

What is the *Cover of Excellence*™?

Cover of Excellence™ Schemes demonstrate the commitment of members of occupational associations to maintain high ethical standards. They encourage professionals to adopt practical risk management strategies to achieve quality of service and to create a culture of excellence and responsibility. That culture supports qualified, proficient practitioners to serve the best interests of clients and provide a proper cover of protection.

The *Cover of Excellence*™ logo is an easily recognisable symbol which represents the commitment of members of occupational associations to the provision of high standards of professional service and consumer care.

Look for the *Cover of Excellence*™ symbol for 'Professionals who care'.

annual report 2003

The Hon Mr Bob Debus, MP
Attorney General

Dear Attorney General

On behalf of the Professional Standards Council, I am pleased to present to you our Annual Report for the year ended 30 June 2003, for presentation to Parliament. It is presented in accordance with Section 47 (1) of the Professional Standards Act 1994 (NSW).



Warwick Wilkinson AM
Chairman
Professional Standards Council

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The Professional Standards Council Making Self-regulation work

The Attorney General established the Professional Standards Council (the Council) in 1995 under the Professional Standards Act 1994 (NSW). It was created to help make the self-regulation of the professions and other occupations work better for the benefit of the community.

The Council is responsible for approving and monitoring *Cover of Excellence™* Schemes which require industry associations to implement strategies for improving professional standards and protecting consumers, and provide limited civil liability to members of those associations. The Council is fully funded by the fees it receives for the application, management, monitoring and renewal of *Cover of Excellence™* Schemes.

Our role is to advise, monitor, educate and advocate on matters within the objectives of the legislation and these necessarily will affect industry associations, professionals and consumers in general. Our approach is based on the principles of self-regulation. We actively encourage and assist industry associations in improving standards, reducing risk and caring for consumers, effectively making self-regulation work for all.

Our vision

Improving standards

We believe that all else flows from robust standards. The Council provides practical guidance for industry associations to establish, strengthen and continuously improve their business standards and consumer management practices and processes.

We do this by conducting research, developing business tools and holding seminars and forums that aim to inform, educate and provide practical knowledge about complaints and discipline systems, codes of ethics, continuing professional development programs and risk management, amongst others.

Our Purpose is to **protect consumers** by improving professional standards through Schemes and the self-regulation of occupational groups. A primary purpose of the Act is to enable the liability of members of associations to be limited. The liability amounts are determined on a sound basis to also provide protection to consumers.

Our Goals are to continue to **strengthen and extend professionalism** and promote self-regulation across occupational groups; and **establish *Cover of Excellence™* Schemes** as the premier mark of professional values and consumer care for professionals serving the community.

This Annual Report discusses our achievements in promoting self-regulation via *Cover of Excellence™* Schemes. It assesses our own performance in furthering the principles of professional standards legislation, as well as the performance of Scheme participants in ensuring continuous improvements in professional standards and consumer care.

If you would like further information about *Cover of Excellence™* Schemes, please contact us on 1300 555 772 (toll free) or by email to psc_excellence@agd.nsw.gov.au

"We reflect in order to look forward".

Our belief has been, and remains, that PSL needs to apply across Australia. We've previously pointed to the insurance 'crisis' that has persisted, and still threatens the future, and warned that more needed to be done to deal with the problem. We called on those affected to impress on government the importance of the issue, for the territories and other state jurisdictions to introduce and support such legislation, and for PSL to be recognised federally. We've warned that the future success of PSL will depend on it going 'national'.

Chairman's comment

Therefore, it has been important for us to make a major contribution to the recent debate about PSL, and to provide our unique expertise to government, the professions and others. We've held appropriate discussions with the relevant government ministers, their advisers and government officials at federal, state and territory level. Similarly, we have provided information to the key professions about the principles of PSL. These have built on our past efforts to increase support for PSL.

Cover of Excellence™ Schemes cap civil liability except (among others) for liability under federal legislation such as the Corporations Act 2001 and the Trade Practices Act 1974 (TPAct), and so it is significant that the federal government has now agreed to close that loophole for jurisdictions where PSL exists. We'd earlier commissioned a study of the impact of the TPAct on Schemes and published a report in March 2003 that confirmed our concerns about the loophole. Others also had expressed such concerns. The proposed changes to the TPAct and other federal legislation are essential for the proper operation of PSL. We are grateful to the Federal Assistant Treasurer, Senator Helen Coonan, who played a leading role in championing those changes and the agreement of state and territory Treasury Ministers to consider a framework of nationally consistent PSL (NPSL). The Council is represented on an Insurance Issues Working Group established by federal, state and territory ministers to advise ministers about NPSL and assist them in deciding on the establishment of a national system.

Similarly important, some professions had been concerned that they were required by some NSW government agencies to have excessive levels of professional indemnity insurance in order to do government work, but now the insurance requirements of *Cover of Excellence™* Schemes are instead accepted for those professionals who are in a Scheme.

These various developments will substantially strengthen the effectiveness of PSL and at the same time increase the general community's awareness and understanding of Schemes.

The Professional Standards Act 1994 (NSW) prescribes our objectives and functions. They are significant and substantial. Our Annual Report enables the community to review our work. Importantly, it also provides a unique opportunity for the community to judge the efforts of associations to care for consumers by improving professional standards. There is a good deal of information contained in it and so we have included a summary in a new 'pull-out' section.

The Council regularly reflects on progress made in improving standards under Schemes, and then plans and develops work directed at strategic areas for further improvement. That reflection also includes the review of our own performance.



"We reflect in order to look forward"

Our work is made possible by the support of the Attorney General, the Hon. Bob Debus MP. We are grateful too for the support of the Director General of the NSW Attorney General's Department, Mr Laurie Glanfield AM, and Assistant Director General, Community and Regulatory Services, Ms Julie Baker. We are greatly assisted by our Secretariat led by Bernie Marden and without whom our many successes would not have been possible. I am supported by a Council of dedicated members who provide expert counsel on a diverse range of matters. We have been able to build a collective strength as the Council and its Secretariat has developed specialist expertise in PSL.

We've established PSL as a tried and tested template for better regulation. The NSW/WA template is focused on continuously improving outcomes for the community and so our work has only just begun. We stand at the precipice.

We look forward to the future with optimism, embracing the opportunity to continue to make a significant contribution to the expansion of PSL.

Warwick Wilkinson

Warwick Wilkinson AM
Chairman

Structure

The Professional Standards Council ('The Council') is a statutory corporation established under Section 43 of the Professional Standards Act 1994 (NSW) ('The Act'). The Council is responsible directly to the Attorney General.

Corporate governance

The Council is an independent body of part-time members. It has the usual Board type responsibilities in addition to its special statutory responsibilities under the Act. The Council is constituted to:

- Approve and supervise Schemes; and
- Assist in the development of self-regulation, and the improvement of occupational standards and consumer protection.

Under informal arrangements with WA, a Council was established a few years ago to operate in parallel as the NSW Council and the WA Council.

A Secretariat provides operational support, strategic advice, and research and analysis. It implements Council decisions and provides customer service. The Secretariat is staffed by the NSW Attorney General's Department (AGD) and is accountable to both the Professional Standards Council and the AGD.

The Secretariat is situated in Sydney and also provides support to the WA Council under a Service Agreement between NSW and WA. The Service Agreement arrangement has been in place since 2001. It continues to be an effective way of ensuring consistency in approach and creating operational efficiencies where benefits can be realised across jurisdictions, especially for major projects and research.

Membership of the Council

The Council consists of eleven persons appointed by the Attorney General, including the appointment of a Chairperson and Deputy Chairperson. The Deputy Chairperson position was vacant during the period. In appointing a person to the Council, the Attorney General considers the individual's knowledge, qualifications and experience that will enable the person to contribute to the work of the Council.

The background and experience of each of our current Council Members is outlined in the Council Members Section of this Report.

Terms of Office and remuneration

Council Members are appointed for up to three years. They are eligible for re-appointment at the expiration of their term.

The remuneration of Council Members is determined by the Attorney General. The allowance has been determined on a sitting fee basis for attendance at Council, Working Party and Committee meetings. The rate for members is \$350 for meetings up to 4 hours and \$75 for each hour thereafter. The rate for the Chair is \$575 and \$125 respectively, plus \$2,500 per annum for out-of-sittings work and expenses. The average sitting time of Council meetings was 2.5 hours. Total fees paid to Council Members for the reporting period are included (under Fees) in the Financial Performance Section of our Annual Report.

The Council and its operations are fully funded by application and annual fees paid by occupational associations. Annual fees are based on the number of members of the association to whom a Scheme applies.

Procedure

Schedule 3 of the Act, and policies developed since the Council's inception, provide guidance for the procedure of Council meetings.

A main resource for Council Members, the 'Members Handbook', is updated as required to ensure each Member is informed of the procedures and policies of the Council. The Handbook also provides information on the current Schemes in operation, the legislation, the current business plan, and the terms and conditions of members' appointment.

Responsibilities of the Council

The Council is responsible for the overall corporate governance of the Professional Standards Council, including approving the strategic direction and goals for management, and monitoring the results within the parameters of its charter. A review of our Corporate Governance was undertaken this year. The review indicated that the Council continues to meet the NSW Audit Office's expected standards for governance. However, some improvements were identified to strengthen already established systems, including the creation of an Audit and Risk Management Committee and a conflict of interest register.

The Secretariat regularly reports to the Council on budgetary performance and operational activities undertaken by the Secretariat. The Council also regularly reviews risks and monitors the implementation and performance of risk treatments via the Internal Risk Management Program (IRM).

The Council has approved that the Chairman and Secretary may speak publicly on relevant matters on behalf of the Council. The spokespersons are guided by the Issues Management Program (IM). This Program is monitored quarterly and approved by the Council. Further information about the IRM and IM Programs is provided later in this Annual Report.

Meetings of the Council

The Council meets about once every six weeks, usually as the NSW/WA Council. The table below shows Council Members' attendance during 2002/2003.

Council Committees

Two ad hoc committees were established during the report period. An Independent Evaluation Panel and an Approval Committee evaluated and approved (respectively) projects for funding under the Council's new Star Initiative Grants Program. The Committees each met once this year, endorsing the award of two grants totalling \$35,000 (from \$80,000 on offer). The membership of the Committees is reported in the Appendix Section of our Annual Report.

Review of the legislation

The Council is also responsible for monitoring the operation of Schemes and the operation of the Act. At times, the Council amends Schemes, and asks the Attorney General to amend the Act or its Regulations. No amendments were made to the Act or Regulations during the reporting period.

The Secretariat identified a number of provisions in the Act and Schemes for consideration by the Council. The Council has since requested the Attorney General to amend some aspects of the Act to reflect changes to these provisions.

Members	Council Meetings entitled to attend	Council Meetings attended to attend	Working Party Meetings entitled attended	Working Party Meetings
Cole	*****7	*****7	*****0	*****0
Cox	*****7	*****6	*****1	*****1
Fairlie	*****7	*****7	*****0	*****0
Griffin	*****7	*****5	*****0	*****0
Longstaff	*****7	*****5	*****0	*****0
Liv	*****7	*****6	*****0	*****0
Plaistowe	*****7	*****6	*****0	*****0
Sargeant	*****7	*****6	*****1	*****1
Wilkinson	*****7	*****7	*****1	*****1

Council members



Warwick Wilkinson AM
RFD ED (Hons) M. Pharm. FPS
Chairman



Steven Cole
LLB (Hons)



Louise Cox AM
BArch (Syd), DipT&CP (Syd),
LFRAIA RIBA



David Fairlie
BA (Hons), LLB (Syd),
LLM (London)



Patrick Griffin
BA, LLB, LLM



Wendy Liiv
BEc, A.I.R.M.(London)



Dr Simon Longstaff
MAICD



Hugh Plaistowe
FCPA, AICA



Janine Sargeant
BA MPH

Warwick Wilkinson AM, Chairman, RFD ED (Hons) M. Pharm. FPS
Associate Commissioner of the Australian Competition and Consumer Commission and Director of the Australian Institute of Political Science. At Merck Sharp and Dohme from 1974 until 1993, 11 years of that time as a Director. Past President of both the Australian Council of Professions and the NSW Council of Professions and past National President of the Pharmaceutical Society of Australia. Also a lay member of the disciplinary committee of CPA Australia.

Steven Cole, LLB (Hons)
Senior Partner of Allens Arthur Robinson Lawyers, operating from the West Coast office. Past experience includes corporate and strategic management within both professional and general industry environments. Active in professional, business and community affairs, including the Law Society of WA, the Australian Institute of Company Directors and not-for-profit community based organisations.

Louise Cox AM
BArch (Syd), DipT&CP (Syd), LFRAIA RIBA
Architect in private practice. Board Member of Standards Australia International, and Chairman of the Joint Australia/New Zealand Building Standards Sector Board. Previously a Director of McConnell Smith and Johnson Pty Ltd, architects and planners, and a Member of the Royal Australian Institute of Architects (RAIA) Liability Committee. Former Past President of the RAIA and the NSW Chapter of the RAIA; Vice President of the International Union of Architects (UIA) Region IV, Asia and Oceania; Member of the Royal Institute of British Architects; and Life Fellow of the RAIA.

David Fairlie
BA (Hons), LLB (Syd), LLM (London)
Senior Partner of Malleons Stephen Jaques Solicitors in Sydney, and Member of its dispute resolution group. Former President of the NSW Law Society. Served on various Law Society committees including, as Chairman, its professional standards committee and dispute resolution committee. Former director of LawCover Pty Ltd.

Patrick Griffin, BA, LLB, LLM
Barrister. Member NSW Bar Association Professional Conduct Committee. Former Member of Fair Trading Tribunal. Member of both the LEADR Advanced Mediators Panel and Supreme Court Mediators Panel. Formerly Director and Principal Solicitor of the Public Interest Advocacy Centre, and Director of both the Australian Consumers Association and the Communications Law Centre.

Wendy Liiv
BEc, A.I.R.M.(London)
Senior Casualty Manager at Gerling Global Reinsurance responsible for Professional Indemnity, Directors & Officers, Public and Products Liability and other liability portfolios. Extensive experience in the UK in global risk finance and risk management. Associate of the Institute of Risk Management, London. Currently a Member of the Professional Indemnity Committee for the Insurance Council of Australia.

Dr Simon Longstaff, MAICD
Executive Director of St James Ethics Centre, an independent forum for the promotion of business and professional ethics, established in 1989. Chairman of the Advertising Federation of Australia's Ethics Working Party, and the Mediator Accreditation Board of the Australian Commercial Disputes Centre Limited. Also serves on a number of committees including BHP Billiton's Business Ethics Panel; Community Cultural Development NSW (CCDNSW) Chairman; Gene Technology Ethics Committee; NSW BioFirst, Ethics Panel; NSW Department of Corrective Services' Ethics Committee and the National Professional Engineers Registration Board.

Hugh Plaistowe, FCPA, AICA
Partner of Owen and Plaistowe Certified Practising Accountants for the past 26 years. Currently a Member of the CPA National Professional Standards Committee. Previously, a past State President of CPA Australia and a past Member of its National Council.

Janine Sargeant, BA MPH
Consultant in the health care sector. Executive Officer Australian and New Zealand Association of Physicians in Nuclear Medicine and Australian Association of Private Radiation Oncology Practices. Former Member representing Asia/Pacific on the Advisory Council of the International Society for Quality in Health Care. Advised and served on a number of national committees including Medicare funding of diagnostic imaging and cancer treatment services; service delivery in radiation oncology; the development of health information databases; and pharmacy and diagnostic imaging research.

Secretary's comment



The October 2002 launch of our Star Initiative Grants Program was the product of our work to provide a 'best practice' system for the Council to assist our clients to pursue innovation for the benefit of consumers. We continued our Research Program that included an investigation of the Impact of the Trade Practices Act on the operation of Schemes.

The Annual Report provides more information about our work, and it also alerts to some of the new programs we will pursue in 2003/4. Our work is assisted by the commitment and support of all Members of the Council under the active leadership of the Chairman, Warwick Wilkinson AM, the cooperation of the occupational associations with Schemes, and the Secretariat Team of skilled, experienced and dedicated staff.

The Secretariat Team has continued to focus on further developing its services to the Council and the associations. We have achieved that within budget.

Our budgetary performance was assisted by a continued growth in Schemes, necessarily delayed projects and unfortunately fewer than hoped for suitable applications for Star Initiative Grants. Those projects and new Grants will be continued in 2003/4. Costs have been contained within revenue to meet our obligations to be fully self-funded so that we are not a cost to tax payers (our operations are funded from fees paid by associations with approved Schemes). We have continued to innovate so that we maintain and improve our proficiency through good corporate governance, management and services.

During the reporting period, we consulted with our clients and introduced new systems to improve risk management reporting and electronic service delivery. We further responded to client identified needs and held an important forum on insurance, and produced material to assist practitioners to better inform their clients about *Cover of Excellence*™ Schemes.

A new feature in this year's Annual Report is a summary of the associations' Risk Management Plans for 2003. The Plans are required under the Council's new Scheme Risk Management Reporting System and provide the foundation for improved monitoring and reporting of the performance of the associations' risk management strategies.

These represent a significant change for associations and we should acknowledge their cooperation and efforts in taking up the challenge. There remains considerable scope to improve on these initial Plans, particularly in identifying the outcomes of strategies. We look forward to the associations' Reports against those Plans and to reporting the results in our 2003/4 Annual Report. We expect that the associations' Plans and Reports will continuously improve to provide a clearer picture about improved standards, reduced risk and better consumer protection under *Cover of Excellence*™ Schemes.

Bernie Marden
Secretary

Our performance

Goal: Strengthen professionalism and the integrity of self-regulation amongst occupational groups to achieve improved standards.

National legislation

Professional standards legislation (PSL) provides significant benefits for consumers. It provides the strong incentive necessary for the professions and other occupations to improve their regulation and standards. PSL is a preventative measure that is designed to reduce risk for the consumers of professional and other services and requires service providers to buy appropriate insurance or otherwise have adequate business assets. It improves the accountability of service providers to the community.

It is for these reasons that the Council has consistently argued that the benefits of PSL should be extended to all Australians. Without being diverted from our primary responsibilities in administering PSL, we were also very active in advising Ministers, advisers and government officials in other states and territories about PSL. In April 2003, federal, state and territory Ministers agreed to investigate a framework for national PSL (NPSL), and the federal government has agreed to amend the Trade Practices Act and other federal legislation so that the liability caps of *Cover of Excellence*™ Schemes can be recognised in the federal jurisdiction.

Since then, we have continued our discussions with key decision makers and are closely involved with a Federal/State and Territory Working Group that has been established to advise Ministers on a framework for NPSL.

The Council is committed to assisting the transition of PSL to a National Structure that reflects the core principles of self-regulation underpinned by legislation. The tried and tested NSW/WA template provides a sound basis from which to launch a national system in which government, industry associations and their members, as well as consumers can be confident. We have argued that there needs to be both consistency in legislation and consistency in its administration in order for NPSL to be effective and successful. We have also cautioned against the temptation of governments and other stakeholders who are unfamiliar with the operational intricacies of PSL to tamper with the proven formula provided by the NSW/WA template.

The Star Initiative Grants Program

A principal function of the Council is to encourage and assist associations to develop their self-regulation and to improve their standards. One way we achieve that is by funding initiatives to be conducted by associations themselves. The Council launched 'The Star Initiative' in October 2002. This grants program is open exclusively to associations, groups of members, or individuals, who participate in a *Cover of Excellence*™ Scheme. Grants are awarded on a merit basis considering their potential contribution to the principles of PSL. Further process details about the Star Initiative program can be found at our website, www.agd.nsw.gov.au/psc

Four applications for the first year's grants vied for funding of up to \$80,000. An independent panel of experienced business people assisted the Council in assessing grant applications.

In April 2003, the Institute of Chartered Accountants in Australia (ICAA) and the Institute of Consulting Valuers (ICV) were announced as the Star Initiative's first grant recipients. The ICAA was awarded \$24,000 to develop new Practice Notes to assist accountants working with small to medium entities in preparing their financial statements. The ICV was awarded \$11,000 to produce Guidance Notes for Valuers to use when engaging clients and conducting valuations.

Currently no such guidelines exist in either of these areas. Both projects provide an opportunity to further improve standards by improving consistency, reducing the likelihood of an important issue being overlooked or mishandled, and ensuring client's interests are managed in the best possible way. Both projects also reflect active self-regulation by these associations.

The completion of the first offer now provides the opportunity for the Council to gain feedback and evaluate the process to further refine the program. The Star Initiative Program 2003/2004 will be launched in August 2003. We are confident that an extension of the application period in this coming program will provide an opportunity for a significant increase in the number of applications from members and groups of members, further promoting self-regulation at the root level. The outcomes of this year's program will be reported in next year's Annual Report.

Research program

We continued to meet our clients' needs for research into specific issues of risk management and consumer care. Each year we ask our clients to nominate projects of importance to them and to identify specific issues to be researched. Their feedback forms the basis of our successful Research Program. We have been pleased with the interest in our research products. A major product last year was the development of our *Model Code of Ethics Principles*, and this year we have continued to receive requests for the Ethics Report from government, the professions, other occupations, and business.

During the reporting period, projects that we commenced in 2002 were completed. A project to review our requirements for data used to determine caps for Schemes was completed by actuarial consultants, Tillinghast Towers-Perrin. Access to relevant and reliable claims information also assists our clients to monitor claims so that they can adjust their strategies and respond to risk. We were assisted by discussions with our clients and proposed that we explore options for claims data to be collected directly by the Council to alleviate the difficulties the associations report in obtaining claims information from the insurance industry. We will pursue that further in 2003/4.

Also last year, we indicated that we were investigating the extent of claims under federal legislation and their likely impact on the effective operation of *Cover of Excellence™* Schemes. Together with our clients, we were concerned that such legislation was increasingly used to sue professionals and other occupations. This, in effect, meant that plaintiffs could get around Schemes. A report, *Impact of the Trade Practices Act*, was prepared by Professor Chris Arup of Victoria University. The Report confirmed our concerns. Since then, the Federal Government has agreed to amend the Trade Practices Act and other legislation to close that loophole. We believe that these changes will strengthen Schemes so that they can operate properly. The changes are a key part of NPSL and are necessary to make it effective.

Some other projects were delayed. However, we are pleased to have now commenced a project to investigate strategies for our clients to improve the performance of their continuing professional development (CPD) programs. The project will look specifically at so-called 'soft-skills' CPD. These deal with areas of learning such as ethics, client communication and other general skills that are so important but don't often get the attention they deserve. Field Learning Pty Ltd has been engaged to work on the project. Our aim is to provide a practical resource to our clients that will be released in 2003/4 together with a Forum to promote discussion and commitment to these important aspects of professional development. This project follows our earlier work on client-focused CPD (published December 2000).

Competing priorities and resources meant that a contemplated project to explore the operation of Schemes in multi-disciplinary practices had to be postponed. However, another project to Review Insurance Standards was progressed. The Council has previously specified Guideline Standards for Insurance under *Cover of Excellence™* Schemes, but it has become increasingly difficult for the professions and other occupations to obtain satisfactory insurance because of the 'hardened' insurance market. We are also concerned about the increasing trend to purchase insurance from Unauthorised Foreign Insurers (UFI's) because of the shrunken local insurance market. We agree with others that there are added dangers in purchasing insurance from UFI's as doing so could leave the insured professional without reliable insurance and consumers without protection. The Insurance Standards Review will explore those matters and specify new Guideline Standards. We have redesigned the project to be completed in 2003.

Sharing knowledge

The widely reported 'insurance crisis' is a serious problem. The professions and other occupations have experienced difficulty in obtaining adequate insurance, and the cost of insurance has increased substantially. *Cover of Excellence™* Schemes have helped to control insurance costs, which is why PSL should be extended nationally. There are many factors that influence the insurance market and, so in June 2003 we held an Insurance Forum in Sydney to provide an opportunity for insurers, brokers, regulators, industry associations and their members, to come together and discuss insurance issues of mutual importance. We should acknowledge the generous contributions of the expert panel of speakers who presented at the Forum who shared their knowledge and experience of the insurance market from broad perspectives including professional liability and insurance law, insurance regulation, actuarial, insurer and association perspectives.

An evaluation completed by the diverse audience of professional bodies and their members, government officials, and insurers revealed a high degree of satisfaction with the Forum. We believe that such a forum provides an opportunity for professions to better understand the current insurance environment. It assists us in reinforcing the importance of effective risk management and good data collection and analysis. The Forum also referred to the changed nature of insurance policies because of the High Courts decision in *FAI General Insurance Co Ltd v Australian Hospital Care Pty Ltd* (see our Newsletter August 2001) and to concerns about purchasing insurance from Unauthorised Foreign Insurers.

Monitoring standards

One of the Council's key roles is to monitor the risk management strategies of each association with a *Cover of Excellence™* Scheme. We do this through analysis of the association's Risk Management Reports (see 'Focus on Schemes'). Until now, these reports were more of a narrative of the strategies employed to improve standards, reduce risk and protect consumers. Through the implementation of the Council's Risk Management Reporting Guidelines this year, we have laid the foundations for a dramatic improvement in the quality of risk management reporting. The effects of risk management strategies will now be much clearer and strategically focused.

The Guidelines also require associations to submit a Risk Management Plan in advance of the reporting period. This allows the Council to provide better advice and assistance to associations, making suggestions for improvements, or identifying areas where one association might gain benefit from the experiences of another association. The Guidelines can therefore contribute to better resource planning, as well as easier reporting to the Council. These improvements in reporting could not have been achieved without the assistance and support of participating associations.

A revised reporting timetable has now also been implemented to make reporting easier for associations. The reporting timetable previously depended on when a Scheme started, but we have changed that so all associations are providing their Risk Management Reports for a calendar year, and Audit Certificates (concerning the payment of fees to the Council) are provided for a financial year.

These changes are in addition to improved reporting timeliness as a result of a system that we introduced last year of sending reminders to associations about key dates. Delays by the associations in providing risk management reports to the Council was reduced to a median of 61 days, which is down from 70 days for the previous year. We expect that our new systems will result in ongoing improvements to reporting and we will continue to identify opportunities for further improvements in these areas.

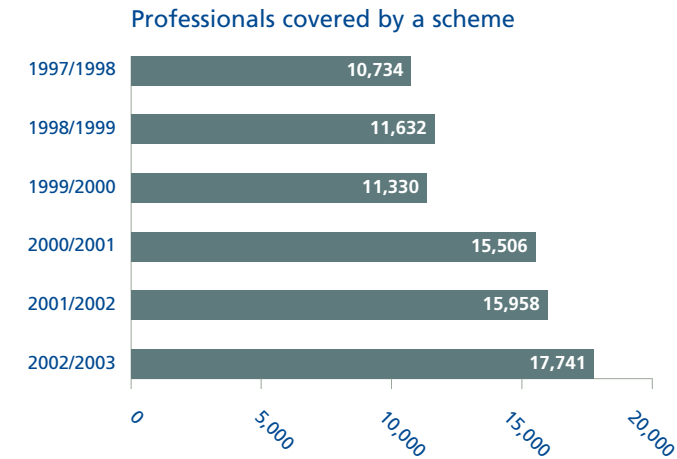
Improving compliance

Compliance programs and strategies are becoming increasingly important when dealing with corporate governance in Australia. Therefore, we reassessed compliance under the Professional Standards Act and, in consultation with associations developed a systemised Compliance Program to identify compliance issues and devise strategies to ensure associations' and members' compliance with their obligations under *Cover of Excellence™* Schemes. We also looked at our own compliance. We carefully balanced risks and costs to provide the basis for an effective new Compliance Program that will be implemented during 2003/2004. Initially the program will focus on ensuring compliance with insurance, disclosure and reporting obligations and, later additional facets will be introduced.

Keeping insurance on the agenda

It is important that the Council advocate on matters that support the objectives of PSL. We have already reported elsewhere in this Annual Report on our Insurance Forum and Insurance Standards Review. Also, the Secretary participated in the Heads of Treasuries Insurance Issues Working Group advising on PSL, and a Professional Indemnity Insurance Working Group organised by Planning NSW concerning the NSW Private Building Certifiers System.

We were also sought after by professional bodies, government officers at federal, state and territory level and the media for our extensive experience in PSL to provide information and advice on the legislation and Schemes as part of the public debate and consideration to expand PSL to a national system. Insurance has been an integral part of that debate and a key aspect of PSL. The Council has been in a unique position to assist an informed approach to public policy in this area and to contribute to the consideration of important issues concerning insurance.



Goal: Establish Schemes as the premier mark of professional values and consumer care to achieve increased or maintained participation in Schemes and enhance Scheme reputation.

Reaping the rewards of a strong reputation

Recognition of the professionalism and experience of the established Council and its management of *Cover of Excellence™* Schemes is demonstrated by the Federal Government's support of national professional standards legislation. Our success resides in the motivational approach that forms the basis of the existing legislation. There may be other options for a national system that can manage insurance, but there is no alternative to the whole package that our Schemes provide. Support by government and other key stakeholders for the Council's ongoing involvement in the development of national professional standards legislation is testament to the strength of our reputation and that of our Schemes.

Increase in Scheme coverage

Participation in Schemes continued to increase. Growth in the number of professionals covered by a *Cover of Excellence™* Scheme increased by a further seven percent this year. That included a new entrant, the National Institute of Accountants, whose Scheme commenced on 30 January 2003. Further information about this Scheme can be found in the 'Schemes in Focus' Section.

Over the past twelve months we have worked with an additional 8 associations interested in establishing a Scheme. The areas of occupation covered by these associations include law, engineering and geology, building design and construction, financial planning and taxation, driver training, property, and share trading. The Council continues to assist interested associations in informing and educating their key decision makers about Schemes. Interest by associations in applying for a Scheme has increased in anticipation of NPSL.

Goal: Optimise client services by responding effectively to our clients' needs to achieve increased client and staff satisfaction.

Strengthening Schemes

Schemes need to provide certainty to the professions and other occupations about the level of their liability so that they insure adequately to cover that liability and provide protection to the consumers of their services. However, that certainty is threatened when legal loopholes are allowed to exist to undermine Schemes and their capacity to be fully effective. The decision referred to earlier in our Annual Report concerning proposed amendments to federal legislation is a significant step forward. That, when accompanied by NPSL, will substantially enhance the reputation of Schemes amongst the professions and other occupations and will encourage them to work towards approval of Schemes for their particular profession or trade.

The Council will maintain the strong reputation it has built up through our careful work in approving and monitoring Schemes. We have been helped by the robust controls in place in the legislation that ensure that only appropriate Schemes can be established and operated. Disclosures by practitioners of their limited liability status, the display of the *Cover of Excellence*TM logo on their business documents, and compliance will ensure that the reputation of Schemes will continue to build, particularly amongst consumers of professional services.

Promoting 'Professionals who care'

We developed our trademark to help consumers to distinguish professionals covered by *Cover of Excellence*TM Schemes as preferred suppliers of professional services. We continued our investment in the *Cover of Excellence*TM brand and this year, as part of our Strategic Marketing Plan, developed and launched the 'Professionals who care' campaign to assist practitioners to promote their participation in a Scheme to their clients and prospective clients. We invested just over \$11,000 in this strategy with two major outputs – a 'Professionals who care' flyer distributed to all industry association members covered by a Scheme, and two banners for use at public events and functions.

Both outputs aimed to increase understanding of Schemes, enhance the reputation of Schemes, and publicise the 'special status' of Scheme participants. They communicate the key values of protection, honesty, advice, and experience, and introduce the slogan "Professionals who care" to the wider community. Feedback from associations and members has been positive and we expect that such 'direct marketing tools' will help make Schemes more recognised (and *Cover of Excellence*TM practitioners preferred) in the community. We think that our support of practitioners in this way is an important part of our responsibility to help build the reputation of Schemes and to increase participation in Schemes. It is through that participation that we are able to influence the improvement of standards and the protection of consumers, and so we need to attract professions and other occupations to Schemes by ensuring that Schemes are reputable, valued and recognised.

Communications

Last year, we referred to our Strategic Communications Plan. It was developed to improve our business relationships with clients and other stakeholders. We continued to implement the strategies identified in this Plan including stronger branding of the *Cover of Excellence*TM, more practical research activities, the development of business tools to assist in risk management, the conduct of forums on issues of importance to our clients, and more efficient client service.

Relationship building has been a focal point this year. We continued to collaborate and consult with associations on all activities affecting them. We attempt to balance our needs with the associations' other responsibilities to create a working partnership. Our people now have much greater individual contact with Scheme administrators and that, we believe, has improved our effectiveness in gaining support for new initiatives and promoting Schemes to a wider audience.

As well as our website, our newsletter remains as one of our vital communication tools. This important resource helps us to serve our clients and to inform others. For example, this year the newsletter announced the release of a number of important resources including the Model Codes of Ethics Report, 'Professionals who care' brochures, and the Trade Practices Act Report. Other articles announced the launch of our grants programs, invited interested parties to attend our Insurance Forum, promoted the Council's Privacy Policy, and publicised the Risk Management Reporting Guidelines.

We audited our website to make sure that the information on it is up-to-date and easy to find. We've rearranged some information on the site and plan to make further changes to help improve the nature, extent and accessibility of our webservice.

Cost benefits

We continue to operate very lean operations and that helped to keep costs down. As already mentioned, we kept costs in mind when developing the new Compliance Program and adjusted reporting requirements of associations to better suit their other business cycles whilst still complying with requirements under a Scheme.

The Council is currently in the process of reviewing its policy on costs for the provision of goods and services. For example, in the past we have provided our products such as Research Papers and other publications free of charge to clients and non-clients alike, but will now explore options for levying fees on non-clients for those sorts of services, and so return increased value to clients and enhance for them the benefit of participating in *Cover of Excellence*TM Schemes.

Changing Schemes

Schemes are specific to the association that administers the Scheme. Limited liability amounts vary across Schemes as they depend on the claims history of the members covered by that Scheme and other identified risks. In some cases, a multiple of the engagement fee is used to calculate the level of limitation that applies to a particular member.

The Accountants Scheme falls into this category. The Accountants Scheme is a Scheme for members of the Institute of Chartered Accountants in Australia and CPA Australia. We wanted to make clear in the Scheme that there was a lower cap of \$500,000 because liability cannot be capped below that amount. So, this year we amended their Scheme to make the limitation amount calculation clearer and expect that this will help consumers to more easily understand how the 'multiple of fees' cap really works.

The QAPR System has also helped to develop the knowledge, and analytical and critical assessment skills of Secretariat Officers which continue to be important to the operation of the Council.

The Council was also subject to a number of reviews through its connection to the Attorney General's Department. An internal audit was conducted by Deloitte Tomatsu. The audit found that the Council's financial controls are effective and no improvements were identified for implementation. The Council is also part of a Council on the Cost and Quality of Government (CCQG) Review. We provided the CCQG with details on our operations, including planning processes, strategy development, client services, and financial performance.

Flexible service delivery

In response to our clients' requests for more electronic service delivery we invited each of our clients to take part in an IT Communications Survey. Incompatibility between the Council's information technology systems and those of its clients and their members was identified as a potential risk requiring treatment under our Risk Management Program. Initial findings from the survey suggest that technology is a vital aspect of our clients' business today, and confirmed that the IT systems used by the majority of our clients and their members are compatible with our internal systems. Respondents cited the ease and immediacy of its use, as well as the low cost for delivery as the key benefits for improved service delivery in these areas. We have already incorporated some of those aspects into our service processes, including providing better access for visually impaired persons, electronic distribution of event invitations and other materials, material provided on CD Rom, better use and marketing of news and views items on our website, and provision of a variety of format options for promotional materials for associations to distribute to members.

The Council is committed to flexibility in its dealings with clients as well as in staffing. We have continued to provide job sharing and working-from-home arrangements to ensure that we attract and retain talented and experienced staff. We also participated in the University of Technology, Sydney Internship Program by offering a six month internship for a student in the Telecommunications Engineering field as another way for us to contribute to the development of professions and to develop an understanding in future professionals of matters of importance in practice such as ethics and risk management.

The change was also reflected in the new NIA Scheme that started in January 2003. The amendment to the Accountants Scheme commenced in November 2002.

Improving internal and financial controls

We reviewed our Internal Risk Management Program following its first full year of operation. This program is based on the Risk Management Standard -AS/NZS 4360:1999. It assists us in identifying, understanding and treating diverse areas of risk, including external matters such as commercial and legal, and internal matters such as office systems, and health and safety. Regular monitoring takes place throughout the year, with a full-scale review undertaken annually.

Under the Risk Management Program, 14 risks were treated successfully this year. The review identified 12 new risks and treatments were developed to manage each of these. The discipline of operating our own risk management program assists us in being able to understand the difficulties faced by occupational associations and their members in doing the same and provide practical guidance in the management of such systems.

Similarly, our Issues Management Program was reviewed this year. This Program identifies major issues that may impact on the operations of the Council. By predicting potential concerns we are better able to maintain superior service standards. We found that nearly all issues remain current and all issues requiring action were undertaken. Many of the issues which had previously required monitoring only, have become much more significant with the recent support for national professional standards legislation. Seven new issues were also identified. Actions and responses are now in place for the top five priority issues. The Issues Management Program is monitored regularly and reviewed annually.

This year, we developed a new Quality Assurance (Peer Review) System to enhance the quality of our operations. We have trialled the system and it will be fully implemented in 2003/4. The QAPR System establishes a process for critical areas of work undertaken by Secretariat Officers to be reviewed by a peer to ensure that the work is robust, consistent and high quality.

Financial performance¹

	2001–2002	2002–2003
REVENUE		
Services Provided ²	96,175	59,337
Application Fees	0	0
Annual Fees	553,606	623,269
Sundry	12	6
TOTAL REVENUE	649,793	682,612
EMPLOYEE RELATED PAYMENTS		
Salaries and Wages	227,107	309,571
Leave Entitlements	20,281	4,787
Workers' Compensation	600	3,626
Payroll Tax	16,268	26,875
Overtime	0	22
Crown Liabilities	54,873	21,654
TOTAL EMPLOYEE RELATED	319,129	366,535
OTHER OPERATING EXPENSES		
Advertising and Publicity	4,196	1,176
Consultancies	30,920	50,782
Depreciation	1,704	834
Electricity and Gas	1,385	1,349
Fees ³	70,097	29,198
Freight and Cartage	0	0
General Expenses	6,148	8,653
Insurance	86	88
Lease of Equipment	0	1,556
Postal Expenses	908	282
Printing	15,700	37,619
Publications	1,524	1,166
Rates and Outgoings	680	692
Removal Costs	0	0
Rent	21,185	21,185
Staff Expenses	1,200	2,857
Stores and Stationery	10,075	10,202
Telephone	4,928	3,482
Travel	30,339	26,804
Assets	792	1,718
TOTAL EXPENSES	520,997	199,643
Grants and subsidies	0	28,305
TOTAL EXPENDITURE	520,997	594,483
Less Revenue	649,793	682,612
Less: Crown Liabilities	54,873	21,654
Less: Depreciation	1,704	834
Less: Accruals	150,000	0
NET POSITION	35,374	110,617

Notes

- There is no statutory obligation on the Council to include a Financial Statement in the Annual Report, but some financial information is included in order to provide an account of our operations. This unaudited information is derived from information provided by the Attorney General's Department (AGD). The AGD provides financial services to the Council.
- Revenue from services provided by NSW Secretariat to West Australian Professional Standards Council, in accordance with Service Agreement.
- Includes allowances paid to Council Members at rates determined by the Attorney General in accordance with Clause 4, Schedule 2, Professional Standards Act 1994. Board fees totalled \$24,323.

Schemes in focus

Under the Professional Standards Act 1994, occupational associations are required to report annually to the Council on the implementation, monitoring and effects of their risk management strategies. That is an important obligation and is essential to the proper operation of the Act and the continuation of an association's Scheme. It is a useful mechanism for improving the accountability of self-regulating occupational groups to the community.

The obligation is strongly embedded in the Act and failure by an association to report on the performance of their Scheme can result in the imposition of a fine and the revocation of the Scheme.

Each of the associations has reported on their Scheme. The Council is responsible for analysing associations' risk management reports, liaising with associations to identify opportunities for improvements and reporting to the community on their performance. The reports on the Schemes are outlined in this Section of our Annual Report.

In keeping with the 'continuous improvement' objective of Schemes, the 'Schemes in Focus' Section reports new activities or improvements undertaken this year in specific strategic areas of risk management as well as reporting proposed future programs.

Last year we indicated the need for associations to improve their reporting of the effects of the strategies that they implement. We introduced Risk Management Reporting Guidelines this year that have laid the foundation for dramatically improving the quality of reports provided by the associations. This benefits both the Council and associations in being able to continue to meet our respective legislative obligations in administering the Act and Schemes, and the associations in being able to clearly identify areas for further improvement. We will continue to work with associations to identify improvements to the reporting process.

Risk management strategies

Membership entry qualifications

Membership entry qualifications are a key risk management strategy for Schemes under the Act. They control the quality and competency of members by fairly and reasonably limiting membership to those who qualify under appropriate specified criteria. Membership entry qualifications are perhaps the simplest method of ensuring the ongoing integrity of a profession or occupation.

The exact composition of membership entry qualifications is to be carefully considered and determined by an association. Each of the associations with a Scheme has requirements to restrict membership based on qualifications and experience.

CPA Australia (CPA Aust) reports this year as a result of the Education Strategy review that its membership entry requirements for Associate members have been modified, providing greater flexibility at undergraduate level by allowing the option to complete taxation and/or auditing either at undergraduate level or in the CPA Program at postgraduate level. From 1 January 2004 Associate members will be required to complete a new 6 segment CPA Program in addition to three years practical experience in the Mentor Program in order for the Associate member to gain full CPA status. As part of the Mentor Program, Associates must attain competency at a prescribed standard in more than one field of accounting.

The Professional Surveyor's Occupational Association (PSOA) has also identified a required change to their membership entry requirements. This change will ensure that graduate surveyors are not disadvantaged due to their recent entry into the profession and limited economic position as a recent student. The new provision relaxes the CPD requirements for graduate surveyors applying for membership, and allows the PSOA Board to exercise its discretion in accepting applications from this group. As employment may depend on membership to the PSOA, this approach reflects their responsiveness and flexibility in adjusting to changes in the surveying profession and adhering to competition principles, whilst continuing to maintain high professional standards amongst its members.

The Institute of Consulting Valuers (ICV) commenced a scheme in 2001. Their membership entry requirements place critical importance on excellent claims history. In addition to requiring registration as a valuer under the Valuers' Registration Act 1975 and satisfactory commercial reputation and experience, members must provide annual claims information. While a proven claim will usually disqualify an applicant, each application is considered by the Board on the overall strength of the application for membership.

Who's covered?

Scheme	Administrator	No of participants
Accountants Scheme	CPA Australia (CPA Aust) Institute of Chartered Accountants in Australia (ICAA)	1,135 CPA Aust 6,715 ICAA
Institute of Consulting Valuers Scheme	The Institute of Consulting Valuers (ICV)	64
Investigative and Remedial Engineers Scheme	The College of Investigative and Remedial Consulting Engineers of Australia Incorporated (CIRCEA)	14
National Institute of Accountants Scheme	National Institute of Accountants (NIA)	633
Professional Surveyors Scheme	The Professional Surveyors' Occupational Association of NSW Incorporated (PSOA)	101
Solicitors Scheme	The Law Society of New South Wales (LSNSW)	9, 079
Total		17,741

As reported in past years, the LSNSW adopts a Risk Management Education Program (RMEP) conducted by LawCover Pty Limited. RMEP is now in its seventh year. It consists of a number of modules designed to improve solicitor-client relationship. New modules are developed to target significant causes of claims against solicitors. In response to significant issues and trends, the Program is continually developed and recently introduced programs included areas on stress management to assist members to cope with the increasing incidence of stress experienced by the profession, and a program on risk management aspects of incorporation, amalgamation of law firms and those involving multi-disciplinary practices. Existing programs on various aspects of risk management, improving client relations, and 'soft' skills continued to be offered this year.

Ethics is a key aspect of professional conduct. The ICV continued activities to promote ethics to its members that included publishing and distributing a booklet to members and stakeholders promoting the new Code of Ethics as revised by the Valuers Registration Act. ICV also reported including ethics as a component of all ICV seminars and that attendance at the 2002 ICV seminars exceeded targets with more than 40% of all ICV members participating in these voluntary seminars.

More generally, the ICV requires its members to complete a minimum of 40 hours structured and unstructured CPD annually. The ICV Scheme applies to members with practicing certificates issued by the Institute and members are required to certify their compliance with the requirement as part of the process for the annual renewal of their practicing certificates. The ICV supervises compliance with CPD by auditing 10% of members, and the Institute reports that those random audits found that all the audited members satisfactorily completed or exceeded the minimum CPD requirement.

The NIA requires members to undertake 60 hours of CPD over each two-year period, with a minimum of 10 hours in any one year, and for members to report on their compliance to the NIA every two years. The Institute monitors compliance through random audits of 5% of the membership every year. Non-compliance with CPD requirements is a disciplinary matter. The NIA Scheme commenced only a few months ago and therefore we will report on their CPD Program in our next Annual Report.

Quality Assurance Services (QA)

Quality management programs are a structured approach to highlight continuous improvement opportunities. Several associations with a *Cover of Excellence™* Scheme have implemented quality management and review programs as part of their overall risk management program and many of these have been outlined in our previous Annual Reports. These include the ICAA and CPA Aust who instituted formal quality control programs in 1994 and 1995, respectively. The NIA also introduced a QA Program and a report on performance of that Program will be provided in the next reporting period. As with audit systems, in addition to providing an opportunity for identifying areas for improvement, QA also monitors compliance with standards and practices and provides a system to correct deficiencies where found.

The ICAA and CPA Aust conduct QA Audits on all practices over a continuous 5 year cycle and they follow up matters identified in reviews that require further attention. The ICAA reports that all matters identified in reviews (32) were dealt with and that only 1 matter is still outstanding from last year, which is a significant improvement on the previous year. The number of matters identified was less than the previous year.

In the past year the ICAA's board initiated a third party review of their quality review program (known as the Richardson Review). The ICAA is proposing to progressively implement the changes recommended in this review, including reducing the review cycle for practices which audit publicly listed companies to 3 years, creating reporting systems to better inform the Australian Securities and Investments Commission, the Australian Prudential Regulation Authority and the Australian Taxation Office, and offering CPE credits to members participating in reviews.

As part of the CPA Aust's Quality Review Program, they reviewed standards for independence, forensic accounting and trust accounts, provided guidance statements for forensic accounting to members in business and added extra standards on Risk Management Monitoring and Communication. They also redrafted and expanded their Independence Statement F1 to provide better guidance on reducing the incidence of conflicts of interests and enhancing corporate governance. CPA Aust intends to formalise risk management compliance as part of the Quality Review Program.

As mentioned in last year's annual report, both bodies established a joint task force regarding trust account maintenance. The ICAA has indicated that the joint taskforce expects that their recommendations for amendments will be put to the respective governing bodies shortly for application in April 2004.

The CIRCEA audits the practices of its members every 2 years. In addition, its quality assurance practices includes the preparation of risk management checklists based on the Risk Management Standards AS/NZS 4360:1999 to assist members to meet their responsibility in managing risk in their individual practices. The College proposes to develop different classes of the risk management checklist to cater for different disciplines, with the aim of further reducing the risk across the disciplines. The relative size of the association compared to other bodies has its advantages including a capacity for sharing practice procedures, a system that members report to be quite effective and one that the CIRCEA hopes to extend.

The PSOA continues to encourage members to purchase a generic quality assurance system to assist them in reviewing and improving their systems. They surveyed members to monitor the use of quality assurance systems finding that 12.5% of firms are certified to ISO 9001 for quality assurance. Whilst this may be a decline on previous survey results that found 28% of firms had full certification or had partially implemented ISO 9001, the PSOA has previously commented on the high cost of full certification and on their search for suitable alternative systems. Over 80% of firms have a system of procedures and checklists or partial implementation of ISO 9001. A further sign of improvement is a decline in the number of firms with no system in place, with only one firm found in the last survey to be without a QA system of some sort.

The NIA's Quality Review Program involves an independent review of every NSW practitioner every five years. This program is designed to assist practitioners to attain best practice levels through regular assessment. The review compares members' consistency with the quality assurance procedures set out in the NIA's Public Practice Manual and Code of Ethics.



Complaint and Discipline systems

Consumers expect that there will be an adequate process for assessing and handling complaints should something go wrong. They also expect that an association will require its members to meet certain standards of professional conduct and that they will be disciplined appropriately if they do not meet those standards. Proper Complaints and Discipline mechanisms are part of the system that enable professions and other occupational groups to take appropriate responsibility for their integrity and to be accountable to the community.

An effective complaints and discipline system is a mandatory aspect of all *Cover of Excellence™* Schemes. This goes to the very core of the consumer protection focus of Professional Standards Legislation.

The Council provides guideline standards for complaint and discipline systems that promote fairness, accountability, and accessibility. A good complaints and discipline system should provide a mechanism for resolving disputes and dealing with the bad behaviour of any member. It should also aim to provide invaluable information from complaints data that can be analysed, evaluated and used to develop strategies for continuously improving professional standards.

The ICAA has an established system for receiving complaints and dealing with members who breach professional practice standards. While there has been a slight increase in complaints against NSW members over the past three years, there has been significant reduction in matters needing to be dealt with by the ICAA Disciplinary Committee. In 2002 there was a 44% decrease in the number of cases coming before the Committee, 14 matters compared to 25 matters in the year 2000–2001.

In NSW (where a *Cover of Excellence™* Scheme operates) the increase in disciplinary matters from (June) 2002 to (June) 2003 (18%) was substantially less than the increase at a national level (108%). Sanctions imposed by the Disciplinary Committee for 2001–2002 ranged from severe reprimand and fine to suspension of membership. The statistics demonstrate that there has been an overall reduction in the number of complaints over recent years, and in the number of matters requiring disciplinary action.

CPA Aust is currently undertaking an extensive review of its disciplinary processes to ensure that the high standard of the process is maintained and enhanced. The review is expected to be completed and operational by the end of 2003. These enhancements will add to improvements already made to the CPA Australia Complaint and Discipline System when they obtained the Council's approval of the Accountants Scheme.

Data for the NSW division of CPA Aust reveals that the number of written complaints decreased by 12% from (December) 2001 to (December) 2002 and that the number of matters dealt with by the Disciplinary Committee in 2002 increased from 9 to 11 (22% more than previous period). The main areas of complaint concerned standards of professional care and QA Reviews. Ethical counselling in 2002 concerned issues of professional independence (3% increase) and so it is worth noting, as mentioned earlier in our Annual Report, that CPA Aust has redrafted and expanded their Independence Statement to provide better guidance for members.

Notifications of complaints against solicitors also showed a significant decrease (11%). Complaints against solicitors are made to the Office of Legal Services Commissioner (OLSC). The OLSC and the Law Society of NSW (LSNSW) have well developed systems for handling complaints. The OLSC referred about 30% of its complaints this year to the LSNSW for investigation. These tend to be more serious and complex matters.

As with last year, almost half of the complaints received concerned sole practitioners. Solicitors in suburban practices again attracted the highest proportion of complaints (40%). Complaints this year peaked for the age group 45 to 49, a departure from the past trend of the 50 to 54 year age group complaints peak. The LSNSW's education program targets sole practitioners and solicitors in the above groups, seeking to identify areas of complaint and explain reasons for these complaints.

The most common ground for complaint was unethical conduct (29%), followed by negligence (10%) and delay (8%). By monitoring complaints to identify particular problem areas, the LSNSW has been able to develop strategies to respond including implementing a new Ethics database this year and enhancing information provided on their website about the required standards of professional and ethical behaviour and statutory obligations in practice. Ethics enquiries reduced by 14% this year.

The LSNSW reports that their Professional Standards Department (PSD) continued to implement improvements to its complaints handling procedures and that they have been able to continue the trend of recent years that indicates a steady reduction in the time taken to investigate complaints, an important issue for any Complaints and Discipline System.

The ICV needed to establish a new Complaints and Discipline System when they applied for approval of their *Cover of Excellence™* Scheme. Their system is modelled on the Model Code provided in the Professional Standards Act. No complaints were made against ICV members during the year.

Similarly, no complaint or disciplinary actions were reported against any member of CIRCEA in 2002. The College again adopted the Institution of Engineers Australia's (IEAust) Code of Ethics, and concentrated on promoting the Code to its members through a number of avenues. The effectiveness of that promotion was tested by surveying members (November 2002) which showed an awareness of the IEAust Code of Ethics amongst all members.

Last year the PSOA reported that they had reviewed and changed their disciplinary regulations to strengthen sanctions against disciplined members in response to concerns raised by the Council about the effectiveness of the then existing sanctions. PSOA has also recognised that the effectiveness of their complaints system also depends on accessibility by the community and so, has used its website to better inform the public of the Professional Surveyor's Scheme, the services offered by PSOA members, and the process to raise a complaint against a member of the Association. No complaints against PSOA members were received during the reporting period, and that is consistent with their past experience under the Scheme.

The NIA's complaints and discipline system is consistent with the legislation's model. They developed a new Code of Ethics which took effect from 1 January 2003 as part of the ongoing development of the NIA's risk assessment program. The NIA promotes the code to all members via its website.

Advisory and support services
Many associations with *Cover of Excellence™* Schemes provide advisory and other support services for their members. These services can prevent problems before they arise or minimise the severity of problems. Some of the advisory and support services previously reported on include buddy networks, technical and ethical advice, and counselling services.



The LSNSW, with the support of LawCover, has run the Lawyer Assistance Program (LAP) since April 2001. It is a discreet counselling service for solicitors and third parties, such as colleagues or family members. Calls for the reporting period increased slightly on the previous year however the caller profile remained the same – typically, male sole practitioners located in the Sydney metropolitan area who have been in practice for more than 10 years. The most common concern related to financial issues or depression. The anonymised statistics from the use of this service contribute to the development of modules for the LSNSW’s Risk Management Education Program.

The ICAA provides comprehensive advisory and support services to its members via its website and members handbook. They are in the process of reviewing the risk management section of the handbook and have significantly enhanced information on their website for members, including information in the area of professional indemnity insurance.

CPA Aust too has a dedicated section on its website for members in public practice to provide technical and other advice. They also run a counselling/ethical referral service for members, provided by St James Ethical Counselling Service and hope to expand on the services currently offered by St James to their members. The CPA Aust addresses areas of concern identified in statistics from various sources including QA Reviews, Complaints and Discipline systems, and Ethics Counselling.

CIRCEA has been successful in fostering a fraternity approach to relationships between members. A culture of collaborative support is established and maintained so that members are able to discuss matters frankly with colleagues, and consider that they will be supported should the need arise. The survey conducted at their Risk Management Workshop in November 2002 revealed that on 80% of occasions when members sought assistance from other members, they were able to find such assistance. CIRCEA’s very culture enables knowledge and ideas for improvement in practice to be shared and for standards to be maintained and improved.

The ICV fosters a similar culture. Board members and the ICV Secretary, in particular, liaise with members regarding insurance and other risk issues. The ICV reports that this informal consultation has proved very fruitful, as judged by the number and frequency of members’ access to this service, although no data has been recorded in this area. The ICV is a small body compared to other occupational associations and members are well known to each other, so this informal system of support and advice works well for them.

The ICV is in the process of creating a website. They currently have a network in place to answer members’ questions and to provide up-to-date information regarding industry trends and issues. In addition, the Board has introduced an annual seminar including Phillips Fox Lawyers covering current risk management techniques. As already mentioned, the ICV successfully applied for a grant through the PSC’s Star Initiative Grants Program to further develop its Standards and Practising Guidelines. These standards will be produced in conjunction with Phillips Fox Lawyers.

Claims monitoring

Claims monitoring is essential for the effective operation of Schemes. Accurate and reliable information about claims and insurance means that associations are able to develop strategies that target and respond to the causes of claims.

The ICAA continues to cite difficulties in obtaining useful claims and insurance experience data from the insurance industry as a limitation to their claims monitoring. The Council’s Data Review project and Insurance Forum aim to encourage better relationships with the insurance industry. It is hoped that our efforts in fostering relationships between the Council’s clients and insurers will result in improved data gathering across the board.

The PSOA is able to monitor claims under its arrangements with ACSIS Pty Ltd. The PSOA report that their members were represented in only 14% of claims against surveyors and that the average claim was well below the minimum cap of \$500,000 specified in their *Cover of Excellence™* Scheme.

Concerning professional indemnity insurance issues generally, the PSOA reports that they have actively lobbied government departments to set appropriate levels of cover in government contracts for survey work as part of their tender requirements. The Council has previously reported that it had raised such issues with government and notes that, in 2002, the Department of Commerce advised that the Standard Consultants Agreement for engagements over \$20,000 now contains a clause permitting limitations on professional indemnity insurance where those limitations are in accordance with a Professional Standards Scheme. Therefore, professionals who are covered by a professional standards scheme are benefiting from these new arrangements. Also, insurance requirements are undergoing review by the Insurance Reference Group to ensure a whole of Government approach to the issue.

The LSNSW also monitor claims through another entity – LawCover. They report an overall decrease in claims (litigated claims increased but there was a major decrease in the number of unlitigated claims). Almost a quarter of all claims involved conveyancing, with the next highest area being personal injury.

The CIRCEA requires members to notify the College of any claims. Typically, CIRCEA members experience very few claims and that trend continues. There have been no known claims exceeding the caps specified in their Scheme. The College has used information from its monitoring activities to develop strategies to maintain its good claims record including, as previously mentioned, working to minimise contracting risk by producing standard contracts and checklists for members.

It has been previously reported that the CPA Aust relies on information provided by insurance brokers to monitor claims made against members. This year they have attempted to develop their claims monitoring systems further by conducting a survey of Public Practice Certificate holders. Some results reflect the impact of the insurance ‘crisis’ that has been widely reported. The Survey found that a good number of practitioners are planning to withdraw from selected services, auditing services, and services provided to small entities and community organisations. Practitioners also intend to cease providing pro bono (free) services because of the high costs of premiums. These findings cause concern as they affect consumer choice and access. Planned changes to insurance aim to treat these results, however only time will tell if consumers will be disadvantaged in the future. Whilst additional detailed data is not available for reporting for commercial reasons, we are able to say that even the highest claims reported by members involved in the CPA Aust survey were markedly less than the \$20 million cap provided by the Accountants Scheme.



The ICV sees claims monitoring as essential in ensuring the highest level of professionalism in valuing. As we have already reported, membership to the ICV can be dependent on evidence of an established claim against the applicant. The ICV monitors claims through its membership renewal process and via its sponsored broking firm. All members who request a practising certificate must answer the claims history questions on the application and renewal forms. Where a claims history is stated, further investigation is carried out. The ICV reports that there were no legitimate claims against members during the reporting period. The ICV also monitors insurance costs by holding open forum discussions at seminars and Annual General Meetings and reviewing letters and annual renewal forms.

The NIA also monitors claims against its members with the help of the insurance industry. This allows them to identify areas of concern and take appropriate remedial action. Details on claims monitoring for NIA members will be available in our next report, following the first year of their Scheme.

Innovations

Our focus is on continuous improvement. The Council encourages associations to expand their risk management programs by looking at new and different ways of improving the standards of their members, reducing risk and improving consumer protection. Some of these innovations are reported here.

The LSNSW has developed a basic set of communication 'protocols' for solicitors to use when the client relationship is first formed. These protocols were developed in recognition of the number of complaints that have been received against members caused by poor communication skills and amendments to the Legal Profession Act affecting engagement and delivery of information by solicitors. As reported early in our Annual Report, the Council is conducting research into 'soft-skills' CPD and that project may assist LSNSW and other associations to improve the uptake and effectiveness of 'soft-skills' training in areas such as communication. LawCover continues to rebate registration fees when members complete its risk management modules to a satisfactory level.

It is also noted that a regulatory scheme has also been introduced for the disclosure and investigation of solicitors concerning indictable offences, tax offences and acts of bankruptcy.

The LSNSW website has been further developed to enable members and the public to ask the LSNSW Professional Standards Department questions about legal issues or services and provide a quick and efficient way of addressing issues in the regulation of the profession, and keeps users up-to-date with changes as they occur. The LSNSW hopes that access to this sort of information and assistance will help reduce any potential complaints.

CPA Aust has undertaken extensive surveys of members in public practice concerning levels, coverage and requirements of professional indemnity insurance (PII) as a first step in establishing claims monitoring processes in co-operation with its underwriters. It is expected that the claims monitoring process, once established, will generate improved claims information to enable CPA Aust to develop strategies that target and respond to the causes of claims. One of the options they are considering includes issuing limited practising certificates to members with fees of less than \$7,500 per annum to ensure the quality of service provided to consumers at this lower end of the market.

They have already made some changes to PII requirements to reduce the impact of insurance on its members. They have also extended the holding of Public Practice Certificates to members providing financial planning and bookkeeping services.

Continuing the insurance focus, the ICV reports that they have been very successful in establishing a relationship with a major broker, and have been able to develop a policy for members of the ICV because they represent a pool of well-controlled risk. The further improvement of their monitoring and management of claims should have an effect on premium costs.

The ICV has also strengthened its relationship with its major stakeholder by educating consumers on the importance of a complaint process. With banking and mortgage institutions being a major consumer of services of their members, the ICV will enhance communication with this consumer group to increase awareness of the Institute and its roles and functions.

Future developments

Future developments by the associations are an indicator of the associations' commitment to self-regulation. A proactive approach is important to ensure the continued momentum for improvements in risk management, standards and consumer care. The following initiatives undertaken by associations go beyond the basic requirements for the administration of a Scheme.

The CPA Aust has begun an internal re-organisation of the Continuing Professional Development Business Unit. It is expected to enhance the provision of CPD to its members because of the establishment of the Continuing Professional Development Committee effective from January 2004. An additional characteristic of the revised CPD Business Unit is a greater emphasis on soft skills for its members.

CPA Aust will also add to its investment in risk management as part of its efforts to continuously improve strategies and to better monitor and report to the Council on their performance.

The ICV plans to expand its unique relationship with its broker to gain even greater advantage for its members. They also plan to enhance the existing formal evaluation program of seminars to gain more useful data on their effectiveness. In the coming year the ICV will also offer to members one day workshops to improve their risk management skills. These sessions, as agreed by its members at the country conference, will be designed to provide more specialised skills in areas that members consider are essential to improving both practice and personal standards.

CIRCEA is considering altering their entry requirements to allow Associate Membership, which will open up the specialist field of forensic engineering to more practitioners. Their plans to develop checklists for generic projects as well as specific risk management classes, combined with the development of standard contracts, strengthens their focus on members' self-regulation.

The PSOA previously proposed an interactive Occupational Health and Safety online program but cost considerations have meant that an alternative approach is being explored and it is hopeful that a program will be online by the end of 2003.



Continuous improvement

Risk management plans 2003–2004

Continuing professional development/education

Tactics	Performance indicators or measures	Association
Application for renewal of practicing certificate for full members includes compulsory CPD/CPE component	<ul style="list-style-type: none"> Declaration of compliance by members on renewal Audit of members by accredited reviewers indicates compliance 	All associations
Comprehensive CPD/CPE program addresses general and specific professional practice issues in areas identified as at risk or of concern to members and consumers	<ul style="list-style-type: none"> CPE program linked to association's complaints and claims data to identify areas of risk or generating complaints Reduction in complaints and claims in areas targeted by CPE program Members report that CPE program addresses their needs 	Law Society of NSW ICAA CPA Australia
Members are required to include Risk Management as 10% component of CPD	<ul style="list-style-type: none"> Members are able to identify and minimise risk Consumers are protected through reduced exposure to risk 	PSOA

Codes of ethical conduct

Tactics	Performance indicators or measures	Association
Ongoing review of code of ethics and policies, rules and regulations concerning ethical conduct	<ul style="list-style-type: none"> Ethical requirements reviewed by specialist independent bodies Code of ethics reviewed against other contemporary benchmark models Reduction in complaints/claims involving conflict of interest Increased corporate governance Member, industry and regulator acceptance of change 	Law Society of NSW CIRCEA CPA Australia
Lead in the development of ethics for risk minimisation, consistent with global best practice	<ul style="list-style-type: none"> Members informed of changes to code of ethics Complaints and claims of ethical nature are reduced Annual seminar program content reviewed to ensure significant ethics component Members report adherence to code of ethics assists in professional practice and reduces risk of error or omission 	ICAA CPA Australia ICV, NIA

Complaints and Discipline systems

Tactics	Performance indicators or measures	Association
Regular and random inspection of practices for compliance with association practice standards	<ul style="list-style-type: none"> Increased compliance by members, reduction in non-conformance Reduction in complaints 	Law Society of NSW
Increase awareness and transparency of complaints & discipline process	<ul style="list-style-type: none"> Increased public access to C&D system Improved member and consumer knowledge of C&D process 	ICAA PSOA ICV
Maintain and review documented procedure for handling complaints and disciplining members	<ul style="list-style-type: none"> Regular qualitative assessment against other models for consistency and effectiveness Members and consumers consider system is effective in dealing expeditiously with complaints 	CPA Australia CIRCEA ICV

Quality control programs/Quality assurance standards

Tactics	Performance indicators or measures	Association
Increase opportunities for members to undertake continuous improvement in professional practice management	<ul style="list-style-type: none"> Increase in members completing practice management courses Courses assists members to successfully operate professional practice 	Law Society of NSW
Require members moving from employed practitioner to sole practitioner or partner to undertake practice management courses	<ul style="list-style-type: none"> Members report courses assist in smooth transition to sole practice/partnership 	
Encourage members to improve Quality Assurance Programs and participate in programs	<ul style="list-style-type: none"> Comparison of claims of participating practices against those with no quality assurance system in place Increase in members with system in place Consumers provided with highest quality services 	PSOA NIA
Establish fixed timeframe for review of quality control procedures in professional practice	<ul style="list-style-type: none"> Non-compliance identified and dealt with expeditiously All practices reviewed regularly 	ICAA
Develop classes of risk management checklists consistent with different professional disciplines of forensic engineering practice	<ul style="list-style-type: none"> Checklists address specific risks associated with forensic engineering Minimisation of risks undertaken by members in the identified disciplines 	CIRCEA
Revise Public Practice Regulation in the changing business environment	<ul style="list-style-type: none"> Consistent delivery of quality services by members Acceptance of association's public practice regulation program 	CPA Australia

Claims and insurance monitoring

Tactics	Performance indicators or measures	Association
Claims Assessment Panels – increase the involvement of the association in the claims management process	<ul style="list-style-type: none"> Reduction in the cost of managing claims Decrease in number of claims Accelerated settlement of claims 	CPA Australia
Pursue liability reform and better relationships with insurers to identify areas of high risk and develop programs to minimise these risks	<ul style="list-style-type: none"> More detailed, accurate and appropriate data secured from insurers Stabilisation of premiums Members maintain cover without a reduction in coverage Consumers are protected by increased insurance coverage Association membership maintained or increased Range of professional services offered by practitioners maintained or broadened 	ICV ICAA CPA Australia

Advisory and Support services

Tactics	Performance indicators or measures	Association
Increase risk management advisory and support services	<ul style="list-style-type: none"> Members are able to identify and minimise risk Reduction in negligence claims Consumers are protected through reduced exposure to risk 	Law Society of NSW CPA Australia ICAA PSOA
Provide regional seminars, regional visits by investigators and management	<ul style="list-style-type: none"> Increase in awareness and use of support services by members Reduction in identified risk of professional practice omissions and errors 	Law Society of NSW
Promote availability of Board members for advisory and support services to members	<ul style="list-style-type: none"> Monthly report on numbers of members utilising service Feedback from members indicates program is providing an effective service to members 	ICV

Entry qualifications

Tactics	Performance indicators or measures	Association
Graduates applying for membership to Surveyors' Association are exempted from CPD requirement for first year of membership	<ul style="list-style-type: none"> Exempted members prove compliance with CPD requirement in subsequent years Firm member surveyors employing graduates are assured of continued membership 	PSOA
Considering associate membership for practitioners with less practice hours	<ul style="list-style-type: none"> College membership increased Increase in practitioners covered by insurance, providing protection for consumers Expertise passed on to new practitioners 	CIRCEA

Technical standards and guidance

Tactics	Performance indicators or measures	Association
Increase guidance material available to members on line	<ul style="list-style-type: none"> Increase in website usage by members 	Law Society of NSW ICAA
Establish a benchmark for member satisfaction with professional standards	<ul style="list-style-type: none"> Improved member involvement in committees providing advice on standards Increased regional member contact for standards development 	ICAA
Establish guidelines for commissioning contracts for services to clients	<ul style="list-style-type: none"> Members use guidelines to establish contracts for services with clients Members report that guidelines assist in reducing errors in contracts, reducing risk of complaints or claims 	CIRCEA
Virtual Chambers – members share knowledge and experience via group email	<ul style="list-style-type: none"> Members consider virtual chambers an effective tool in seeking peer review and obtaining fraternal advice on technical matters 	CIRCEA

Appendices

Statutory information Committees

Star Initiative Independent Evaluation Panel

Alan Cameron
Phillipa Smith
John Gebler

Star Initiative Approval Committee

Members:
Louise Cox AM
Janine Sargeant
Warwick Wilkinson AM

Consultants

See table at below

Cost of Annual Report

The Professional Standards Council's Annual Report was produced in-house in conjunction with an external graphic designer and printer. An internet version can be found on our website, www.agd.nsw.gov.au/psc 600 copies of the Report were produced at an estimated total cost of \$16,400

Freedom of information

FOI Requests

New	0
Brought Forward	0

Consultants

Consultant	Project	Cost	Status
Tillinghast Towers-Perrin	Claims and Insurance Data Review	\$31,658.00	Complete
Victoria University of Technology	Trade Practices Act Impact Review	\$9,822.00	Complete
Field Learning	CPD: Soft Skills	\$8,430.00	In progress \$35,000.00 (estimate)

Legislative change

No changes were made to the Professional Standards Act 1994 during the reporting period. However, the Council proposed several changes which the Attorney General is considering.

Overseas travel

Nil

Publications and promotion

The Professional Standards Council is committed to the promotion of excellence in professional standards and consumer care and protection. We produce a variety of publications to facilitate improvements in the professions and support consumer care. Publications produced this year include:

- Annual Report 2001/02
- **Newsletters** Issue 12 (September 2002), Issue 13 (December 2002) and Issue 14 (April 2003)
- **Public Notifications** Amendment of the Accountants Scheme (October 2002)
- **Papers** *Trade Practices Act Report* (March 2003), *Guidelines for Risk Management Reporting: A Guide for Associations* (November 2002), Submission to the Review of the Competition Provisions of the Trade Practices Act 1974; Submission to the Review of the Law of Negligence
- **Media Releases** First grants awarded under Star Initiative Program (30 May 2003); Trade Practices Act Report (11 March 2003); Accountants fate predicts tale of woe for consumers (20 February 2003); All major accounting bodies now covered by limited liability Schemes (30 January 2003); New grants program to fund improvements in consumer care (25 October 2002)

Staffing

The Council is an equal opportunity employer. We value social and cultural diversity and we are committed to providing a safe and harassment free workplace for all employees. In support of these ideals, our business practices incorporate the relevant plans of the Attorney General's Department. We have flexible work practices such as job share and working from home arrangements. We also encourage staff to undertake training which will contribute to their area of our business and actively support staff by providing Study Leave for these purposes.

Staff are distributed across the following grades:

Grades	Positions	Male	Female
Clerk Grade 1-4	1	-	1
Clerk Grade 5-8	3	1	3 ¹
Clerk Grade 9-12	1	1	-

¹One position is job shared

Glossary

- ACCC** Australian Consumer and Competition Commission
- ACS** Association of Consulting Surveyors NSW
- AGD** Attorney General's Department
- AS/NZS** Australian and New Zealand Standard <number>. *Note: refers to recognised formal system of standards for activities ranging from building to professional services.*
- C & D** Complaints and Discipline
- CCQG** Council on the Cost and Quality of Government
- CIRCEA** College of Investigative and Remedial Consulting Engineers
- CPA Aust** CPA Australia
- CPD** Continuing professional development
- CPE** Continuing professional education
- ICAA** Institute of Chartered Accountants in Australia
- ICV** Institute of Consulting Valuers
- IEAust** Institution of Engineers, Australia
- LSNSW** Law Society of New South Wales
- NIA** National Institute of Accountants
- NSW** New South Wales
- PII** Professional Indemnity Insurance
- PPC** Public Practice Certificate
- PSD** Professional Standards Department (of the LSNSW)
- PSL** Professional standards legislation
- PSOA** Professional Surveyors Occupational Association
- RMEP** Risk Management Education Program
- Schemes** *Cover of Excellence™* Schemes
- The Council** The Professional Standards Council
- The Act** Professional Standards Act 1994 (NSW)
- TPA** Trade Practices Act
- WA** Western Australia

Directory

Chairman

Warwick Wilkinson AM

Deputy Chair

(Vacant)

Secretariat

Strategic and Executive Portfolio

Bernie Marden (Secretary)

Public Affairs Portfolio

Rachael Cosentino

Policy, Research & Schemes Portfolio

Sharyn Penty

Elissa Stathis

Prakash Arjyal

Alfred Tablante (Intern)

Administration Portfolio

Holly Johnson

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