders of the profession

As an accumulator and disseminator of good practice in professional conduct regulation, these insights were shared in meetings with legal profession associations and legal services regulators.

Following from these engagements, the Councils identified the following trend through reviewing associations' 2020 Professional Standards Improvement Program reports:

- 30% of legal associations mentioned sexual harassment as part of their risk analysis or risk management strategies in 2019
- following the Councils' engagements with associations in August 2020 about the consumer harms, 90% of legal associations reported sexual harassment as part of their risk analysis or risk management strategies.

In May 2021, to further contribute to the sector's response to sexual harassment, the Councils commissioned a rapid evidence review which will gather and critically appraise existing evidence in relation to sexual harassment as a potential cause of consumer harms, followed by identification of evidence-informed professional standards and risk management responses that can be applied in legal and other workplaces. The rapid evidence review will be assisted by the expertise of an Advisory Group. This includes two Councils members, the Authority, one consumer advocate, and two legal services regulators. The results will be published in the next reporting period as an article in the Councils' online Research Library.

Case Study 5:

Schemes as a pathway for streamlined registration requirements

The Design and Building Practitioners Regulation 2020 (NSW) recognises professional standards schemes as a pathway for meeting the registration requirements of the Regulation.

The New South Wales Government has set a course for streamlining the requirements for professional engineers by providing a registration pathway to practitioners who are able to satisfy that they are registered or recognised as a professional engineer by a professional body of engineers that operates with a professional standards scheme.

The Councils advocated for this pathway in the development of the reforms to registration arrangements for the engineering profession in multiple jurisdictions, as part of the implementation of recommendations arising from the Building Confidence Report. The Councils proposed that developing a practitioner registration pathway that can rest on the operation of a professional standards scheme would deliver significant regulatory efficiency and effectiveness benefits.

As recognised in the New South Wales Government's Regulatory Impact Statement on the Regulation, organisations that operate a scheme can distinguish themselves and their members from others as a body that requires all members to maintain best practice standards.

The New South Wales Government is encouraging engineering bodies to commence developing professional standards schemes as 'a way of streamlining the registration process and improving professional standards and practices across the sector to deliver increased consumer confidence'.

The Regulation came into force on 1 July 2021, under the *Design and Building Practitioners Act 2020* (NSW). The Regulation establishes three pathways for the registration of professional engineers. Under Pathway 3, New South Wales Fair Trading will register professional engineers who can satisfy they are a participant in an association's professional standards scheme.

In the coming reporting period, the Councils will continue to engage with industry and government to discuss and give effect to better alignment between statutory registration of practitioners and the operation of professional standards schemes.

“A way of streamlining the registration process and improving professional standards and practices across the sector to deliver increased consumer confidence.”

Helping to improve professional standards of occupational associations

The Councils have a statutory function to encourage and assist in the improvement of occupational standards of members of occupational associations and to conduct forums on issues of interest to members of occupational groups.

Professional Standards Forums

The Councils delivered two Professional Standards Forums in the reporting period, to continue engagement with occupational associations and deliver encouragement and assistance for the development of associations' self-regulatory capacity.

Both Forums were held online in accordance with public health measures in response to the COVID-19 pandemic. The online nature of the Forums provided opportunity for a broader range of participants than previous years, with a combined total of over 120 delegates and 35 associations represented from all states and territories in Australia.

The Forums continued to build the professional standards community by providing opportunity for dialogue and feedback between professions, associations, policy-makers, regulators, consumer advocates and academics. They affirmed the Councils' commitment to providing advice and leadership in the development of professional standards and consumer protection.

The October 2020 Forum was delivered on the topic of 'Putting the Consumer First in Ethics'. Senior Lecturer at University of New South Wales Law, Dr Justine Rogers, presented research on professional ethics and regulation from a consumer protection perspective. The Professional Standards Councils' Western Australia member, Rachel Webber, shared insight into public perceptions of occupations' ethical behaviour and introduced the Councils' recent work to assist associations in developing consumer-centred codes of ethics. Then Managing Director Australia and Asia-Pacific with The Behavioural Insights Team, Dr Rory Gallagher, presented a behavioural perspective on promoting ethics and ethical decision-making and facilitated an interactive workshop on regulating for ethical conduct using behavioural science.

A second Forum was held in April 2021 on the topic of 'Trust and Confidence: Responding to Community Expectations' with a diverse panel of speakers and workshop hosts. The Professional Standards Councils' Deputy Chair and New South Wales member, Andrew Lumsden, shared the Councils' perspective on how associations can better connect with the community to set and enforce professional standards that build trust.

Chief Executive Officer of the Consumer Policy Research Centre, Lauren Solomon, presented the implications of a growing gap between consumer expectations and reality, and the value of listening to and including all consumers. Chartered Accountants Australia and New Zealand's General Manager of Professional Standards, Kristen Wydell, shared learnings from the research behind their 'The future of trust' report and the opportunities available to professional associations to increase trust through professional standards regulation.

Participants were then led by Independent Chair of the Australian Financial Complaints Authority's Consumer Advisory Panel, Peter Gartlan, and New South Wales State Manager of the Australian Health Practitioner Regulation Agency Jane Eldridge, through thought provoking workshops discussing real-life case studies on the mechanisms and benefits of consumer representation in regulatory systems.

Feedback received from attendees was positive, with 79% of respondents appreciating hearing from knowledgeable and engaging speakers across both Forums.

Comments from delegates included:

- ‘Absolutely fantastic event’
- ‘Well done and thought provoking’
- ‘I wanted to let you know how much I appreciated the Forum... the presentations were excellent and highly professional’
- ‘One of the best and well-organised webinar events I have attended during the past 18 months... and I have attended many.’

Following the October 2020 Forum and in response to stakeholder feedback surveys, a dedicated page on the Councils’ website was developed as an enduring location for Forum recordings, presentations and other resources. This initiative makes the wealth of Forum resources more accessible to a wider audience across the professional standards community.

The website page was circulated to registrants of both Forums and promoted more broadly on the Councils’ social media channels and website news updates. During the reporting period, the page was accessed 273 times and the recordings of the Forums were watched by an additional 77 viewers.

This resource can be accessed on the Councils’ website: psc.gov.au/forums



Picture: The Councils’ Chair, John Vines OAM presents at the October 2020 Professional Standards Forum



Picture: Panel members (clockwise L-R) Andrew Lumsden, Lauren Solomon, Roxane Marcelle-Shaw and Kristen Wydell share in a question and answer session at the April 2021 Professional Standards Forum

“I wanted to let you know how much I appreciated the Forum... the presentations were excellent and highly professional”

Publishing advice and information

The Councils continuously develop and revise a range of resources to help associations:

- respond to their self-regulatory obligations
- submit professional standards scheme applications
- manage ongoing compliance with professional standards legislation and regulation.⁵

Framework for Developing, Reviewing and Retiring Regulatory Guidance

In December 2020, the Professional Standards Councils published a new regulatory guidance framework on its website. This Framework details the Councils' processes for developing, reviewing and retiring regulatory guidance and will inform its decision-making on regulatory guidance. The Framework is designed to achieve the following:

- explain particular aspects of the Councils approach in administering the legislation and regulations
- assist the Councils to exercise their statutory function to publish advice and information about improving occupational standards
- encourage consistency with community expectations through development of self-regulation by occupational associations to better protect consumers
- promote compliance with the general law and relevant legislation, regulation, codes, and standards
- raise awareness of significant issues facing the schemes, associations and practitioners including good practice actions to facilitate the management of risk.

Guidance Note on Scheme Expiration (revised)

To ensure timely information is available to consumers about the members of an association covered by an approved professional standards scheme, the Councils published an amended Guidance Note on Scheme Expiration. The amended Guidance includes additional modes to advertise the expiry of a professional standards scheme and the new processes the Councils follow for advertising an expiring scheme. At one month prior to scheme expiry, the Councils will notify the impending expiry of a scheme to consumers by:

- corresponding with relevant stakeholders, responsible Ministers and other regulators
- publishing in occupationally oriented social media news items
- advertising online with Fairfax.

Associations will also be encouraged to publish the notice of scheme expiry on their website, social media and in member newsletters as well as provide direct advice to members and stakeholders.

Additional modes of advertising of an impending scheme expiry have been included as a measure to ensure updated information to members of a regulated association and their clients, advising that they will no longer receive the protections afforded by the scheme.

5. Professional Standards Act 1994 (NSW) s 43(d)(g).



Australian Research Councils Linkage Project

In June 2021, the Councils executed a three-year Australian Research Councils Linkage Project Agreement for Constructing Building Integrity: Raising Standards through Professionalism.

The Linkage Project aligns with the Councils' strategic goal to improve occupational standards in sectors facing increased risk to consumers. The Councils maintain their long-term commitment to foster modern research through grants and partnerships.

Preparatory work in support of the project has been completed by Griffith University including:

- division of workload among Chief Investigators to the Project
- recruitment of research fellows and research assistants at various institutions to undertake work on the Project
- development and submission of the Project's ethics approval
- plan of literature reviews relevant to the Project
- discussion on the integration of research methodologies
- engaging government partners to explain the project.

The Councils will report on the commencement of the Project Agreement and relevant work completed in the next reporting period.

Working with government and other regulators

Tax Practitioner's Board

Councils' first Memorandum of Understanding

The Councils have developed an inaugural Memorandum of Understanding with another regulatory body.

This Memorandum has been agreed with the Tax Practitioner's Board which is an Australian government agency responsible for the registration and regulation of tax agents, Business Activity Statements agents and tax (financial) advisers (collectively referred to as 'tax practitioners')⁶. The Councils and the Board share an area of regulation as tax practitioners regulated by the Board may also be scheme participants as members of an occupational association which operates a professional standards scheme.

Entering into this Memorandum demonstrates the Councils' commitment to streamline regulatory efforts with peer regulators for better consumer outcomes.

By encouraging collaboration across the Councils' regulatory network, regulators are able to share knowledge and information on relevant issues (as the laws permit) and promote a continuous improvement approach to administering their regulatory systems.

Since 2019, the Councils have engaged with the Board about the Independent Review into the effectiveness of the Tax Practitioners Board and the *Tax Agent Services Act 2009* (Cth). The Councils' submission to the Review Discussion Paper advocated for their inclusion in the proposed expanded exchange of information by the Board and referral arrangements between co-regulators.

On 27 November 2020, the Australian Government released the Final Report and response to the Review. The Final Report recognised Councils as an important regulator for the tax industry, and this Memorandum ensures ongoing liaison and co-operation.

The Memorandum will be finalised and published in the next reporting year.

Joining the Tax Practitioners Governance and Standards Forum

In May 2021, the Councils accepted the Board's invitation to join the Tax Practitioners Governance and Standards Forum as an *ex-officio* member. As member of the Forum, the Councils will contribute their expertise on matters such as the Code of Professional Conduct applicable to tax practitioners under the *Tax Agent Services Act 2009* (Cth) and other professional and ethical standards matters for the tax profession.

6. <https://www.tpb.gov.au/tpb-overview>

Submissions to inquiries and reviews

Bringing a focus to industry sectors facing increased consumer risks this year, the Councils made submissions on how the professional standards regulatory system can contribute to improvements in professional standards to the:

- Discussion Paper: National Registration Framework for Building Practitioners 2020 (Australian Building Codes Board, BCR Implementation Team)
The Councils' submission highlighted the CPD-related research articles contained in their online research library, including Continuing Professional Development Requirements⁷, and advocated effective CPD includes activities outside a professional's 'comfort zone'.
 - Consultation on Design and Building Practitioners Regulation 2020 (New South Wales Government, Better Regulation Division) See case study at page 71.
 - Australian Building Codes Board Discussion Paper: Continuous Professional Development on the National Construction Code for building practitioners (Australian Building Codes Board, BCR Implementation Team).
At the request of the Implementation Team, the Authority provided assistance to the development of the Discussion Paper. The Authority advocated the Board to draw direct connections between the purpose, content, and delivery of CPD with protecting consumers, where consumer needs and expectations are an integral component of ongoing practitioner learning.
- Framework for Reform: Modernising Victoria's Building System 2021 (Victorian Government, Building Reform Expert Panel)
The Councils' submission focused on three key messages about professional standards schemes for the Panel's consideration: the professional standards regulatory system alignment with the Panel's proposal of a nationally consistent regulatory approach for design practitioners; professional standards regulation by occupational associations to operate effectively alongside formal state regulation so that they can be mutually reinforcing; and schemes as direct consumer protection mechanisms which hold members of occupational associations to a threshold higher than formal regulation for better consumer outcomes.
 - Review of the current support coordination service model 2020 (National Disability Insurance Agency)
The Councils' submission welcomed the opportunity to assist the Agency's review of the support coordination service model to help shape the future of support coordination services. Support coordination service providers act as intermediaries between a consumer and a complex disability insurance service system, where their advice is relied on to navigate decisions that have direct impact on their clients' wellbeing and financial position. The Councils emphasised that industry-driven and statutorily supervised regulation of the support coordination model could positively affect the competence, conduct, and culture of the occupation and serve the public interest, providing redress for consumers in the event of poor practice.

Submissions by the Councils are published on the Councils' website to make the guidance they provide more broadly available to the professional standards community.

7. See: <https://psc.gov.au/research-library/continuing-professional-development-requirements>.



Regulatory fees

Associations are required to pay an annual fee calculated on the basis of the number of persons covered by the scheme who are a member of the association at any time during the relevant annual fee period. The due date for payment of annual fees is specified by the professional standards regulations. In accordance with the regulations, interest is payable when the payment is received on or after 31 days past the due date.

In 2020/21, the following fees were recognised:

- \$55,000 in application fees
- \$4,304,471.77 in annual fees
- \$179.61 in interest paid for late payment of annual fees

In the financial year 2020/21, associations paid their annual fees within 30 days of the due date, except for two associations which paid their annual fees late.

Table 5 identifies the associations where interest was levied on an overdue annual fee payment, the interest charged, and the days in arrears.

Association	State	Interest	Fees due	Days Late	Annual fee due date
Australian Computer Society Inc	NSW	157	\$10,150	31	30 June 2020
Bar Association of Queensland Ltd	Qld	21	\$100	449	30 September 2019
Bar Association of Queensland Ltd	Qld	1	\$50	83	30 September 2020

Note 1: Interest is rounded to the nearest dollar.

Applications to the Councils for a fee waiver, remission, or determination that a fee and or interest is not payable

Two applications were decided by the Councils during the financial year as follows:

1. The Councils received an association's fee of \$5,000 payable for a scheme amendment application, which did not progress and was formally withdrawn. The Councils considered and agreed for that amendment application fee to be applied to the association's current scheme remake application in satisfaction of the professional standards legislation.
2. The Councils considered a request for remittance of an overpayment of fees supported by evidence including signed membership certificates demonstrating the overpayment. The Councils agreed that special reasons existed in the particular case to remit \$1,000 in fees payable to the Councils for the 2019 and 2020 financial years.

In considering the second application above, the Councils requested additional information from the association, including:

- approved policy, procedure, oversight, and governance systems for keeping appropriate records or register of members subject to the scheme
- approved policy, procedure, oversight, and governance systems for the reconciliation of the register of members who are subject to the scheme, at any point in time, with the payment of fees in respect of those members to the Councils.

If an overpayment is identified, the Councils require assurance about the systems the association has to determine members of the association subject to a scheme in force under professional standards legislation.

Legislative changes

On 11 February 2021, the Australian Capital Territory Legislative Assembly passed the *Justice and Community Safety Legislation Amendment Bill 2020* (Australian Capital Territory) (the Bill) which makes amendments to sections 4.38, 4.39 and 4.40 of schedule 4 to the *Civil Law (Wrongs) Act 2002* (Australian Capital Territory).

The amendments commenced on 26 February 2021 and disapplied the requirement under division 19.3.3 of the *Legislation Act 2001* (Australian Capital Territory) for the Australian Capital Territory Attorney-General to consult the Australian Capital Territory Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (the Committee) on interstate appointments to the Australian Capital Territory Professional Standards Council (ACTPSC). This includes the appointment of a member, chairperson, deputy chairperson, or a deputy of an interstate member.

The Treasury Laws Amendment (Professional Standards Schemes) Regulations 2021 (Cth) were made on 29 April 2021. The regulation amended professional standards prescription provisions in the following regulations:

- Australian Securities and Investments Commission Regulations 2001 (Cth)
- Competition and Consumer Regulations 2010 (Cth)
- Corporations Regulations 2001 (Cth).

The Amendments were considered by the Legislative and Governance Forum for Corporations, which was established by the Heads of Agreement of June 1990 between the Australian Government, State and Northern Territory Ministers. The Forum's principal function is to consider amendments to the legislation governing corporations and financial services.

Stakeholder engagement

Stakeholder engagement continued to play a major role in the reporting period. The Councils' Stakeholder Engagement Framework sets out the principles and standards that apply when the Councils consult and engage with stakeholders. Engagement with stakeholders provides the Councils with a greater understanding of the key issues in professional standards regulation and helps to build stakeholder capacity to meet regulatory requirements.

The Councils empower the Chief Executive Officer and her delegates to meet and liaise with occupational associations and stakeholders. As a regulator, engagement is at the heart of our approach in encouraging and assisting associations to understand their regulatory obligations and to build their self-regulatory capacity. Different types of engagement are used for different stakeholders.

Reaching the community of professional standards regulators

During the reporting period the Councils saw increased and broadened engagement through digital channels including the Councils' website and LinkedIn page. Regulators, academics and professionals from the built environment, engineering and financial services industries have emerged and engaged with updates on new and proposed professional standards schemes more in the past year than ever before. The Councils look forward to further broadening their reach and encouraging cross-industry dialogue through digital channels.

Stakeholder satisfaction

Stakeholder feedback is integral in helping to ensure the professional standards regulatory system is robust and protects consumers.

Surveys are one of the main tools used to measure the satisfaction of stakeholders in their engagement experiences with the Councils and the Authority.

Last reporting period, the Councils established for the first time a baseline Net Promoter Score using data from survey responses. Net Promoter Score is a customer loyalty and satisfaction measurement taken from asking customers how likely they are to recommend your product or service to others, expressed as a number from minus 100 to 100

The Net Promoter Score provides an overview of our stakeholders' experience across a range of services including Professional Standards Forums, Professional Standards Improvement Program reporting and the Scheme Application Redesign Project. The Net Promoter Score for the current reporting period is 76, up 20 points from the baseline score of 56 established last year. Scores above 50 are considered to be excellent.

Presentations

The Councils' Chief Executive Officer joined a panel of regulatory and academic experts at the RICS Building Confidence Conference in November 2020. The panel discussed the changes to regulatory practice that industry needs to be aware of and how these will impact the workplace and change or improve compliance. The Councils' Chief Executive Officer shared the value of adopting a consumer-centric approach for both consumers and members of occupational associations, and the mutual benefit of access to professional indemnity insurance for members of an association with a professional standards scheme.

In December 2020, the Councils' Chief Executive Officer spoke at the Australian Council of Professions' Round Table on 'Emerging Professions – Challenges and Opportunities', presenting the value of professional standards schemes in affirming the competence and ethics of professions and promoting advances for occupational groups. Attendees shared positive feedback and appreciation for the Councils' commitment to supporting professional practices and serving the interests of the consumer and community.

Briefings to the Councils

A number of guest presenters spoke to the Councils throughout the reporting period. Deputy Secretary of New South Wales Department of Customer Service Better Regulation Division, Ms Rose Webb and Executive Director of Policy and Strategy, Mr John Tansey, presented to the Councils at their June 2021 meeting. Ms Webb and Mr Tansey provided overviews of their roles and regulatory functions within the Better Regulation Division, including work undertaken on the National Registration Framework for Building Practitioners.

Briefings to ministers

During the reporting period, the Councils' Chief Executive Officer and each jurisdictions' Councils member provided an update on the work of the Councils to the responsible ministers in the Australian Capital Territory, New South Wales, the Northern Territory, Queensland and the Commonwealth. Discussions included the benefits of schemes to a broader range of occupations and the outcomes and impact of *Strategy 2021*. The Councils continue productive dialogue with the ministers responsible for professional standards legislation across all jurisdictions.

Strategy 2021 Performance Measure

Strategic goal: Make the regulatory system easy to deal with

Performance measure: Stakeholder satisfaction is measured and improved

During the year, the following initiatives were adopted, continued or increased toward achieving the Councils' *Strategy 2021* strategic goal – Make the regulatory system easy to deal with:

- Increased use of the Councils' website news items, and targeted LinkedIn and Twitter posts to promote key activities that may be of interest to stakeholders.
Website and social media statistics for the reporting period:
 - Website page views: 124,400 – 38% increase on the previous reporting period
 - Website sessions: 72,700 – 55% increase on the previous reporting period
 - Website users: 57,000 – 61% increase on the previous reporting period
 - New LinkedIn followers: 51% increase
 - New Twitter followers: 6% increase
- Two Professional Standards Forums were held online in November 2020 and April 2021 (see page 72). Attendees were surveyed with 79% of respondents appreciating the speakers' knowledge and the information provided.
- The redesign of the scheme application process for associations applying for a Professional Standards scheme used human-centred design approaches and feedback from stakeholders throughout the development process (see page 20).
- The Councils' Forums and Roundtables had a Net Promoter Score of 76. This is an increase of 20 points from the 2019/20 reporting period.



03

Structure and governance

Structure and governance

The success of Australia's national system of professional standards regulation relies on the goodwill, co-operation and partnership of responsible ministers and their respective departments.

Three intergovernmental agreements are in place to provide the operating environment for the national system

Professional Standards Agreement 2011

an agreement between the Ministers in all states and territories for co-operation to facilitate the application of schemes across state and territory boundaries and to promote high standards of professional and business practice and protection of consumers across Australia

Professional Standards Inter-Departmental Service Agreement 2016 (as amended)

an agreement between state and territory departments that holds that services to the Councils will be provided by the New South Wales Department of Customer Service

Professional Standards Councils and Departments Procurement of Services Agreement 2016

an agreement between state and territory departments and the Councils to ensure that the Councils have the services they require to carry out their functions.

The Professional Standards Agreement is operationalised by the other two agreements.

The Professional Standards Agreement was amended in the reporting period to include a minimum standard of probity checks to be undertaken for persons nominated to a Council. The amendment will be finalised in the next reporting period.

The Inter-Departmental Service Agreement and the Procurement of Services Agreement both ceased on 30 June 2021. The Councils and the Departments agreed to an extension to both agreements for a period of five years to 30 June 2026.

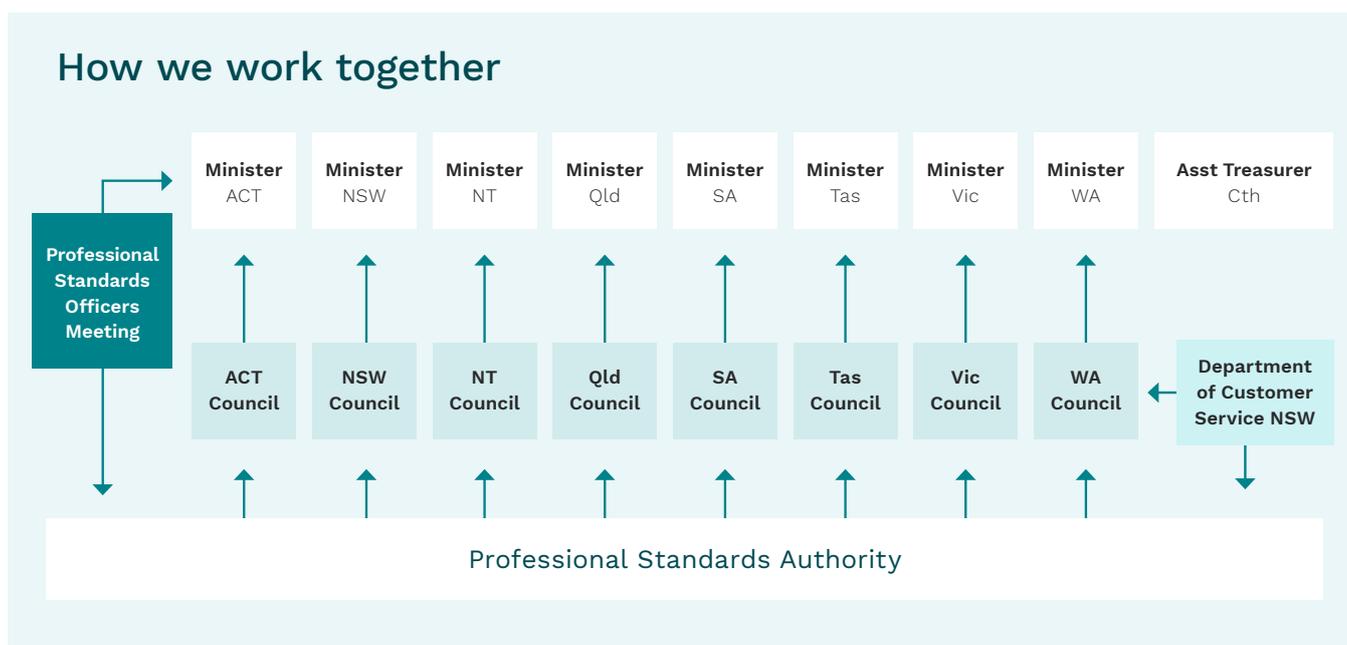
Departmental arrangements

The intergovernmental agreements are administered by professional standards officers in the relevant Department for each jurisdiction.

To assist this role, there is a quarterly Professional Standards Officers Meeting which provides a forum for liaison and co-operation between the Authority and the professional standards officers.

The Professional Standards Officers Meeting discusses issues that require consideration and co-ordination at a national level and oversight the implementation of the intergovernmental agreements.

Figure 15 provides a diagram of the national structure.



Councils' remuneration

In accordance with the Professional Standards Agreement, New South Wales sets the rates of the remuneration payable to the members of the Councils, in accordance with the appropriate guidelines for the remuneration of government boards.

Table 6 shows total remuneration for each member for 2020/21.

Table 6: Councils' members' remuneration and meeting attendance

Name	Role	Jurisdiction	Total Remuneration [^]	Meetings held	Meetings attended
John Vines OAM	Chair	Vic	\$54,777	7	7
Andrew Lumsden	Deputy Chair	NSW	\$21,911	7	7
Iain Summers	Member	NT	\$21,911	7	7
Cate Wood AM	Member	ACT	\$21,911	7	6
Dr Pam Montgomery	Member	Vic	\$21,911	7	7
Tim Mellor	Member	SA	\$10,830	4	4
Terry Evans AM*	Member	SA	\$11,080	3	3
Rebecca Fogerty	Member	Qld	\$17,378	6	4
Richard Shields	Member	Cth	\$16,706	6	5
Will Hamilton*	Member	Cth	\$2,350	0	0
Caroline Lamb	Member	NSW	\$21,911	7	6
Tiina-Liisa Sexton	Member	Tas	\$21,911	7	7
Rachel Webber	Member	WA	\$21,911	7	7

[^] Includes 9.5% Super Guarantee Contribution and at 10.0% for the final four days of the financial year. *Term Completed

Finance, Audit and Risk Management Committees

To ensure transparency and probity in relation to the Councils' decisions, the Councils' members must declare any conflicts of interest on their appointment and at the start of each meeting.

The Councils can delegate work to a committee.

Each Council has established a committee to oversee financial management, risk management, budget management, the annual reporting process and content, and associations' risk management and compliance reporting.

Committees members:

- Iain Summers – Chair
- Andrew Lumsden
- Catherine (Cate) Wood AM
- Will Hamilton
(retired from the committee 29 May 2020)
- Dr Pam Montgomery
(retired from the committee 31 December 2020)
- Tiina-Liisa Sexton
(retired from the committee 31 December 2020)

There were nine committee meetings held during the 2020/21 reporting year. Four were scheduled committee meetings and five were out-of-session committee meetings.

Achievements

- Reviewed and endorsed the content for the Councils' 2019/20 Annual Report
- Endorsed the Financial Statements for the year ending 30 June 2020
- Endorsed the jurisdictional FY2019/20 audit reports received

Table 7: The Committees' members' meeting attendance

Member	Scheduled meetings attended	Out-of-session meetings attended	Total
Iain Summers	4	5	9
Dr Pam Montgomery	2	4	6
Tiina-Liisa Sexton	2	3	5
Cate Wood AM	4	3	7
Andrew Lumsden	2	1	3

- Endorsed the 2020 Professional Standards Improvement Program Guidelines and Template
- Advised the Councils on FY2021/22 budget
- Advised the Councils on a range of regulated fee and reporting matters
- Monitored and advised the Councils on management of risk
- Reviewed and advised the Councils on the Risk Appetite Statement
- Reviewed and advised the Councils on the amendment of the Inter-Departmental Service Agreement 2016
- Advised the Councils on the extensions to the Professional Standards Inter-Departmental Service Agreement 2016 the Professional Standards Councils and Departments Procurement of Services Agreement 2016

Professional Standards Authority

The Authority supports the Council of each state and territory in leading the national system of professional standards regulation.

As the Councils' national regulatory agency, the Authority's staff proudly work with the Councils to make a positive difference in the standards and protections available to Australian consumers of professional services.

The Authority is hosted by the New South Wales Department of Customer Service as a business unit within the Better Regulation Division.

The Authority supports the work of the Professional Standards Councils by:

- working with occupational associations to encourage and assist the development of self-regulation initiatives, improve their professional standards, meet their self-regulatory commitments, comply with their legislative obligations, and protect consumers of professional services
- providing information to encourage and assist associations to apply for a professional standards scheme
- providing expert advice and administrative support to the Councils
- conducting and promoting research and education in professional standards and regulation
- developing regulatory guidance in the areas of professional standards, codes of ethics and practice, continuing occupational education and risk management to improve the standard of services consumers receive.

The Authority delivers regulatory services as outlined in schedule 1 of the Inter-Departmental Service Agreement that include:

- supervising schemes across Australia covering accountants, valuers, computer professionals, surveyors, solicitors, and barristers
- monitoring scheme compliance, including reporting and analysis
- working with associations to improve their members' professional standards and risk management
- when issues arise, liaising with associations and other stakeholders regarding remediation.

The Authority also provides guidance and information to occupational associations, and consumers, about professional standards schemes.



COVID-19 working arrangements

Following on from the measures implemented in the previous financial year, the Authority continued to follow the COVID-19 public health orders and advice from New South Wales Government and the New South Wales Department of Customer Service. A COVID-19 safe plan was implemented, while maintaining levels of flexibility that work for teams and individuals.

Due to new cases in New South Wales in December 2020, the staff of the Authority returned to working from home as much as possible with the Elizabeth Street office being closed again.

With restrictions eased in January 2021, the office was reopened from Tuesday, 2 February 2021 with staff able to attend in accordance with the Authority's Covid-safe plan.

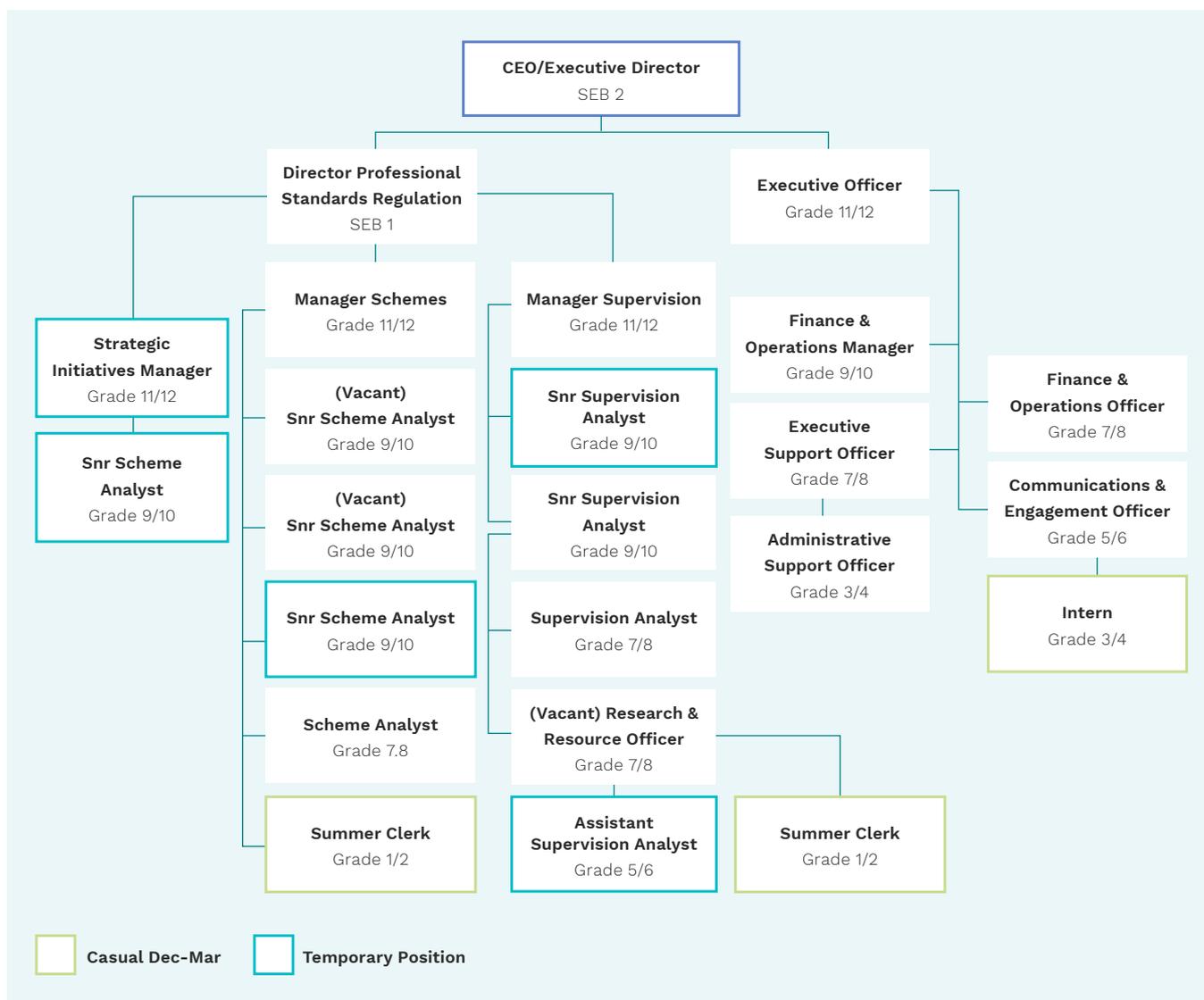
Travel restrictions remained in place due to the significant risk of disruption and costs associated with swiftly imposed border restrictions in the event of an outbreak.

In June 2021, the Councils' meeting was a hybrid of face to face in the office with the Chair (Victoria) and the New South Wales Council members attending in person and the Council members from the other jurisdictions attending via video conference.

Unfortunately, with another outbreak in mid-June 2021 the office was again closed, and all staff were directed to work from home.

Organisation Structure

The budget approved by the Councils sets the capacity for staffing and operational costs within the Authority.



Casual Dec-Mar
 Temporary Position

Table 8: Authority staff profile as at 30 June 2021

Position/grade	No. of staff	Male	Female
Senior Executive Band 2	1		1
Senior Executive Band 1	1	1	
Clerk Grade 11/12	4	1	3
Clerk Grade 9/10	5	1	4
Clerk Grade 7/8	4	1	3
Clerk Grade 5/6	2		2
Clerk Grade 3/4	1		1
Total	18	4	14

Senior Executive

At 30 June 2021, the Authority had three staff engaged in roles classified as Senior Executive in the New South Wales Public Service.

The departmental average remuneration level of senior executives in each band at the end of the financial year is shown in Table 9.

Table 9: Senior executive remuneration in the New South Wales Department of Customer Service

	2021 range	2021 average	2020 range	2020 average	2019 range	2019 average
Band 1	\$192,600 - \$274,700	\$234,844	\$192,600 - \$274,700	\$234,844	\$187,900 - \$268,000	\$229,077
Band 2	\$274,701 - \$345,550	\$312,326	\$274,701 - \$345,550	\$312,326	\$268,001 - \$337,100	\$300,668



**Chief Executive Officer,
Roxane Marcelle-Shaw**
BSocSc, JD, GDLP, GAICD

Roxane is a regulator with experience in strategic and operational delivery of consumer protection and professional standards regulatory services. She has held a variety of executive roles and statutory appointments over 30 years in the Australian Capital Territory, Commonwealth and New South Wales public sectors. Roxane is also currently a member of the Occupational Therapy Board of Australia, chairing its Registration and Notifications Committee, and convenor of the New South Wales Chapter of the Australia and New Zealand School of Government National Regulators Community of Practice.



**Director Professional
Standards Regulation,
John R. Rappell**
JD, MPE
(Professional Ethics)

John has worked for the Authority since 2013 and is a specialist in the field of professional conduct regulation with a background in occupational association governance and policy, risk management, and administrative law. John was formerly the chair of the International Organisation of Securities Commissions self regulatory ethics committee.

As Director, John leads the Authority teams that provide advice to the Councils on professional standards scheme applications, conducts association supervision on behalf of the Councils, and develops Councils' strategic initiatives. John takes a hands-on role in advising and assisting associations as they evolve their professional conduct and competency systems.

The Director worked at 0.5FTE for one month in the reporting period while seconded to the Department's Better Regulation Division at 0.5FTE to lead a design taskforce under the New South Wales Design and Building Practitioner Regulation.



**Acting Director
Professional
Standards Regulation,
Daimien Webster**
GDipMgt, MBA

Daimien has experience within both the Australian and New South Wales Government public service in the areas of statutory compliance, enforcement, regulation, and business technology solutions. Daimien has held roles in leadership and executive level positions across taxation, fines, financial intelligence, anti-money laundering, counter-terrorism financing, business technology solutions, and professional standards regulation.

As the acting Director while John R Rappell was seconded to the Department, Daimien leads the Authority teams that provide reporting, analysis, and advice to the Councils in support of fulfilling their statutory functions to: approve professional standards schemes, encourage and assist self-regulation by associations of members through schemes, encourage and assist the improvement of occupational and professional standards, and monitor standards of professionals and compliance by associations.

Daimien's formal qualifications include a Graduate Diploma in Management, and a Master of Business Administration.

Professional development

The Authority is committed to developing its employees. Our strategies are designed to build a highly motivated, skilled, professional and inclusive workforce.

All staff undertake regular performance reviews and are remunerated in accordance with the conditions of New South Wales public sector employees.

Professional development activities over the reporting period have focused on staff developing broad regulatory knowledge and skills, building professional standards expertise and supporting public sector professionalism. Specific activities have included:

- Wellbeing, resilience and recharge for professionals in-house program
- Deafness Awareness in-house program
- Writing with clarity in-house program
- Australia and New Zealand School of Government National Regulators Community of Practice
- Department of Customer Service leadership programs and online learning modules
- Public Sector Strategic Communications and Engagement conference
- New South Wales Legislative Assembly Public Sector Seminar
- Presentation skills
- IAP2 Engagement Evaluation
- Mental Health First Aid
- Behavioural insights training.

The Authority also encourages and supports staff to develop outside-work interests. This ranges from sport to the army reserves and a social club that arranges informal functions throughout the year.

Work health and safety

There were no work-related injuries, illnesses or prosecutions during the reporting period under the *Work Health and Safety Act 2011 (NSW)*. The Authority's staff are governed by Work Health and Safety practices of the New South Wales Department of Customer Service. The Authority has a representative on the Department of Customer Services' Work Health and Safety Committee.

Values

As employees of the New South Wales public sector, all staff are committed to upholding its core values of integrity, trust, service and accountability. In doing so, all staff are guided by the *Code of Ethics and Conduct for NSW Government Sector Employees*.

The Authority conducted its third Annual Authority Awards at its Planning Day in June 2021. The purpose for the awards is to provide opportunity for staff to recognise and celebrate each other for the differences that were made at the Authority by exemplifying the core values of integrity, trust, service and accountability.

Service

The Authority recognised Rob Lawson who celebrated 40 years of service with the NSW public sector in February 2021, with 15 of those years serving the Councils.



Photo: Rob Lawson

Workers' compensation

No workers' compensation claims were recorded during 2020/21.

Diversity

The Authority is committed to equal employment opportunity and diversity principles in accordance with the New South Wales Public Sector guidelines for recruitment and retention.

This year, for the first time, the Authority participated in the national Australian Network on Disability internship program, Stepping Into. The program introduces skilled and talented university students with a disability into organisations like the Authority.

Turnover

The Authority's turnover has been consistent with previous years. As a small authority, it has retained between 12 and 18 staff over the reporting period and following a 2018 restructure. The Authority operates within New South Wales Public Sector guidelines and encourages secondments and career advancement of staff within the New South Wales Public Sector.



Planning Day June 2021 Professional Standards Authority



04

Financial performance

Financial performance

Financial performance of the Professional Standards Councils

The activities and operations of the Councils and the Authority are entirely funded from scheme fees paid under the professional standards legislation. The Councils use their best endeavours to keep operational and strategic budgets to the amount reasonably necessary to cover the cost of providing services across the national system. The Councils do not draw on any of the eight jurisdictional Departmental budgets.

The budget for carrying out regulatory and support services is prepared annually by the Authority and approved by the Councils. The Authority provides the support to manage the budgets and accounts including processing payments, preparing invoices, producing monthly accounts and assisting with financial accounting systems.

Summary of Income and Expenses of the Professional Standards Authority for year ended 30 June 2021²

Income	Combined	NSW	QLD	SA	VIC	WA	ACT	NT	TAS
Scheme annual fees ³	4,304,472	3,169,470	368,750	90,550	565,952	109,750	-	-	-
Scheme application fees ⁴	55,000	45,000	-	-	10,000	-	-	-	-
Total Interest on overdue annual fees (from associations) ⁵	179	157	22	-	-	-	-	-	-
NSW Council's lease expense ASSB 16 Adjustments ⁶	(51,380)	(51,380)	-	-	-	-	-	-	-
Interest on invested funds ⁷	11,702	5,032	5,016	-	1,654	-	-	-	-
Bank fees and charges	(1,131)	-	(916)	-	(215)	-	-	-	-
Sundry cost recovery	7	7	-	-	-	-	-	-	-
Total income	4,318,849	3,168,286	372,872	90,550	577,391	109,750	-	-	-

Table 10: Combined financial performance statement 2020-21¹

Expenses									
Employment (incl. external non on-going) expenses⁸	2,344,889	1,720,199	202,448	49,163	313,491	59,588	-	-	-
Other operating expenses⁹	1,653,169	1,212,757	142,728	34,661	221,013	42,010	-	-	-
Strategy 2021 implementation¹⁰	807,570	592,429	69,722	16,932	107,965	20,522	-	-	-
Total expenses¹¹	4,805,628	3,525,385	414,898	100,756	642,469	122,120	-	-	-
Expenses Attributable to the relevant Councils (GST exclusive):									
Invoiced to 31 March 2021	3,262,582	2,409,285	274,406	66,143	431,608	81,140	-	-	-
Amount owing by each PS Councils FY20/21 (GST exclusive)	1,543,046	1,116,100	140,492	34,613	210,861	40,980	-	-	-

Note 1: This unaudited statement is derived from the information provided by the New South Wales Department of Customer Service (NSW DCS) and records kept by the Authority. NSW DCS provided financial reporting services to the Councils. All revenue and expenditure figures are prepared based on an accruals basis of accounting and are exclusive of Goods and Services Tax. The annual financial statements for South Australia, Queensland, Western Australia and Victoria are required under their respective legislation and audited financial statements are provided separately to the relevant jurisdictional departments, for tabling in their respective parliaments.

Note 2: Amounts shown as revenue, expenses and accrued charges are calculated to the nearest cent, however are shown subject to rounding to the nearest dollar in a manner to preserve the value of totals.

Note 3: Scheme annual fee revenue is recognised over the scheme year; some scheme annual periods are not aligned to a fiscal year resulting in a deferred revenue component. This deferred component is recognised during the subsequent fiscal year.

Note 4: Scheme application fees are recognised on a cash received basis

Note 5: Interest from associations due to overdue annual fees is recognised on an accrual basis.

Note 6: AASB 16 accounting entries pertaining to the New South Wales Professional Standards Council as premises lessee, up to 30 April 2025.

Note 7: Interest from financial institutions is recognised on an accrued, and is shown gross of bank charges and fees.

Note 8: Employment expenses are for the Authority and include non ongoing staff. Expenses are determined on an accruals basis and contains all relevant on-costs and also includes workers compensation charges for Councils members. During FY20-21 the Senior Executive Band employee was seconded to the Office of the New South Wales Building Minister and remuneration of \$18,188 was costed accordingly. Employment expenses are net of Crown assumed liabilities.

Note 9: Being general operating expenses calculated on an accrual basis, including occupancy, actuarial, consultancy and/or legal advice, general maintenance and information technology and communications support costs. Also, direct depreciation costs (for tangible and intangible assets, that were obtained by NSW DCS to solely support Authority's business activities). Expenditure described as "capital usage charges", rather than "depreciation or amortisation". Councils do not own any tangible/intangible assets.

Note 10: Being Councils approved strategic spend and includes the Scheme Application Redesign Project (SARP) expenses.

Note 11: Expenses are allocated to each state and territory's Council is based on that Council's share of the total income generated by all Professional Standards Councils. The percentage allocation reported for each state and territory is shown only to two decimal places.

Note 12: This table recognises the home jurisdiction of schemes only. As at 30 June 2021, Tasmania, The Northern Territory, and The Australian Capital Territory had no schemes, with consumers in these jurisdictions covered by mutual recognition. For further information please review Table 1.

Table 11: Detailed Expenditure 2020-2021¹³

Employment Expenses	Combined	NSW	QLD	SA	VIC	WA	ACT	NT	TAS
Employees	2,290,446	1,680,259	197,748	48,022	306,212	58,205	0	0	0
External non on-going	54,443	39,940	4,700	1,141	7,279	1,383	0	0	0
Total employment expenses	2,344,889	1,720,199	202,448	49,163	313,491	59,588	0	0	0
Other operating expenses									
Councils remuneration ¹⁴	279,419	204,980	24,124	5,858	37,356	7,101	0	0	0
Councils' insurance	18,822	13,808	1,625	395	2,516	478	0	0	0
Councils' development and inductions	28,750	21,091	2,482	602	3,844	731	0	0	0
Councils' and Authority travel	1,374	1,007	119	29	184	35	0	0	0
Councils' meeting expenses	205	151	18	4	27	5	0	0	0
Occupancy ¹⁵	631,141	463,002	54,489	13,233	84,378	16,039	0	0	0
Annual reporting (audit and design) ¹⁶	103,425	75,872	8,929	2,169	13,827	2,628	0	0	0
Staff training	25,458	18,675	2,198	534	3,404	647	0	0	0
Information Technology and Communications ¹⁷	187,935	137,868	16,226	3,940	25,125	4,776	0	0	0
DCS Shared Services ¹⁸	48,000	35,213	4,144	1,006	6,417	1,220	0	0	0
Public Notification/ Gazettal ¹⁹	21,113	15,488	1,823	443	2,822	537	0	0	0
Administration ²⁰	23,394	17,162	2,020	490	3,128	594	0	0	0
Website presence ²¹	39,448	28,939	3,406	827	5,274	1,002	0	0	0
Actuarial ²²	124,345	91,219	10,735	2,608	16,623	3,160	0	0	0
Other consultancy ²³	49,074	36,001	4,237	1,028	6,561	1,247	0	0	0
NSW Crown Solicitors' Office advice ²⁴	88,027	64,576	7,600	1,846	11,768	2,237	0	0	0
Capital usage charges ²⁵	11,428	8,384	987	239	1,528	290	0	0	0
Stakeholder engagement	561	412	48	12	75	14	0	0	0
Total other operating expenses	1,653,169	1,212,757	142,728	34,661	221,013	42,010	0	0	0

Table 11: Detailed Expenditure 2020-2021¹³

Strategy 2021 Implementation									
Employees SARP	379,376	278,308	32,754	7,954	50,719	9,641	0	0	0
Seconded Employee	33,264	24,402	2,872	697	4,447	846	0	0	0
External non on-going	46,521	34,128	4,016	975	6,220	1,182	0	0	0
Consultancy²⁶	231,104	169,537	19,952	4,846	30,897	5,872	0	0	0
Contract services	6,400	4,694	553	134	856	163	0	0	0
NSW Crown Solicitors' Office advice	18,000	13,205	1,554	378	2,406	457	0	0	0
Forums/workshops	12,905	9,467	1,114	271	1,725	328	0	0	0
Research contribution²⁷	80,000	58,688	6,907	1,677	10,695	2,033	0	0	0
Total Strategy 2021 expenses	807,570	592,429	69,722	16,932	107,965	20,522	0	0	0
Total expenses	4,805,628	3,525,385	414,898	100,756	642,469	122,210	0	0	0
% expenditure recharged/rechargeable²⁸	100.00%	73.36%	8.63%	2.10%	13.37%	2.54%	0.00%	0.00%	0.00%

Note 13: Individual costs are subject to rounding to the nearest dollar in a manner to ensure the integrity of totals.

Note 14: Allowances paid to Council Members were at rates determined by the NSW Minister for Innovation and Better Regulation, in accordance with Clause 4, Schedule 2 of the Professional Standards Act 1994 (NSW). These allowances are the same for all members with the exception of the Chair. This category also includes the Superannuation Guarantee Levy (9.5%), Payroll Tax (4.85%). Councils' members Workers Compensation on-costs are included in "Employment expenses". Noting that the applicable Superannuation Guarantee Levy increased to 10.0% from the first fortnightly pay period ending in July 2021.

Note 15: Includes payments for occupancy of premises (Level 2, 111 Elizabeth Street Sydney), lease make good provision discount unwind and electricity costs.

Note 16: Includes costs associated with audit/reviews of all relevant jurisdictions and the publication of the Annual Reports and addendums.

Note 17: Includes laptop, minor hardware upgrades, telephony services and infrastructure. Also includes SharePoint support, and software licences.

Note 18: Includes HR support and costs of payroll processing and the processing of payments and financial accounting support.

Note 19: Is the costs associated with the "public notification" and gazettal of schemes.

Note 20: Includes costs associated with property maintenance, staff training, recruitment and office supplies.

Note 21: Includes maintenance and minor enhancements to the Councils' website (www.psc.gov.au)

Note 22: All actuarial engagements are consultancy, given their nature these are reported separately. Expenses consists of six engagements for advice pertaining to scheme applications.

Note 23: Representing four FY2020/21 consultancy engagements; advice on Professional Standards Improvement Program annual 2020 reports, governance self evaluation and facilitation and coaching (two engagements). Noting that a credit from a prior year over accrual Professional Standards Improvement Program annual 2019 reports is the fifth item.

Note 24: Includes the cost for providing advice pertaining to scheme applications (seven) and other general administrative matters (four). No expenditure related to litigation matters.

Note 25: Represents the annual depreciation/amortisation charges determined by NSW Department of Customer Service to recoup prior years capital expenditure.

Note 26: Represents payments consulting engagements providing advice to the Scheme Application Redesign Project (10). Also, advice on the benefits / disadvantages of using incurred but not reported claim estimates when assessing scheme applications and advice on recent reforms and key issues for occupations in the built environment.

Note 27: Represents expenditure payable to Griffith University for research of "Constructing Building Integrity: Raising standards through professionalism" pursuant to the Australian Research Council.

Note 28: The recharge amount to each state and territory's Council is based on that Council's share of the total revenue generated by all Professional Standards Councils. The percentage allocation reported for each state and territory is shown only to two decimal places.



Protecting
consumers
by improving
professional
standards

05

State and Territory Professional Standards Councils

Legislated reporting

Australian Capital Territory

Constitution of the Council

Members of the Professional Standards Council of the Australian Capital Territory were entitled to attend six scheduled and one out-of-session meetings for the year. Please refer to Table 6 on page 84 for a summary of meeting attendance.

Major legislative changes

On 11 February 2021, the Australian Capital Territory Legislative Assembly passed the *Justice and Community Safety Legislation Amendment Bill 2020* (ACT) (the Bill) which makes amendments to sections 4.38, 4.39 and 4.40 of schedule 4 to the *Civil Law (Wrongs) Act 2002* (ACT).

The amendments commenced on 26 February 2021 and disapplied the requirement under division 19.3.3 of the *Legislation Act 2001* (ACT) for the Australian Capital Territory Attorney-General to consult the Australian Capital Territory Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (the Committee) on interstate appointments to the Australian Capital Territory Professional Standards Council. This includes the appointment of a member, chairperson, deputy chairperson, or a deputy of an interstate member.

Fraud

There were no instances of fraud during the reporting period.

Risk management

The risk management and internal audit practices of the Council are described on page 85.

Public interest disclosure

There were no public interest disclosures for the 2020/21 reporting period.

Freedom of information

Under the *Freedom of Information Act 2016* (ACT) the Council must report on freedom of information requests received and handled during the reporting year. Section 96 of the Act requires the Council to report on the particulars of the operations of the agency, including numbers of and the types of access applications received by the agency. The statements are correct as at 30 June 2021.

Organisation and function

Please refer to page 83 for the Council's organisational structure and function.

Category of documents

The Council holds several categories of documents that are available on the Professional Standards Councils' website, including:

- Annual report
- Scheme application form
- Scheme guidance
- Policy papers
- Application guidelines
- Scheme documents.



Documents informing the making of decisions or recommendations

The Council makes its decisions to approve professional standards schemes by considering relevant legislative criteria. To do this the Council considers a number of documents, including an association's application, and advice and recommendations provided by the Authority and independent actuarial advice. Associations must provide a large amount of information to the Council when they apply for the scheme.

This includes insurance data about the highest claims, types of claims and level of claims. Associations must also include their risk management strategies, education and other qualification requirements, and code of ethics and conduct.

Authority staff profile

Please refer to page 88 for the organisational structure of the Authority which provides services and support to the Professional Standards Council of the Australian Capital Territory.

Work health and safety (WHS)

There were no work-related injuries, illnesses or prosecutions during the reporting period under the *Work Health and Safety Act 2011*. Authority staff are governed by Work Health and Safety practices of the New South Wales Department of Customer Service.

Territory records

Sound record keeping practices underpin good governance. In accordance with the requirements of the *Territory Records Act 2002 (ACT)*, the Council's record keeping system ensures documents can be accurately captured, stored and retrieved.

Financial performance

The Authority is responsible for collecting revenue and operating within budget. Please refer to the Combined Financial Performance statement on page 95 for the Professional Standards Council of the Australian Capital Territory's revenue and expenses for 2020/21.

Reporting on procurement and contracting activities

The Council's share of the combined annual spend on consultancy was \$0.

Per the Inter-Departmental Service Agreement 2016, all expenditure is processed by the New South Wales Department of Customer Service and allocated to the eight national Professional Standards Councils.

22 contracts were awarded to consultants during the financial year, with five contracts above \$25,000:

List of contracts over \$25,000:

- Nous Group, governance self-evaluation by Professional Standards Councils' members, \$28,750
- Nostos Pty Ltd, technical writer for the Scheme Application Review Project, \$49,950
- Nostos Pty Ltd, technical writer for the Scheme Application Review Project, \$45,000
- John Bacon, technical writer for the Scheme Application Review Project, \$29,510.40
- Cullaborate Pty Ltd, technical writer for the Scheme Application Review Project, \$25,418.25

New South Wales

Constitution of the Council

Members of the Professional Standards Council of New South Wales were entitled to attend six scheduled and one out-of-session meetings for the year. Please refer to Table 6 on page 84 for a summary of meeting attendance.

Legal changes

Administrative Arrangements (Administration of Acts – General) Order (No. 2) 2019 allocates the administration of the *Professional Standards Act 1994* (NSW) to the Minister for Better Regulation and Innovation.

Credit cards

The operation of staff provided credit cards complies with the directions of New South Wales Treasury (TPP 05-01).

Public interest disclosure

There were no public interest disclosures for the 2020/21 reporting period.

Government Information (Public Access) Act 2009 (NSW)

The *Government Information (Public Access) Act 2009* (NSW) requires all New South Wales Government agencies (including New South Wales Department of Customer Service business units) to respond to requests for information, unless there is an overriding public interest against disclosing the information.

The New South Wales Department of Customer Service received nil requests under the *Government Information (Public Access) Act* in relation to the Professional Standards Council of New South Wales during the reporting period.

Consumer response

Before any professional standards scheme can be considered for approval by the Councils, a formal process of consultation called Public Notification (described in section 8 of the New South Wales legislation and similar in all other statutes) is undertaken, whereby any person can make a submission to the Councils with their views on the proposed scheme during the minimum 28-day period.

During the 2021 reporting year, the following schemes were publicly notified: The Australian Institute of Building Surveyors Professional Standards Scheme, The Australian Property Institute Valuers Limited Professional Standards Scheme, The Institute of Public Accountants Professional Standards Scheme and The Strata Community Association (NSW) Limited Professional Standards Scheme.

In addition to these regular, statutory consultation processes, any member of the community is entitled to provide feedback, make submissions or complaints about the operation of a professional standards scheme.

Work health and safety

There were no work-related injuries, illnesses or prosecutions during the reporting period under the *Work Health and Safety Act 2011*. Authority staff are governed by Work Health and Safety policies of the New South Wales Department of Customer Service.

Funds granted to non-government community organisations

During 2020/21 no grants were awarded.

Consultants

The Council's share of the combined annual spend on consultancy was \$296,758.07 GST exclusive.

Per the Inter-Departmental Service Agreement 2016, all expenditure is processed by the New South Wales Department of Customer Service and allocated to the eight national Professional Standards Councils.

22 contracts were awarded to consultants during the financial year, with no contracts above \$50,000 GST exclusive.

Overseas travel

There was no overseas travel undertaken.

Land disposal

The Professional Standards Council of New South Wales and the Authority do not own properties, nor did they acquire or dispose of properties during the reporting period.

Risk management

The risk management and internal audit practices of the Council are described on page 85.

Privacy obligations

The Councils and the Authority have continued to comply with the requirements of the *Privacy and Personal Information Protection Act 1998* (NSW).

Multicultural policies and services programs

The Authority's multicultural policies and service programs are guided by the New South Wales Department of Customer Service's Diversity and Inclusion strategy, Aboriginal Workforce Strategy and Disability Inclusion Action Plan, and the *Government Sector Employment Act 2013*, which prioritises diversity in the workforce.

Financial performance

The Professional Standards Council of New South Wales is not required to compile financial statements. The Authority is responsible for collecting revenue and operating within budget.

Please refer to the Combined Financial Performance statement on page 95 for the Professional Standards Council of New South Wales's revenue and expenses for 2020/21.

Social programs

No social programs were provided by the Professional Standards Council of New South Wales during the reporting period.

Economic or other factors

The factors that have affected the achievement of the operational objectives of the Professional Standards Council of New South Wales during the reporting period are set out on pages 32 to 81.

Workforce diversity

The New South Wales Department of Customer Service's Diversity and Inclusion strategy is an over-arching strategy that will:

- underpin the growth of a customer focused culture
- support the development of key capabilities such as inclusive leadership, innovation and employee engagement
- reach targets relating to Aboriginality, gender and people with disability; as laid out in the Premier's Priorities, the *Government Employment Sector Act 2013*, and the Public Service Commission.

Disability inclusion action plans

The Professional Standards Council of New South Wales and the Authority are committed to creating an inclusive and supportive working environment for people with disability including those who require an adjustment.

Annual Report

The Councils' Annual Report is produced using internal resources. It only prints the required number of Annual Reports and makes the report available on the Councils' website.

The cost to produce the combined Councils' 2019/20 Annual Report and the individual financial addendums was \$35,156.00. These costs were recognised in the 2020/21 period. The New South Wales Council was responsible for funding 73.36% of these expenses.

Northern Territory

Constitution of the Council

Members of the Professional Standards Council of the Northern Territory were entitled to attend six scheduled and one out-of-session meetings for the year. Please refer to page 84 for a summary of meeting attendance.

Administered legislation

The Professional Standards Council of the Northern Territory assists the Minister in administering the *Professional Standards Act 2004* (NT).

Major legislative changes

No major changes were made to Professional Standards Legislation during 2020/21.

Public interest disclosure

There were no public interest disclosures for the 2020/21 reporting period.

Staff development

The Council is committed to developing its employees. Our strategies are designed to build a highly skilled, professional and fair workforce with the ability to adapt to changing business technology and the environment.

Organisational structure

For information regarding Council members and their profiles, please refer to pages 27 to 31.

Authority staff profile

Please refer to page 88 for the organisational structure of the Authority which provides services and support to the Professional Standards Council of the Northern Territory.

Work health and safety

There were no work-related injuries, illnesses or prosecutions during the reporting period under the *Work Health and Safety (National Uniform Legislation) Act*. Authority staff are governed by Work Health and Safety practices of the New South Wales Department of Customer Service.

Information Act 2002 (NT)

The Council received no requests for information under the *Information Act 2002* (NT) during the reporting period. The Authority may collect and handle personal information on the Council's behalf. Any inquiries about access to information, or access or correction of personal information should be directed to the Authority.

Record keeping

Sound record keeping practices underpin good governance. In accordance with the requirements of the *Information Act 2002* (NT), the Council's record keeping system ensures documents can be accurately captured, stored and retrieved.

Financial performance

The Professional Standards Council of the Northern Territory is not required to compile financial statements. The Authority is responsible for collecting revenue and operating within budget. During the reporting period, the Authority undertook these tasks.

Please refer to the Consolidated Financial Performance statement on page 95 for the Professional Standards Council of the Northern Territory's revenue and expenses for 2020/21.

Public sector employment and management

The Professional Standards Council of the Northern Territory did not have any compliance issues arising from the Public Sector Standards and Northern Territory Code of Ethics during the reporting period.

Ministerial directives

No Ministerial directives were received during the reporting period.

Queensland

Constitution of the Council

Members of the Professional Standards Council of Queensland were entitled to attend six scheduled and one out-of-session meetings for the year. Please refer to page 84 for a summary of meeting attendance.

Major legislative changes

No major changes were made to the Professional Standards Legislation during 2020/21.

Risk management

The risk management and internal audit practices of the Council are described on page 85.

Right to information reporting

The *Right to Information Act 2009* (Qld) grants the public the right to access information that the government possesses or controls, unless it is contrary to the public interest to do so. Information about the Council's role and operations – as well as annual reports, policy and discussion papers, application forms and guidelines for professional standards schemes – are available online at psc.gov.au.

Consultation notices for new professional standards schemes are also published on the website and in major newspapers. Once a scheme becomes operational, the scheme document is also made publicly available on the website.

The Professional Standards Council of Queensland received no requests under the *Right to Information Act 2009* (Qld) during the reporting period.

Protection of personal information

Section 40 of the *Information Privacy Act 2009* (Qld) advises that a person has a right to access documents that contain their personal information. No access applications were received under the *Information Privacy Act 2009* (Qld) during the reporting period.

Public interest disclosure

The Professional Standards Council of Queensland did not receive any disclosures covered under the *Public Interest Disclosure Act 2010* (Qld) during the reporting period.

Consultants

The Council's share of the combined annual spend on consultancy was \$34,915.44 GST exclusive.

Per the Inter-Departmental Service Agreement 2016, all expenditure is processed by the New South Wales Department of Customer Service and allocated to the eight national Professional Standards Councils.

22 contracts were awarded to consultants during the financial year.

Overseas travel

There was no overseas travel undertaken.

Public sector employment and management

The Professional Standards Council of Queensland did not have any compliance issues arising from the Public Sector Standards and Qld Code of Ethics during the reporting period.

Record keeping

Sound recordkeeping practices underpin good governance. In accordance with the requirements of the *Public Records Act 2002* (Qld), the Council's record keeping system ensures documents can be accurately captured, stored and retrieved.

Waste management

The Authority is governed by the New South Wales Department of Customer Service's Government Resource Efficiency Policy. The Council and the Authority comply with this policy to limit the impact of their operations on the environment.

For example, promotional material such as the annual report is produced on FSC certified paper and is made carbon neutral. The Council only prints the required number of annual reports and makes the report available on the Councils' website.

Financial performance

The audited financial statements of the Professional Standards Council of Queensland are attached as an addendum to this report. Please refer to the Consolidated Financial Performance Statement on page 96 for the Professional Standards Council of Queensland's revenue and expenses for 2020/21.

Ministerial directives

No ministerial directives were received during the reporting period.



South Australia

Constitution of the Council

Members of the Professional Standards Council of South Australia were entitled to attend six scheduled and one out-of-session meetings for the year. Please refer to page 84 for a summary of meeting attendance.

Major legislative changes

No major changes were made to Professional Standards Legislation during 2020/21.

Fraud

There were no instances of fraud during the reporting period.

Freedom of information reporting

The Council is required to publish a statement about the particulars, functions and powers of that agency, as well as certain categories of documents held by each agency and the arrangements for public participation in formulating policy and operations. The statement is correct as at 30 June 2021.

Organisation and functions

Please refer to page 83 for the Council's organisational structure and function.

Administered legislation

The Professional Standards Council of South Australia assists the Minister in administering the *Professional Standards Act 2004* (SA).

Document categories

The Council holds several categories of documents, including those which are available on request and without charge. These can be found on the Professional Standards Councils' website.

Specifically, these include:

- annual reports
- scheme application form
- policy papers
- application guidelines
- scheme documents

Arrangements can be made to inspect documents available under the *Freedom of Information Act 1991* (SA) by contacting the Authority between 9am and 5pm from Monday to Friday (except public holidays). The Council did not receive any applications to access documents (initial requests) during the reporting year. The Council did not receive any applications to internally review its decisions.

Record keeping

Sound record keeping practices underpin good governance. In accordance with the requirements of the *State Records Act 1997* (SA), the Council's record keeping system ensures documents can be accurately captured, stored and retrieved. This includes a computerised records management system and databases that record certain details of applications, submissions and correspondence.

Consultants

The Council's share of the combined annual spend on consultancy was \$8,490.28 GST exclusive per the Inter-Departmental Service Agreement 2016, all expenditure is processed by the New South Wales Department of Customer Service and allocated to the eight national Professional Standards Councils.

22 contracts were awarded to consultants during the financial year, with 16 contracts above \$10,000.

List of contracts over \$10,000:

- Taylor Fry Pty Ltd, actuarial advice for the proposed APIV scheme, \$22,309.09
- Taylor Fry Pty Ltd, actuarial advice for the proposed IPA scheme, \$22,309.09
- Taylor Fry Pty Ltd, actuarial advice for the proposed RICV scheme, \$21,454.55
- Taylor Fry Pty Ltd, actuarial advice for the proposed AIBS scheme, \$22,600.00
- Taylor Fry Pty Ltd, actuarial advice for the proposed SCA NSW scheme, \$22,309.09
- Taylor Fry Pty Ltd, actuarial advice for the proposed QLS scheme, \$13,363.64
- Taylor Fry Pty Ltd, technical writer for the Scheme Application Review Project, \$10,300
- Doug Clark Consulting, advice on Professional Standards Improvement Program 2020 Annual Reports, \$12,000
- Nous Group, governance self-evaluation by Professional Standards Councils' members, \$28,750
- Nostos Pty Ltd, technical writer for the Scheme Application Review Project, \$49,950
- Nostos Pty Ltd, technical writer for the Scheme Application Review Project, \$45,000
- Finity Consulting, specialist consultant on the reference group for modernisation of the professional standards scheme application process, \$10,681.82
- John Bacon, technical writer for the Scheme Application Review Project, \$29,510.40
- PIRAC Economics, specialist consultant on the reference group for modernisation of the professional standards scheme application process, \$15,900
- Cullaborate Pty Ltd, technical writer for the Scheme Application Review Project, \$25,418.25
- Weir Legal and Consulting, analysis of current and future professional standards risks with the potential to generate consumer harms, \$20,555

Public interest disclosure

The Council is required to disclose the number of occasions where it or a responsible officer of the Council has received public interest information under the *Public Interest Disclosure Act 2018*, which replaced the *Whistleblowers Protection Act 1993 (SA)* on 1 July 2019. There were no such instances of disclosures during the reporting period.

Work health and safety

Authority staff are bound by the *Work Health and Safety Act 2011* under the New South Wales Department of Customer Service. There were no work-related injuries, illnesses or prosecutions during the reporting period.

Financial performance

The audited financial statements of the Professional Standards Council of South Australia are attached as an addendum to this report. Please refer to the Consolidated Financial Performance statement on page 95 for the Professional Standards Council of South Australia's revenue and expenses for 2020/21.

Relationship to other agencies within the Minister's area of responsibility

The Attorney-General's Department provides legal, policy, administrative and other support to the Professional Standards Council of South Australia.



Tasmania

Constitution of the Council

Members of the Professional Standards Council of Tasmania were entitled to attend six scheduled and one out-of-session meetings for the year.

A summary of meeting attendance is shown on page 84.

Major legislative changes

No major changes were made to Professional Standards Legislation during 2020/21.

Financial Performance

The Professional Standards Council of Tasmania is not required to compile financial statements.

The Authority is responsible for collecting revenue and operating within budget. Please refer to the Consolidated Financial Performance statement on page 95 for the Professional Standards Council of Tasmania's revenue and expenses for 2020/21.

Victoria

Constitution of the Council

Members of the Professional Standards Council of Victoria were entitled to attend six scheduled and one out-of-session meetings for the year. Please refer to page 84 for a summary of meeting attendance.

Major legislative changes

No major changes were made to Professional Standards Legislation during 2020/21.

Ministerial directives

No Ministerial directives were received during the reporting period.

National Competition Policy

The Professional Standards Council of Victoria, to the extent applicable, complies with the requirements of the National Competition Policy.

Reporting of office based environmental impacts

The Minister for Finance issued financial reporting directives that require all entities defined as a 'department' under section 3 of the *Financial Management Act 1994* (Vic) to report on office based environmental impacts. The Council does not fall within this definition.

The Authority is governed by the New South Wales Department of Customer Service's Government Resource Efficiency Policy. The Council and the Authority comply with this policy to limit the impact of their operations on the environment.

For example, promotional material such as the annual report is produced on FSC certified paper and is made carbon neutral. The Council only prints the required number of annual reports and makes the report available on the Councils' website.

Victorian Industry Participation Policy

The Professional Standards Council of Victoria is not required to report under the *Victorian Industry Participation Policy Act 2003*, as it did not enter into or complete any contracts worth more than \$3 million in metropolitan Melbourne or \$1 million in regional Victoria.

Freedom of information reporting

The *Freedom of Information Act 1982* (Vic) gives members of the public the right to apply for access to information held by Ministers, state and territory government departments, local councils, public hospitals, most semi-government agencies and statutory authorities. The Professional Standards Council of Victoria received no requests under the *Freedom of Information Act 1982* (Vic) during the reporting period.

Compliance with the Building Act 1993 (Vic)

The Professional Standards Council of Victoria is not required to report under the *Building Act 1993* (Vic) as it does not own or lease property or any government building.

Protected disclosures

The *Public Interest Disclosures Act 2012* (Vic) encourages and facilitates disclosures of improper conduct by public officers and public bodies. It repealed the *Whistleblower Protection Act 2001* (Vic). In 2020/21, the Professional Standards Council of Victoria received no disclosures covered by either the *Whistleblower Protection Act 2001* (Vic) or the *Protected Disclosure Act 2012* (Vic).

Authority staff profile

Please refer to page 88 for the organisational structure of the Authority which provides services and support to the Professional Standards Council of Victoria.

Work health and safety (WHS)

Authority staff are bound by the *Work Health and Safety Act 2011* under the New South Wales Department of Customer Service. There were no work-related injuries, illnesses or prosecutions during the reporting period.

Financial performance

The audited financial statements of the Professional Standards Council of Victoria are attached as an addendum to this report. Please refer to the Combined Financial Performance statement on page 95 for the Professional Standards Council of Victoria's revenue and expenses for 2020/21.

Consultants

The Council share of the combined annual spend on consultancy was \$54,083.62 GST exclusive.

Per the Inter-Departmental Service Agreement 2016, all expenditure is processed by the New South Wales Department of Customer Service and allocated to the eight national Professional Standards Councils.

22 contracts were awarded to consultants during the financial year, with 16 contracts above \$10,000:

List of contracts over \$10,000:

- Taylor Fry Pty Ltd, actuarial advice for the proposed APIV scheme, \$22,309.09
- Taylor Fry Pty Ltd, actuarial advice for the proposed IPA scheme, \$22,309.09
- Taylor Fry Pty Ltd, actuarial advice for the proposed RICV scheme, \$21,454.55
- Taylor Fry Pty Ltd, actuarial advice for the proposed AIBS scheme, \$22,600.00
- Taylor Fry Pty Ltd, actuarial advice for the proposed SCA NSW scheme, \$22,309.09
- Taylor Fry Pty Ltd, actuarial advice for the proposed QLS scheme, \$13,363.64
- Taylor Fry Pty Ltd, technical writer for the Scheme Application Review Project, \$10,300
- Doug Clark Consulting, advice on Professional Standards Improvement Program 2020 Annual Reports, \$12,000
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- John Bacon, technical writer for the Scheme Application Review Project, \$29,510.40
- PIRAC Economics, specialist consultant on the reference group for modernisation of the professional standards scheme application process, \$15,900
- Cullaborate Pty Ltd, technical writer for the Scheme Application Review Project, \$25,418.25
- Weir Legal and Consulting, analysis of current and future professional standards risks with the potential to generate consumer harms, \$20,555

Western Australia

Enabling legislation

The Professional Standards Council of Western Australia was established under section 8 of the *Professional Standards Act 1997* (WA). The Council is listed as a statutory authority in schedule 1 to the *Financial Management Act 2006* (WA) and is subject to the provisions of the *Public Sector Management Act 1994* (WA).

Responsible Minister

The responsible Minister is The Hon. John Quigley MLA Attorney-General.

Organisational structure

For information regarding Council members and their profiles, please refer to pages 27 to 31.

Mission

Please refer to page 8 for the Council's mission statement.

Authority staff profile

Please refer to page 88 for the organisational structure of the Authority which provides services and support to the Professional Standards Council of Western Australia.

Administered legislation

The Professional Standards Council of Western Australia assists the Minister in administering the *Professional Standards Act 1997* (WA). No major changes were made to Professional Standards Legislation during 2020/21.

Shared responsibilities with other agencies

Please refer to the section on Intergovernmental Agreements and the Authority on page 83.

Financial performance

The audited financial statements of the Professional Standards Council of Western Australia are attached as an addendum to this report.

Please refer to page 95 for the Professional Standards Council of Western Australia's revenue and expenses for 2020/21.

Code of Ethics

The Professional Standards Council of Western Australia did not have any compliance issues arising from the Public Sector standards and Western Australia Code of Ethics during the reporting period.

For 2020/21 no breach claims were lodged in relation to either the Public Sector standards or the Western Australia Public Sector Code of Ethics.

Ministerial directives

No Ministerial directives were received during the financial year.

Capital works

The Council has no capital works projects.

Pricing policies

Under the *Professional Standards Act 1997* (WA) and the *Professional Standards Regulations 1998* (WA), associations that apply for or operate a Professional Standards Scheme are required to pay an application fee and annual fees for each person to whom their professional standards scheme applies and who is a member of the association at any time during the annual fee period. These fees are prescribed in the legislation and are available on the Council's website.

Government building training policy

The Council did not issue any building or construction contracts during 2020/21.

Staff development

The Council is committed to supporting the development of employees. The Authority builds a highly skilled, professional and fair workforce with the ability to adapt to changing business technology and the environment.

Significant issues impacting the agency

The significant issues affecting the operational objectives of the Council during 2020/21 are set out on pages 32 to 81.

Workers' compensation

No workers' compensation claims were recorded during 2020/21.

Public Sector Commission's policy framework for substantive equality

While the Council is not required to report on the progress achieved in implementing the Public Sector Commission and Commissioner for Equal Opportunity's Policy Framework for substantive equality, the Council is aware of the purpose and aims of the Policy Framework.

Contracts with senior officers

At the date of reporting, no senior officers; or firms of which senior officers are members; or entities in which senior officers have substantive interests; have any interest in existing or proposed contracts with the Professional Standards Council of Western Australia, other than normal contracts of service.

Credit cards — unauthorised use

There were no instances of credit or purchasing cards being used for a personal purpose.

Constitution of the Council

Members of the Professional Standards Council of Western Australia were entitled to attend six scheduled and one out-of-session meetings for the year. Please refer to page 84 for a summary of meeting attendance.

Board and committee remuneration

Please refer to page 84 for a summary of the remuneration for each board and committee member. The Council is committed to creating an inclusive and supportive working environment.

Expenditure on advertising, market research, polling and direct mail

In accordance with section 175ZE of the *Electoral Act 1907* (WA), the Council incurred the following expenditure in advertising, market research, polling, direct mail and media advertising. Total Councils' expenditure for 2020/21 was \$536.51. Expenditure was incurred in the following areas:

Table 12: Expenditure on advertising, market research, polling and direct mail

Expenditure	Total	Organisation	Amount
Advertising agencies	\$500.08	Wavemaker Australia Pty Ltd	\$500.08
Market research organisations	NIL	NIL	NIL
Polling organisations	NIL	NIL	NIL
Direct mail organisations	NIL	NIL	NIL
Media advertising organisations	\$36.43	WA Department of Premier and Cabinet (State Law Publisher)	\$36.43
Total	\$536.51		\$536.51

*The expenditure shown is the Western Australia Professional Standards Council's share (3.73%) of the consolidated pool of annual expenses shared by all eight Councils which is based on each individual Council's 2020/21 revenue compared to total 2020/21 revenue

Disability access and inclusion plan outcomes

The Council is committed to creating an inclusive and supportive working environment for people with disability, including those who require adjustment. The Council's office has wheelchair and lift access and convenient parking close by. Council's publications are designed to be print-accessible for people with disabilities and can be supplied in alternative formats on request.

Record keeping

Sound record keeping practices underpin good governance. The Council has a system in place to ensure documents can be accurately captured, stored and retrieved, in accordance with the record keeping policy and procedures used by the Department of the Justice (Justice) and pursuant to the *State Records Act 2000* (WA).

Staff have completed Justice's online Recordkeeping Awareness training courses. All records are maintained, stored and retrieved in accordance with Justice's Recordkeeping policies and procedures.

Table 13: Report of annual performance against targets¹

Measure	Actual results				Results against target
	2017/18	2018/19	2019/20	2020/21	Target
Number of fatalities	0	0	0	0	0
Lost time injury and/or disease incidence rate	0	0	0	0	0 or 10% reduction
Lost time injury and/or severity rate	0	0	0	0	0 or 10% reduction
Percentage of injured workers returned to work:					
(i) within 13 weeks	N/A	N/A	N/A		100%
(ii) within 26 weeks	N/A	N/A	N/A		Greater than or equal to 80%
Percentage of managers trained in occupational safety, health and injury management responsibilities				100%	Greater than or equal to 80%

Notes:

1. Data includes the Council members and their national regulatory.

Occupational safety, health and injury management

The Council is committed to providing and maintaining a safe and healthy work environment and acknowledges its responsibilities under the *Occupational Safety and Health Act 1984 (WA)* and the *Workers' Compensation and Injury Management Act 1981 (WA)*. During the 2020/21 reporting period, no workers' compensation claims were lodged, nor was any time lost from work as a result of illness or injury as shown in Table 13.

Other legal requirements — section 40 estimates of the *Financial Management Act 2006 (WA)*

In accordance with Treasurer's Instruction 953, the section 40 estimates for 2021/22, as submitted to the Western Australian Attorney-General, are shown below. These estimates do not form part of the 2020/21 financial statements and are not subject to audit.

Table 14: Section 40 Estimates 2021-22

	2019-20	2020-21	2021-22
Statement of Comprehensive Income	Actuals \$000	Estimated Actuals \$000	Section 40 Estimates \$000
Cost of services			
Expenses			
Supplies and services	217	176	177
Other expenses	-	-	-
Total cost of services	217	176	177
Income			
Income other than State Government			
Other revenue	157	111	115
Total income from other than State Government	157	111	115
Income from State Government			
Resources received free of charge	54	53	53
Total income from State Government	54	53	53
Surplus / (Deficit) for the period	(6)	(12)	(9)
	2019-20	2020-21	2021-22
Statement of Financial Position	Actuals \$000	Estimated Actuals \$000	Section 40 Estimates \$000
Current Assets			
Cash and cash equivalents	324	316	307
Receivables	9	8	7
Total Current Assets	333	324	314
Total Assets	333	324	314
Current Liabilities			
Payables	43	46	46
Revenue Received in Advance	-	-	-
Total Current Liabilities	43	46	46
Non-Current Liabilities			
	-	-	-
	-	-	-
Total Liabilities	43	46	46
Net Assets	290	278	268
Equity			
Accumulated surplus/(deficit)	290	278	268
Total Equity	290	278	268

	2019-20	2020-21	2021-22
Statement of Changes in Equity	Actuals \$000	Estimated Actuals \$000	Section 40 Estimates \$000
Accumulated Surplus			
Balance at start of period	296	290	278
Total comprehensive income for the period	(6)	(12)	(9)
Balance of equity at end of period	290	278	269
	2019-20	2020-21	2021-22
Statement of Cash Flows	Actuals \$000	Estimated Actuals \$000	Section 40 Estimates \$000
Cash flows from State Government			
Appropriation	-	-	-
Net cash provided by State Government	-	-	-
Utilised as follows:			
Cash flows from Operating Activities			
Payments			
Supplies and services	209	121	124
GST payments on purchases	21	12	12
Receipts			
Other receipts	118	110	116
GST receipts from taxation authority	24	15	11
Net cash provided by/(used in) operating expenses	(88)	-8	(9)
Net increase/(decrease) in cash held	(88)	-8	(9)
Cash assets at the beginning of the financial year	412	324	316
Cash & cash equivalents at the end of period	324	316	307

06

Glossary and Indexes

Glossary and Abbreviations

Jurisdictions

ACT	Australian Capital Territory	SA	South Australia
CTH/Cth	Commonwealth of Australia	TAS/Tas	Tasmania
NSW	New South Wales	VIC/Vic	Victoria
NT	Northern Territory	WA	Western Australia
QLD/Qld	Queensland		

Glossary

Association	The terms 'association', 'professional association' and 'occupational association' are used interchangeably within this document.
ARC	Australian Research Council, Commonwealth of Australia.
DCS	The NSW Department of Customer Service (formed on 1 July 2019) that the Authority is part of.
DotAG	Department of the Attorney-General
FARMCs	Finance, Audit and Risk Management Committees
GIPA	Government Information (Public Access) Act 2009 (NSW)
Occupational association	The terms 'occupational association', 'professional association' and 'association' are used interchangeably within this document.
Authority	Professional Standards Authority which provides support services to the Professional Standards Councils and is located within the NSW Department of Customer Service.
PSC	Professional Standards Councils ('The Councils')
PSIP	Professional Standards Improvement Program
Professional association	The terms 'professional association', 'occupational association', and 'association' are used interchangeably within this document.
Schemes	Professional Standards Schemes approved and gazetted under Professional Standards Legislation.
The Councils	The combined Professional Standards Councils of the Australian Capital Territory, New South Wales, the Northern Territory, Queensland, South Australia, Tasmania, Victoria and Western Australia.

Associations with Schemes

ACS	Australian Computer Society
ACSN	Association of Consulting Surveyors National
APIV	Australian Property Institute Valuers Limited
BAQ	Bar Association of Queensland
CA ANZ	Chartered Accountants Australia and New Zealand
CPA	Certified Practising Accountant Australia Limited
IPA	Institute of Public Accountants
LIV	Law Institute of Victoria
LSNSW	The Law Society of New South Wales
LSSA	The Law Society of South Australia
LSWA	The Law Society of Western Australia
NSW Bar	New South Wales Bar Association
QLS	Queensland Law Society
RICSV	Royal Institution of Chartered Surveyors Valuers Ltd
SA BA	South Australian Bar Association
Vic Bar	Victorian Bar Association
WABA	Western Australian Bar Association

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73	The Professional Standards Councils' Chair, John Vines OAM presents at the October 2020 Professional Standards Forum
73	Panel members (clockwise L-R) Andrew Lumsden, Lauren Solomon, Roxane Marcelle-Shaw and Kristen Wydell share in a question and answer session at the April 2021 Professional Standards Forum
75	The Professional Standards Authority's CEO, Ms Roxane Marcelle-Shaw, Director, Mr John R Rappell, Strata Community Association (NSW)'s President, Mr Chris Duggan and Senior Vice President, Mr Tony Irvine and General at the presentation of a certificate in recognition of Strata Community Association (NSW)'s new scheme in June 2021 Manager
87	The Professional Standards Authority staff, Remashree Baniya
89	The Professional Standards Authority's CEO, Ms Roxane Marcelle-Shaw
89	The Professional Standards Authority's Director Professional Standards Regulation, Mr John R Rappell
89	The Professional Standards Authority's Acting Director Professional Standards Regulation, Mr Daimien Webster
91	The Professional Authority's Rob Lawson recognition of service
91	Professional Standards Authority Planning Day June 2021
92	The Professional Standards Authority staff, Ian Newbold
97	The Professional Standards Authority staff, Emily Galton and The Professional Standards Councils' meeting June 2021
99	The Professional Standards Authority staff, Karen Ford and Alice Kang
104	Professional Standards Authority Planning Day June 2021, staff award presented by Better Regulation Division, Deputy Secretary Ms Rose Webb



Professional Standards Councils
Professional Standards Authority

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