Delegations to, and other functions performed by, the Ethics and Practice Committee

The Council, and the Society by the Council, pursuant to section 11(2)(a) and (b) of the Legal Practitioners Act 1981 ("the Act"), and without derogating from the power of Council to act itself in any matter, delegates to or requires the Ethics and Practice Committee ("the Committee") to exercise the powers and functions set out below.

Delegated Powers

General

1. Considering, determining and advising Council on the requirements for the professional conduct and ethical standards of all members of the legal profession practising in the State of South Australia, and advising and publishing to members of the profession and the community at large both generally and particularly the content and application of such standards.

2. Further delegating any of its functions and powers to an officer or employee of the Society.

Functions and Powers of the Society pursuant to the Legal Practitioners Act 1981 and Legal Practitioners Regulations 2014

3. Reporting to the Commissioner in accordance with section 14AB(1).

4. Responding to requests for information by the Commissioner in accordance with section 14AB(2).

5. Referring suspected breaches of sections 21, 22, 23, 23AA to the Attorney-General for investigation.

6. Appointing a Supervisor pursuant to section 44 in circumstances under which the Committee considers that such an appointment is justified and is required to be made urgently in order to secure money held in the trust account.

7. Exercising the powers and functions referred to in section 53(7), (9), (12), (13), and (14).

8. In relation to matters arising under Part 5 (claims against Fidelity Fund):
   
   8.1. Receiving claims against the Fidelity Fund in accordance with section 60.

   8.2. Exercising the power to require evidence referred to in section 62.

9. Making directions to the Commissioner in accordance with section 77B(2)(a).
10. Receiving reports from the Commissioner in accordance with section 77H(1).

11. Furnishing information held by the Society in accordance with section 90AE.

12. Exercising any of the functions and powers of the Society contained in Schedule 1 and any related regulations.

13. Exercising any of the functions and powers of the Society contained in Schedule 2 and any related regulations.

14. Exercising any of the functions and powers of the Society contained in Schedule 4 and any related regulations.

15. Receiving notifications made in accordance with regulation 4.

**Functions and Powers Assigned to the Society by the Supreme Court (Chapter 17 Supreme Court Rules)**

16. Issuing practising certificates in accordance with section 16.

17. Requiring the furnishing of evidence in accordance with section 17(1).

18. Imposing a prescribed fine in accordance with section 17(2).

19. Issuing practising certificates with effect from dates prior to the issue of the practising certificate in accordance with section 17(3).

20. Determining the period of practising certificates issued in accordance with section 18(1) and (2).

21. Cancelling and re-issuing practising certificates in accordance with section 18(2a).

22. Requiring and receiving evidence of insurance in accordance with section 19(1).

23. Maintaining and permitting access to a register of practising certificates in accordance with section 20.

24. Recording conditions on practising certificates, and revoking and re-issuing practising certificates, in accordance with section 20AA.

25. Receiving and cancelling surrendered practising certificates in accordance with section 20AK.

26. Receiving written notice of conditions or limitations on a practitioner’s interstate practising certificate in accordance with section 23B.

27. Recording on practising certificates any condition imposed by a regulatory authority of this State in accordance with section 23C.

28. Receiving notices from interstate practitioners establishing an office in South Australia in accordance with section 23D and any related regulations.

29. Receiving the notices referred to in clauses 4, 5, and 7 of Schedule 1 and any related regulations.
30. Producing, maintaining, and making available on the Society’s website the fact sheets referred to in Forms 1 and 2 of Schedule 1 of the Regulations.

31. Requiring, on behalf of the Society, the provision of evidence, records or information pursuant to regulation 67.

**Functions and powers relating to the Mandatory Continuing Professional Development ("MCPD") Scheme**

32. Monitor and review the terms and effectiveness of the Scheme;

33. Review the operation of the Scheme and make recommendations to Council for it to consider making to LPEAC for any alterations to the Scheme consistent with National reform and to maintain national consistency or otherwise;

34. Make intimations with respect to Rule 5.2(d) Appendix “C” of the LPEAC Rules and to delegate those powers to an appropriate employee(s) of the Society where considered appropriate to do so;

35. Make determinations generally with respect to the operation of the MCPD Scheme;

36. Make recommendations to Council in relation to any practitioners it considers should be referred to the Board of Examiners pursuant to LPEAC Rule 3.A4;

37. Review decisions made by Society employees to whom tasks are delegated by this Committee in relation to mandatory CPD (including all matters connected with the issue and conditions attaching to practising certificates) where a person affected by such a discussion applies within 7 days of the decision to the Committee for such a review, noting that the Committee may, if it thinks fit, grant an extension of time to apply to review;

38. Provide to Council a draft written report for submission by the Society to LPEAC annually by 31 August in respect of the preceding CPD year concerning the operation of the Scheme;

39. Consider whether any matter coming to the attention of the Committee constitutes a reasonable suspicion of unsatisfactory professional conduct or professional misconduct.

**Other Functions**

40. Advising Council on applications by the Society to amend, suspend, or cancel practising certificates in accordance with section 20AD.

41. Advising Council on any applications to be made by the Society to the Supreme Court in accordance with section 20AJ.

42. Advising Council on the appointment of Supervisors (except where the power to appoint is delegated pursuant to paragraph 7) and Managers and other associated matters in Division 9 of Part 3 of the Act.

43. Advising Council on any applications to be made by the Society to the Supreme Court in accordance with sections 49 and 50.
44. In relation to matters arising under Part 5 (claims against the Fidelity Fund) advising Council on:

44.1. The limitation of claims in accordance with section 61.

44.2. The validity of claims in accordance with section 63.

44.3. The apportionment of payments in accordance with section 64.

44.4. The making of advance payments in accordance with section 64A.

44.5. Claims made in accordance with section 66.

45. Advising Council on the exchange of information between the Society and Commissioner in accordance with section 77A.

46. Advising Council on the laying of charges by the Society in the Disciplinary Tribunal in accordance with section 82(2).

47. Advising Council on the institution of disciplinary proceedings by the Society in the Supreme Court in accordance with section 89(1).

48. Advising Council on making applications to the Supreme Court in accordance with section 89(6).

49. Advising Council on applying for interim orders in accordance with section 89A.

50. Advising Council on applications by the Society to strike the names of public notaries from the roll of public notaries in accordance with section 93.

51. Advising Council on agreements and arrangements with other regulatory authorities in accordance with section 95AA.

Amended by Council 1 June 2015