

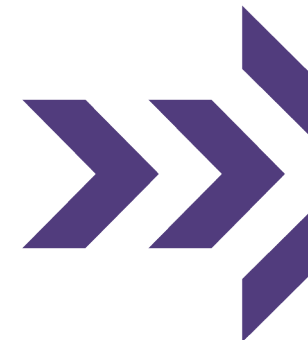
PSC Foresight Forum
Victorian legal profession
Risk Outlook

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Victorian Legal Services Board + Commissioner

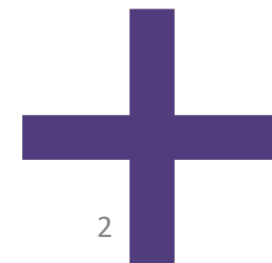
July 2024

Acknowledgement of Country



The Victorian Legal Services Board + Commissioner would like to acknowledge the Aboriginal and Torres Strait Islander peoples as the Traditional Custodians of the lands on which we are meeting today here in Sydney/Warrane, New South Wales – the Gadigal people of the Eora nation.

The Victorian Legal Services Board + Commissioner would also like to pay respects to the traditional owners of the lands on which we live and work in Melbourne/Naarm, Victoria – the Wurundjeri Woi Wurrung people of the Kulin nation. We support Treaty in Victoria.



About Victorian Legal Services Board + Commissioner



About us



Who we are

We are the regulator of the Victorian legal profession. We license lawyers and oversee service standards and conduct. This includes handling complaints about lawyers, investigating poor conduct and overseeing the management of trust accounts.

We are also the stewards of the Public Purpose Fund and the Fidelity Fund, and administer these to support legal regulation and access to justice in Victoria.



Why we exist

We exist to maintain and enhance public trust and confidence in the legal profession in Victoria.



How we do our work

Our three strategic objectives are connected and mutually reinforcing, and each aspect of our work is supported by a strong focus on our people, technology and governance.

Our strategic objectives



Improve
access to justice



Protect and empower
consumers



Improve
legal practice and ethics



About the profession in Victoria



27,661
lawyers were practising in Victoria at 30 June 2023



91.8%
of lawyers are solicitors and
8.2%
are barristers



Over 2022-23, the number of solicitors increased by

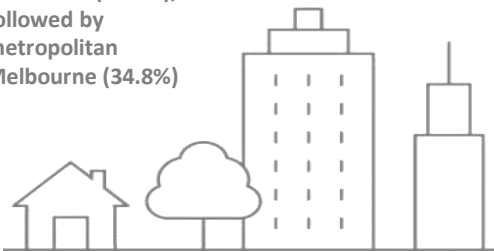
4.1%
while the whole profession grew by 3.8%



The number of women lawyers has continued to grow, increasing to

54.1%
of the Victorian profession

Lawyers practicing in the CBD (52.4%), followed by metropolitan Melbourne (34.8%)



3.2% of lawyers in big regional cities

**BALLARAT
GEELONG
BENDIGO**



8.2%
across the state

Cultural diversity is gradually evolving with each new cohort of lawyers but is still not reflective of the community. [Diversity data is optional – 92% of lawyers opt in and provide this data]

The top five countries of birth reported by lawyers



India is one of the top 5 countries for first year lawyers



248
lawyers identified as having Aboriginal or Torres Strait Islander heritage



175
different cultural backgrounds exist among Victorian lawyers



171
different languages were spoken among Victorian lawyers

Largest area of practice:
Private

Most common employer type:

Sole practitioners



Trend: lawyers working for non-legal entities since the pandemic – govt lawyers increased by 6.8% and corporate lawyers by 6.6%



Drivers of change influencing 2024 Risk Outlook



Lawyers

- Key conduit for public trust and confidence in the rule of law
- Disruptive forces at play:
 - COVID,
 - technology
 - consumer centred approaches
- Desire to build connection
- A lot being asked of them



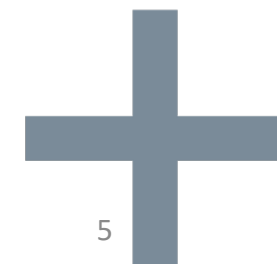
Consumer sentiment

- Also experiencing disruptive forces
- Low public trust and confidence in institutions
- Dissatisfaction with leaders
- Cynicism about public institutions – shirking their responsibilities



Regulatory insights

- Empirical evidence from our experience and data
- Environmental scanning (global and domestic trends, issues)



Risk Outlook: why do we do this?



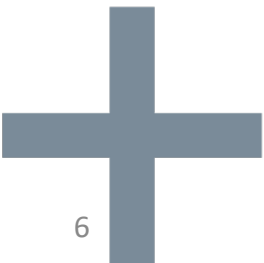
Highlight risks which if they eventuate create significant consumer harm

Shake public trust and confidence in the profession

Want lawyers to think holistically

Want to help lawyers deal proactively with emerging challenges

Regulatory transparency / improved communication → better regulatory results



Risk Outlook: cybersecurity

The risk

Law practices are lucrative targets for cybercriminals

Scale and severity of cybersecurity continues to increase

Cyber-safe practice is a crucial professional competency



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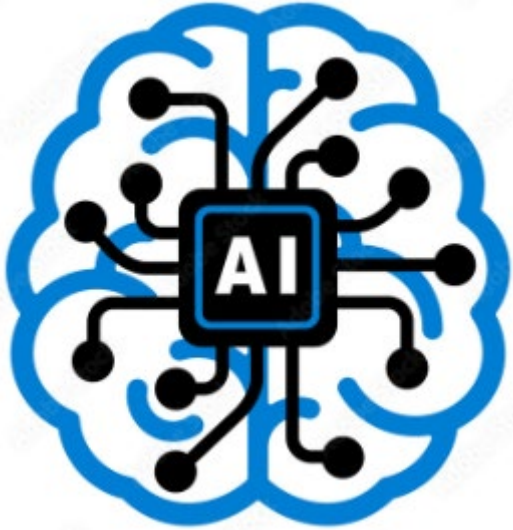
Our response

- ✓ Minimum cybersecurity expectations
- ✓ “Critical controls” (relevant to all law practices)
- ✓ Highest priorities are:
 - Multi-factor authentication
 - Strong and unique passwords
 - Automatic software updates
- ✓ Other relevant controls to be implemented as soon as feasible
- ✓ Red flags and good practices resource

Risk Outlook: Artificial intelligence – improper use



The risk



- AI provides significant benefits to lawyers and consumers
- Understanding AI is an important technical competency for all lawyers
- Lawyers must provide competent, ethical and confidential services irrespective of the tools they use to deliver them
- Be transparent with your clients about how you use AI

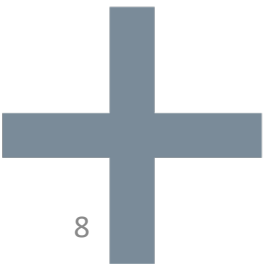
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Our response

You need to:

- Understand it's your duty to provide accurate legal information
- Be able to validate AI outputs
- Properly supervise junior staff
- Maintain confidential information (nothing has changed!)

Generative AI and lawyers
resource





Risk Outlook: Uniform Law obligations



Costs disclosure

- Costs complaints - One third of all complaints
- Central to public trust and confidence
- Good costs disclosure central to good working relationships



What VLSB+C are doing?

- In house Costs Support Program
- Costs Disclosure Review
- Good costing practices

What VLSB+C are doing?

- Trust obligations must be taken seriously
- Do not withdraw client money without review
- Notify us about irregularities
- Vigilant supervision is key



Risk Outlook: Ethical duties



Dishonestly concealing mistakes

- Unfortunate trend of covering up
- Often a result of poor working environment
- Admit to your mistakes

Lodging caveats improperly

- Need proper grounds and client instructions

Gross overcharging

- Continues to be a problem
- Significant consumer harm and reputational damage



Failure to exercise professional independence

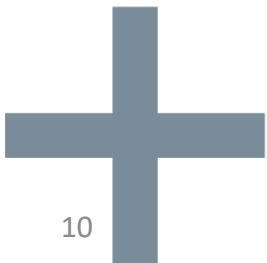
- Royal Commissions exposing complexities of lawyer role and consequences of failure to professional independence
- Professional boundaries guidance

Claims farming

- Targeting vulnerable people
- Misleading information and/or gross overcharging

Motor vehicle claims

- Unclear referrals from third parties
- Undertaking legal work without adequate instructions



Risk Outlook: inadequate supervision



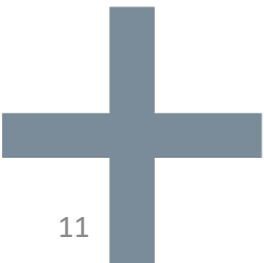
The risk

- Principals who fail to effectively supervise a major concern
- Failure to exercise proper oversight of employees
- Allowing themselves to be legal directors without control and responsibility
- Failing to have proper oversight of other principals

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Our response

- Publish our Research – asking lawyers about their experience
- Will develop competency frameworks for supervisors and those under supervision



What next?



Licensing strategy

Developing an overarching licensing strategy including fitness to engage in legal practice



Early career lawyers

Continues to be a key focus area



Research

Building our independent research function



Wellbeing focus

Theory of change – systems focus



Risk Outlook

Co-design with the LIV for education in Risk Outlook priority areas



Consumer centred focus

Understanding consumers to improve legal service delivery

