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| **Cluster** | Stronger Communities  |
| **Department** | Department of Communities and Justice |
| **Division/Branch/Unit** | Office of the Legal Services Commissioner |
| **Location** | Sydney |
| **Classification/Grade/Band** | Senior Executive Band 1 |
| **Senior Executive Work Level Standards:** |  Work Contribution Stream: Regulatory/Compliance |
| **Role Number** | 50009310 |
| **ANZSCO Code** | 139999 |
| **PCAT Code** | 3119181 |
| **Date of Approval** | 23 December 2022 | **Ref: B1/0207** |
| **Agency Website** | www.dcj.nsw.gov.au |

# Agency overview

The Department of Communities and Justice (DCJ) is the lead agency under the Stronger Communities Cluster. DCJ works to enable everyone's right to access justice and help for families through early intervention and inclusion, with benefits for the whole community. Stronger Communities is focussed on achieving safe, just, inclusive and resilient communities by providing services that are effective and responsive to community needs. For the first time, the creation of DCJ and Stronger Communities provides an opportunity to focus on prevention and early intervention across both the social welfare and justice systems.

The Office of the Legal Services Commissioner deals with complaints about lawyers under the *Legal Profession Uniform Law (NSW)* and *Legal Profession Uniform Law Application Act 2014.*  The Office of the Legal Services Commissioner oversees the investigation of complaints, attempts to resolve consumer matters informally and may take disciplinary action against a solicitor or barrister, or commence disciplinary proceedings in NSW Civil and Administrative Tribunal - Occupational Division.

# Primary purpose of the role

The Commissioner is an independent statutory office holder exercising critical regulatory functions under the *Legal Profession Act 2004* and *Legal Profession Uniform Law Application Act 2014.* The Commissioner plays a leading role in the co-regulatory system of professional regulation for lawyers in New South Wales and the role is essential to maintaining public confidence in the complaints handling system.

The primary functions of the Commissioner’s Office are to manage and investigate complaints about the conduct of lawyers (including making summary disciplinary orders against lawyers); monitor the professional associations’ handling of complaints; reviewing decisions of the professional associations upon application; and prosecuting serious cases of misconduct in the NSW Civil and Administrative Tribunal and/or the Court of Appeal.

The Commissioner is also required to contribute to the development of professional conduct rules (and Uniform Rules under the Uniform Law), propose regulatory reform to the Attorney General and provide advice as requested.

The Commissioner must be with the nature of the legal system and legal practice (but need not be an Australian legal practitioner), and must demonstrate qualities of independence, fairness and integrity.

# Key accountabilities

* Be a thought leader and have broad influence within the Legal community, including leading the legal profession regulation sector within NSW.
* Safeguard the Office of the Legal Services Commissioner (OLSC) provision of timely, comprehensive, high quality advice and assistance to consumers experiencing service-level issues with their lawyer or raising concerns about unsatisfactory or professional misconduct of lawyers.
* Ensure the referral and resolution of complaints about lawyers is timely, fair, transparent, efficient and cost effective.
* Ensure the services provided by the OLSC are responsive to client needs as evidenced by surveys of complainants and respondent lawyers.
* Raise community education about the regulation and discipline of the legal profession and assist legal profession regulatory bodies in the enhancement of professional ethics and standards.
* Provide authoritative and advice and recommendations, to key stakeholders and regulators to enhance professional ethics and standards.
* Refer complaints to the appropriate professional association for investigation; monitor those investigations and give directions and assistance as appropriate; review the decisions of the associations to dismiss complaints or to reprimand Australian lawyers or Australian-registered foreign lawyers in connection with complaints; take over investigations or to institute proceedings in the Tribunal against Australian lawyers or Australian-registered foreign lawyers following a review by the Commissioner.
* Identify issues of community concern about emerging practices within the legal services market or the regulation of the profession and oversee strategic regulatory intervention or recommend improvements to the regulatory framework.
* Discharge all other functions conferred on the Commissioner under the *Legal Profession Act 2004* and *Legal Profession Uniform Law Application Act 2014.* Ensure that the Legal Profession Uniform Law is implemented by complaints handling bodies consistently with the Uniform Law and Rules and any guidelines or directions from the interstate regulatory authorities.
* Operate within budget, review and improve business systems and processes
* Ensure the OLSC aligns the workforce capability of the OLSC to its current and future objectives and priorities.

# Key challenges

* Working within a complex government, non-government, private sector and client focused environment to ensure the integrity of the Legal system is upheld.
* Fostering a culture of compliance with professional and ethical standards within the legal profession.
* Partnering with, and providing leadership to, other local regulatory authorities to improve consumer confidence in the management of complaints about the conduct of lawyers and the co-regulatory system.
* Identifying emerging market practices that pose a risk to consumers and bringing these matters to the attention of policy makers with advice on appropriate action.
* Exercising statutory functions with independence, integrity and sound judgement.
* Handling sensitive and contentious complaints with the highest degree of integrity and discretion.

# Key relationships

| Who | Why |
| --- | --- |
| **Ministerial**  |  |
| Attorney General  | Support the Attorney General as the First Law Officer of the State, responsible for the development of legal profession regulation policy. Advise the Attorney General on policy and regulatory issues under the consideration of the Standing Committee on the administration of the Legal Profession Uniform Framework. |
| **Internal** |  |
| Deputy Secretary, Law Reform and Legal Services, and the Secretary | Consult regarding specific organisational policies and procedures and their impact on the Office, the Department and the Community. |
| Staff within Office of the Legal Services Commissioner | Provide guidance in relation to the operation and direction of the Office  |
| Business Centre managers | Ensure consistency of policy direction and resource utilisation. |
| **External** |  |
| Legal consumers and lawyers | Provide educational, advisory and complaints resolution services |
| Other legal profession regulatory authorities and stakeholders:* Law Society of NSW
* NSW Bar Association
* Legal Profession Admission Board
 | Liaise and provide advice with respect to the effective regulation of the legal profession under a co-regulatory model. Exercise supervisory functions in relation to handling of complaints as required by legislation.  |
| Legal Services Council and Commissioner for Legal Services Regulation | Comment upon proposed regulatory rules to be made by the Council. Provide annual reports to the Council on the administration of the complaints provisions of the Uniform Law.  |
| Commonwealth regulatory bodies (e.g. Australian Securities and Investments Commission) | Liaise and collaborate with Commonwealth regulatory bodies on issues involving regulatory overlap.  |

# Role dimensions

The Commissioner is an independent statutory office holder exercising critical regulatory functions under *Legal Profession Uniform Law (NSW)* and *Legal Profession Uniform Law Application Act 2014.*

The role involves daily management of the OLSC as well as supervision of the manner in which the Law Society and Bar Association perform their statutory complaints handling functions.

The role also involves regular high-level liaison with the Attorney General, Secretary, Presidents and Chief Executive Officers of the professional associations as well as other national and international complaints handling bodies.

## Decision making

* The Legal Services Commissioner operates with considerable statutory autonomy and is fully accountable for the delivery of services provided to both clients and employees by the Office of the Legal Services Commissioner and the achievement of the overall objectives of the Office.
* The Commissioner exercises a high degree of independent decision making authority in making orders to summarily dismiss complaints or to caution or reprimand legal practitioners. In more serious cases, the Commissioner is responsible for prosecuting a practitioner in the NSW Civil and Administrative Tribunal.
* The Commissioner is also empowered to review individual complaints that have been dealt with by the professional associations, and may substitute his or her own decision for the decision of the first instance decision maker. As such, the Commissioner acts as an independent merits review body.
* The position holder is a key source of advice regarding policy development for the Department.
* The Legal Services Commissioner has broad managerial responsibilities, being fully accountable for the management of physical, human and financial resources, operations, client service delivery and policy development.

## Reporting line

Attorney General

## Direct reports

Approx. 7

## Budget/Expenditure

Approx. 4.4M

# Key knowledge and experience

The Commissioner must be familiar with the nature of the legal system and legal practice (but need not be an Australian legal practitioner), and must demonstrate qualities of independence, fairness and integrity.

# Essential requirements

Tertiary qualifications in a relevant field.

Appointments are subject to reference checks. Some roles may also require the following checks/ clearances:

* National Criminal History Record Check in accordance with the Disability Inclusion Act 2014
* Working with Children Check clearance in accordance with the Child Protection (Working with Children) Act 2012

# Capabilities for the role

The NSW Public Sector Capability Framework applies to all NSW public sector employees. The Capability Framework is available at [www.psc.nsw.gov.au/capabilityframework](http://www.psc.nsw.gov.au/capabilityframework)

## Capability summary

Below is the full list of capabilities and the level required for this role. The capabilities in bold are the focus capabilities for this role. Refer to the next section for further information about the focus capabilities.

# Capabilities for the role

The [NSW public sector capability framework](https://www.psc.nsw.gov.au/workforce-management/capability-framework/the-capability-framework) describes the capabilities (knowledge, skills and abilities) needed to perform a role. There are four main groups of capabilities: personal attributes, relationships, results and business enablers, with a fifth people management group of capabilities for roles with managerial responsibilities. These groups, combined with capabilities drawn from occupation-specific capability sets where relevant, work together to provide an understanding of the capabilities needed for the role.

The capabilities are separated into **focus capabilities** and **complementary capabilities**.

## Focus capabilities

*Focus capabilities* are the capabilities considered the most important for effective performance of the role. These capabilities will be assessed at recruitment.

The focus capabilities for this role are shown below with a brief explanation of what each capability covers and the indicators describing the types of behaviours expected at each level

| FOCUS CAPABILITIES |
| --- |
| **Capability group/sets** | **Capability name** |  | **Behavioural indicators** | **Level** |
| Personal Attributes logo | **Act with Integrity**Be ethical and professional, and uphold and promote the public sector values | * Champion and model the highest standards of ethical and professional behaviour
* Drive a culture of integrity and professionalism within the organisation, and in dealings across government and with other jurisdictions and external organisations
* Set, communicate and evaluate ethical practices, standards and systems and reinforce their use
* Create and promote a culture in which staff feel able to report apparent breaches of legislation, policies and guidelines and act promptly and visibly in response to such reports
* Act promptly and visibly to prevent and respond to unethical behaviour
 | Highly Advanced |
| Relationships logo  | **Commit to Customer Service**Provide customer-focused services in line with public sector and organisational objectives | * Create a culture that embraces high-quality customer service across the organisation, ensuring that management systems and processes drive service delivery outcomes
* Engage and negotiate with stakeholders on strategic issues related to government policy, standards of customer service and accessibility, and provide expert, influential advice
* Ensure that responsiveness to customer needs is central to the organisation’s strategic planning processes
* Set overall performance standards for service delivery across the organisation and monitor compliance
 | Highly Advanced |
| Relationships logo  | **Work Collaboratively**Collaborate with others and value their contribution | * Establish a culture and supporting systems that facilitate information sharing, communication and learning across the sector
* Publicly celebrate the successful outcomes of collaboration
* Seek out and facilitate opportunities to engage and collaborate with stakeholders to develop solutions across the organisation, government and other jurisdictions
* Identify and overcome barriers to collaboration with internal and external stakeholders
 | Highly Advanced |
| Results logo | **Deliver Results**Achieve results through the efficient use of resources and a commitment to quality outcomes | * Seek and apply the expertise of key individuals to achieve organisational outcomes
* Drive a culture of achievement and acknowledge input from others
* Determine how outcomes will be measured and guide others on evaluation methods
* Investigate and create opportunities to enhance the achievement of organisational objectives
* Make sure others understand that on-time and on-budget results are required and how overall success is defined
* Control business unit output to ensure government outcomes are achieved within budgets
* Progress organisational priorities and ensure that resources are acquired and used effectively
 | Advanced |
| Results logo | **Demonstrate Accountability**Be proactive and responsible for own actions, and adhere to legislation, policy and guidelines | * Design and develop systems to establish and measure accountabilities
* Ensure accountabilities are exercised in line with government and business goals
* Exercise due diligence to ensure work health and safety risks are addressed
* Oversee quality assurance practices Model the highest standards of financial probity, demonstrating respect for public monies and other resources
* Monitor and maintain business-unit knowledge of and compliance with legislative and regulatory frameworks
* Incorporate sound risk management principles and strategies into business planning
 | Advanced |
| Business Enablers logo | **Finance**Understand and apply financial processes to achieve value for money and minimise financial risk | * Apply a thorough understanding of recurrent and capital financial terminology, policies and processes to planning, forecasting and budget preparation and management
* Identify and analyse trends, review data and evaluate business options to ensure business cases are financially sound
* Assess relative cost benefits of various purchasing options
* Promote the role of sound financial management and its impact on organisational effectiveness
* Obtain specialist financial advice when reviewing and evaluating finance systems and processes
* Respond to financial and risk management audit outcomes, addressing areas of noncompliance in a timely manner
 | Advanced |
| People Management logo | **Manage and Develop People**Engage and motivate staff, and develop capability and potential in others | * Refine roles and responsibilities over time to achieve better business outcomes
* Recognise talent, develop team capability and undertake succession planning
* Coach and mentor staff and encourage professional development and continuous learning
* Prioritise addressing and resolving team and individual performance issues and ensure that this approach is cascaded throughout the organisation
* Implement performance development frameworks to align workforce capability with the organisation’s current and future priorities and objectives
 | Advanced |
| People Management logo | **Manage Reform and Change**Support, promote and champion change, and assist others to engage with change | * Clarify the purpose and benefits of continuous improvement for staff and provide coaching and leadership in times of uncertainty
* Assist others to address emerging challenges and risks and generate support for change initiatives
* Translate change initiatives into practical strategies and explain these to staff, and their role in implementing them
* Implement structured change management processes to identify and develop responses to cultural barriers
 | Advanced |

# Complementary capabilities

*Complementary capabilities* are also identified from the Capability Framework and relevant occupation-specific capability sets. They are important to identifying performance required for the role and development opportunities.

Note: capabilities listed as ‘not essential’ for this role is not relevant for recruitment purposes however may be relevant for future career development.

| COMPLEMENTARY CAPABILITIES |
| --- |
| **Capability Group/Sets** | **Capability Name** | **Description** | **Level**  |
| Personal Attributes logo |  |  |  |
| Display Resilience and Courage | Be open and honest, prepared to express your views, and willing to accept and commit to change | Advanced |
| Manage Self | Show drive and motivation, an ability to self-reflect and a commitment to learning | Advanced |
| Value Diversity and Inclusion | Demonstrate inclusive behaviour and show respect for diverse backgrounds, experiences and perspectives | Advanced |
| Relationships logo  |  |  |  |
| Communicate Effectively | Communicate clearly, actively listen to others, and respond with understanding and respect | Advanced |
| Influence and Negotiate | Gain consensus and commitment from others, and resolve issues and conflicts | Advanced |
| Results logo |  |  |  |
| Plan and Prioritise | Plan to achieve priority outcomes and respond flexibly to changing circumstances | Advanced |
| Think and Solve Problems | Think, analyse and consider the broader context to develop practical solutions | Advanced |
| Business Enablers logo |  |  |  |
| Technology | Understand and use available technologies to maximise efficiencies and effectiveness | Advanced |
| Procurement and Contract Management | Understand and apply procurement processes to ensure effective purchasing and contract performance | Advanced |
| Project Management | Understand and apply effective project planning, coordination and control methods | Advanced |
| People Management logo |  |  |  |
| Inspire Direction and Purpose | Communicate goals, priorities and vision, and recognise achievements | Advanced |
| Optimise Business Outcomes | Manage people and resources effectively to achieve public value | Advanced |