

President's Report 2023

Bar Council

Following election on 26 October 2022, the following members comprised the Bar Council during 2022-2023:

President:	Brahma Dharmananda SC
Vice President:	Julie Taylor SC
Ordinary Members:	John Ley SC Terry Palmer SC ¹ Eric Heenan SC Paul Mendelow Anthony Papamatheos Jennifer Solliss (Secretary) Rebecca O'Brien ²
Members of less than 3 years' standing	Alexandra Pieniazek Craig Astill
Non-WA Bar Chambers Ltd Members	Tim Hammond SC (Treasurer) Hayley Cormann

Bar Council met on 11 occasions for scheduled monthly meetings between November 2022 and October 2023.

I wish to record my sincere thanks to members of Bar Council for their service and contribution to Bar Council over the past year. The interest of members in the affairs of the WA Bar is vital to its health and wellbeing. A willingness to stand for election and provide voluntary service on bodies such as Bar Council is a distinctive mark of a profession.

General Meetings

Special General meetings were held on 26 October 2022, 8 March 2023 and 2 August 2023.

The Annual General Meeting will be held on 25 October 2023.

¹ Resigned following appointment as a Judge of the District Court of Western Australia, effective from 31 July 2023.

² Appointed as an Ordinary member, pursuant to clause 41 of the Constitution, to fill the vacancy on Bar Council following the appointment of his Honour Judge Terry Palmer SC.

Committees/Co-ordinators/WA Bar Representatives

ABA Advocacy Training Council	Rachael Young SC Matthew Howard SC (until 14 July 2023)
Bar Readers Course	Anthony Papamatheos
Continuing Professional Development	Julie Taylor SC, Eric Heenan SC, Rachael Young SC, Jennifer Solliss, Long Pham, Varun Ghosh
Disciplinary	Gary Cobby SC (resigned May 2023 following appointment as Chair of the Legal Services & Complaints Committee) Stephen Wright SC (appointed pursuant to clause 59B of the Constitution to fill the vacancy following Cobby SC's resignation), Paul Yovich SC and Alexander Mossop
Diversity	Julie Taylor SC, Terry Palmer SC (until 31 July 2023), Elspeth Hensler, Rachel Joseph, Alexandra Pieniazek, Jennifer Solliss
Essential Trial Advocacy Course	Matthew Howard SC (Course Director, July 2023 ETAC)
Law Library Advisory	Terry Palmer SC (until July 2023) Eric Heenan SC (from August 2023)
Pro Bono	Fraser Robertson (until June 2023) Elspeth Hensler (from July 2023)
Professional Indemnity Insurance	Greg Pynt
Professional Standards Scheme	Brahma Dharmananda SC, Julie Taylor SC, Paul Mendelow, Craig Astill, Jennifer Solliss
Referral Service	Terry Palmer SC (until July 2023) Tim Hammond SC (from August 2023)
Recovery of Outstanding Fees	Tim Hammond SC

Diversity

Initiatives and work undertaken by the Diversity Committee included:

- the development of a survey of members. The purpose of the survey is to collect, on an anonymous basis, information regarding our membership from which relevant initiatives can be developed to achieve the WA Bar's objects. 145 members responded to the survey which will assist with the targeting of activities and monitoring change over time.
- a review of the Grievance Procedure for the purpose of evaluating its effectiveness

Grievance Procedure

The following members are Grievance Stewards under the WA Bar's Procedure to Deal with Grievances Concerning Discrimination, Sexual Harassment and Workplace Bullying (Grievance Procedure):

John Hedges SC
Julie Taylor SC
Bettina Mangan SC
David Bayly
Jonathan Davies
Elspeth Hensler
Rachel Joseph
Felicity Maher
Neil Morrissey
Brian Nugawela
Helen Prince
David Thompson
Steven Wong

Following receipt of a complaint under the Grievance Procedure in April 2022, Bar Council resolved, in June 2022, to lay a complaint, pursuant to Clause 60 of the Constitution, in the name of the Secretary. Counsel was appointed to assist the Disciplinary Committee.

Based on the outcome of the WA Bar's investigation, it was considered there was no reasonable prospect of the complaint being proven beyond reasonable doubt, as required under paragraph 64 of the Constitution.

Bar Council therefore resolved to withdraw the formal complaint and not take any further action.

Bar Care

Launched in December 2022, Bar Care is an important and useful service available free to members, their immediate family and household members. Work on this initiative was led by the immediate past President, Martin Cuerden SC. Terry Palmer SC was responsible for investigating available options and progression of the initiative until implementation stage.

I record my thanks to Martin and Terry in particular for their work on this initiative.

Bar Readers' Course

This year's Bar Readers' Course (BRC) commenced on 2 May and concluded on 15 June. 25 new members completed one or more of the modules of the BRC.

Changes to materials has been phased in over the past 2 years, with a standard format of shorter papers, with succinct statements of legal principle and practical matters and considerations.

A function to mark the closing of the BRC, award certificates and present prizes to the best performed readers was held on 24 August. Congratulations once again to Christopher Taylor-Burch who was awarded the Chief Justice's prize for the best performed reader in the Ethics and Practice, Evidence and Preparation, and Jurisdiction and Procedure modules, and to Ryan van der Merwe who was awarded the prize for the best performed reader in the Essential Trial Advocacy Courses held in July 2023.

Widespread support from members of the judiciary and senior members of the Bar is crucial to the ongoing success of the BRC. May I record my sincere thanks to all who contributed to this year's BRC.

Essential Trial Advocacy Course

The Australian Bar Association's Essential Trial Advocacy Course (ETAC) was hosted by the WA Bar between 10-14 July 2023 at the Supreme Court of Western Australia.

The WA Bar is very grateful to the Chief Justice who again made the Court's facilities available – a significant factor in ensuring the success of ETAC.

There were 36 participants in total, comprising 18 from WA, 14 from SA, 2 from the NT, and 1 each from the ACT and Tasmania.

There were 21 coaches, comprising 12 from WA (The Honourable Michael Corboy SC, Craig Astill, Geoffrey Bourhill SC, Gary Cobby SC, Anthony Crocker, Matthew Howard SC (Course Director), Daniel Johnson, Bill Keane, Kathryn Kraus, Alexander Mossop, Jennifer Solliss and Rachael Young SC), 5 from SA, 2 from NSW, 1 from the NT, along with Julia Moody as the Voice & Performance Coach.

The Honourable Justice Katrina Banks-Smith, The Honourable Justice Darren Jackson, The Honourable Justice Paul Tottle, The Honourable Justice Gail Archer, The Honourable Justice Samuel Vandongen and Her Honour Judge Sarah Russell attended on the final day to act as judges at the mock trials, as did coaches, The Honourable Michael Corboy SC, Ian Robertson SC and Geoffrey Bourhill SC.

The ETAC culminated in the final dinner on the Friday night.

A pool of volunteers (associates, solicitors and law students) played the role of volunteers and/or acted as camera operators. Their contribution is important and an essential element of a successful course.

Thank you once again to Sherrin Partners (Anthony Brown) for their sponsorship of ETAC.

While the success of the ETAC is due to the collective efforts of all involved, I wish to acknowledge and record my thanks for the very significant contribution made by Matthew Howard SC, who assumed the role of Course Director.

A second ETAC, hosted by the South Australian Bar, will be conducted in Adelaide between 23-27 October 2023, with 12 new members attending.

The Honourable Michael Corboy SC, Anthony Crocker, Rachel Oakeley and Alexander Mossop will participate as coaches in the October ETAC.

2023 Autumn CPD Seminar Series

This year's Autumn CPD Seminar Series was held in March with presentations on the following topics:

- *The work of the Aboriginal Legal Service*
- *Mental Health in Practice*
- *Rule of Law/Palmer Legislation*
- *An Introduction to Western Australia's New Class Actions Regime*
- *Writing Styles and Justice*
- *Litigating Big Tech*

A Symposium: The Voice

Held on 8 September 2023 at the Perth Town Hall and jointly hosted by the WA Bar and the Law Society of Western Australia, this event provided an excellent opportunity to hear contrasting views expressed by Professor Gabrielle Appelby and Adjunct Professor Bertus De Villiers, which provided a platform for discussion. The commentary by his Honour Judge David MacLean was heartfelt but again promoted discussion and thought. The panel led by the Hon Robert French AC provided information and insight, including from the lived experience of the highly qualified and knowledgeable Aboriginal people.

May I sincerely thank all involved in organising or participating in an excellent and well received event.

2023 Spring CPD

The first seminar in the 2023 Spring CPD series on *Criminal Law (Mental Impairment) Act 2023: The changing landscape for people with mental impairment in the criminal justice system. An overview of the Act and the Bill* was held on 16 October 2023.

The remaining seminars in the 2023 Spring CPD series will be held during late October/early November 2023 with presentations on the following topics:

- *Strategies for proactive well-being and performance management*
- *Preventing the infinite regress: discretion, bars to relief, and the structure of equity*
- *The role of the barrister - ethics and the professional responsibilities*
- *Witness statements, witness outlines, affidavits and admissibility*

Again, may I record my gratitude and that of the WA Bar to Julie Taylor SC, Rachael Young SC, Eric Heenan SC, Jennifer Solliss, Varun Ghosh and Long Pham for organising the WA Bar's CPD program. The time and effort expended by the organisers and the presenters is a remarkable contribution to work which is central to the WA Bar's role and objects.

Professional Standards Scheme

The Professional Standards Scheme Committee (PSSC) is a standing committee of Bar Council which has overall responsibility for management and administration of the Professional Standards Scheme (PSS). The PSSC comprises the President, the Vice President, the Secretary, two Ordinary Members, and other members of the co-opted each year.

The WA Bar is required to submit an *Annual Professional Standards Report* to the Professional Standards Councils – the requirements of which are onerous and involve a significant amount of time and effort.

Included in the annual reporting requirement is an obligation to report on risk management strategies and activities, as well as conduct and report on 'root cause analysis' of complaints, discipline and professional indemnity insurance claims data. Analysis of this data assists the PSSC and Bar Council to identify and develop risk management strategies and CPD activities.

In order for the WA Bar to fulfil its reporting obligations under the *Professional Standards Act 1997*(WA) and for the Scheme to remain in force, an annual Renewal of Membership Form is required to be completed by all members. Members are also required to inform the President of any complaints or disciplinary matters made to the Legal Services and Complaints Committee or the Legal Practice Board in respect of that member of which

the member becomes aware. This is an important element to the reporting requirements to enable the WA Bar to comply with its obligations.

An extract from the WA Bar's 2022 Annual Professional Standards Report concerning complaint analysis and CPD, will be published as an example of 'good practice' in the Professional Standards Councils' Annual Report.

Pro Bono

Over the past 12 months, the WA Bar received 7 requests from members of the public which were referred to Law Access and/or other organisations for assessment/further assistance.

In addition, the WA Bar received 14 requests which were assessed as meeting the criteria for pro bono assistance. Requests were circulated to members, and assistance was provided in 9 matters, and in most matters multiple offers of assistance were received from members.

Over the past 6 years Fraser Robertson has, along with Elspeth Hensler (until 2021), assumed responsibility for assessing and coordinating pro bono requests received by the WA Bar. Regrettably, Fraser resigned as a member of the WA Bar effective from 1 July 2023. Fraser's outstanding efforts, for which we are truly grateful, ensured the prompt and efficient processing of requests.

Elspeth Hensler very kindly agreed to assist with assessing and coordinating pro bono requests pending the appointment of a pool of members to assist with this task.

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

Representation of Practitioners before the LPBWA and SAT

The WA Bar continues to provide assistance to practitioners through the Referral Service.

Terry Palmer SC (until his appointment to the District Court) and Tim Hammond SC (from August 2023) were responsible for assessment and referral of requests.

During the past year, the WA Bar received 5 formal requests from legal practitioners seeking assistance in relation to complaints to the LPBWA and SAT.

Other requests for assistance are likely to have been received and dealt with informally by members of the WA Bar.

Professional Indemnity Insurance

Bar Council resolved this year to approve policies of professional indemnity insurance offered by the following:

- AAI Limited (trading as Suncorp Insurance)
- Arch Underwriting at Lloyd's (Australia) Pty Ltd (offered through Marsh Pty Ltd)
- Insurance Australia Limited trading as CGU Insurance (offered through AON)
- Berkley Insurance Company trading as Berkley (offered through Pacific Indemnity Underwriting Solutions Pty Ltd)

Since 2018, Greg Pynt generously assisted with the work and obligations of the WA Bar by assessing and providing advice to Bar Council on professional indemnity insurance policies. Greg's willingness to help with the work and obligations of the WA Bar was of enormous assistance to Bar Council. Greg will be long remembered as a generous contributor to and highly respected member of the WA Bar.

Group Life Insurance Scheme

The Group Life Insurance Scheme continues to be available to members and provides cover of \$300,000 for death or diagnosis of a terminal illness, or upon assessment of total and permanent disability.

Judicial Welcomes and Special Court Sittings

During the year the following special sittings were held:

- Welcome for the Honourable Justice Samuel Vandongen, Supreme Court of WA, 17 November 2022
- Welcome for The Honourable Justice Robin Cohen, Family Court of WA, 24 November 2022
- Welcome for the Honourable Justice Michael Lundberg, Supreme Court of WA, 1 December 2022
- Farewell for The Honourable Justice Susan Duncanson, Family Court of WA, 20 December 2022
- Welcome for His Honour Judge Mark Ritter SC, District Court of WA, 22 February 2023
- Special sitting of the Federal Court of Australia on 14 March 2023 to mark the retirement of the Honourable Chief Justice James Allsop AC, and announcement and welcome for newly appointed WA Silks
- Welcome for the Honourable Justice Fiona Seaward, Supreme Court of WA, 23 March 2023
- Welcome for Her Honour Judge Wendy Hughes, District Court of WA, 24 May 2023
- Welcome for the Honourable Justice Natalie Whitby, Supreme Court of WA, 7 June 2023
- Welcome for The Honourable Justice Steven Jones, Family Court of WA, 8 June 2023
- Welcome for Her Honour Judge Laura Christian SC, District Court of WA, 28 June 2023
- Farewell for Master Craig Sanderson, Supreme Court of WA, 26 June 2022
- Welcome for the Honourable Justice Matthew Howard, Supreme Court of WA, 27 July 2023
- Welcome for the Honourable Justice Stephen Lemonis, Supreme Court of WA, 3 August 2023
- Welcome for His Honour Judge Terence Palmer SC, District Court of WA, 9 August 2023
- Ceremonial sitting of High Court of Australia on 16 October 2023 to mark the retirement of the Honourable Chief Justice Susan Kiefel AC

Bar and Bench Dinner

The 2022 Bar and Bench Dinner was held on Friday, 18 November 2022 at Double Tree by Hilton Perth Waterfront. 152 members and guests attended. Varun Ghosh proposed the toast to the Bench. The Honourable Justice Kenneth Martin proposed the toast to the

Bar. It was great to see so many members at last year's dinner which, from all reports, was a well-received event.

This year's Bar and Bench Dinner, to be held on Friday, 10 November at the Art Gallery of Western Australia, will mark and celebrate the 60th anniversary of the WA Bar in a manner fitting to this significant and important occasion.

Membership

There are currently 304 members, of whom 277 are local members. Of the local members, there are 75 women and 202 men. There are 7 women and 33 men practising as Senior Counsel in Western Australia who are members of the WA Bar.

New Members

The following new Members were elected to the WA Bar:

Jeremy David Birch
Marion Louise Buchanan
Rodney John Carey
Esther Mary Choong Dyer
Nicholas David Ellery
Jennifer Joan Flinn
Hubert Thomas Gawley
Charunee (Joy) Horwood
Colin Thomas Huntly
Douglas Gilbert Johnson
Róisín Ann Keating
Stephen Roger McGrath
Jenny Maree McKenzie
Rachel Reader Milton
James Flood Nagle
Liam Richard Nicholls*
Keith Francis Nicholson
Kate Jessica Pearson
Charles Christian Porter
Seamus Francis Rafferty
Christopher John Taylor-Burch
Kate Erin Turtley-Chappel
Bryan Ullinger
Damon John Van Kempen
Rex Alistair Vines
Thomas Clinton Webb
Mark Lewis Williams
Scott John Young
Yichun (Kelly) Zhang
* Interstate Member

Honorary Members

The following were elected as Honorary Members:

The Honourable Daryl Williams AM KC
The Honourable Jeremy Allanson SC
The Honourable Graeme Murphy SC
His Honour Christopher Stevenson

Judicial Members

The following were elected as Judicial Members:

Supreme Court of WA

The Honourable Justice Samuel Vandongen

The Honourable Justice Fiona Seaward

Family Court of WA

The Honourable Justice Robin Cohen

District Court of WA

His Honour Judge Nicholas Egan

Her Honour Judge Linda Black

His Honour Judge Mark Ritter SC

Her Honour Judge Laura Christian SC

Her Honour Judge Wendy Hughes

Staff

May I record my sincere gratitude to our Executive Officer, Debbie Cole, and Administrative Assistant, Karen Knox for their dedication and hard work over the year. As the WA Bar has grown, the volume of work has increased and the Executive Officer and the Administrative Assistant always stepped up, without complaint and with great enthusiasm, to do all the necessary work to ensure that the WA Bar's members are well served, and things are done on-time and seamlessly.

During the course of the year, Bar Council considered the need for the WA Bar to engage additional staff so that the current workload is managed even better than it is presently managed and so that the WA Bar may plan for the future. Bar Council resolved to offer Simone North a position as Deputy Executive Officer. It is anticipated that Simone will commence employment during the second half of November 2023.



Brahma Dharmananda SC
President

18 October 2023