

**THIRTIETH REPORT OF THE**

**NEW ZEALAND**

**COUNCIL OF LEGAL EDUCATION**

**(from 1 January 2020 to 31 December 2020)**

L Aid before the House of Representatives  
Pursuant to  
Section 150 of the Crown Entities Act 2004



**STATEMENT OF RESPONSIBILITY**

**THE NEW ZEALAND COUNCIL OF LEGAL EDUCATION**

**FINANCIAL STATEMENTS FOR THE YEAR ENDED  
31 DECEMBER 2020**

The New Zealand Council of Legal Education (the Council) is responsible for preparation of the Financial Statements and Statement of Service Performance, and for the judgments used in the production of these statements.

The Council is also responsible for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting and non-financial reporting.

In the Council's opinion, the attached Financial Statements, the Statement of Service Performance, and the notes which should be read in conjunction with those statements, fairly reflect the operations of the Council for the year ended 31 December 2020 and the financial position of the Council at that date.



The Honourable Justice M Cooper  
**Chairman**



Professor M Hickford  
**Council Member**

6 May 2021



# NEW ZEALAND COUNCIL OF LEGAL EDUCATION ANNUAL REPORT

REPORT FOR  
THE YEAR FROM 1 JANUARY 2020 TO 31 DECEMBER 2020

## 1. BACKGROUND

Between 1841 and 1930 legal education, and the requirements for admission to the profession in New Zealand, were the responsibility of the Judiciary of New Zealand pursuant to a number of Colonial Ordinances and Acts of Parliament, and prescribed in consecutive sets of Judges' Rules. After the establishment of the University of New Zealand in 1870 the practical implementation of the admission requirements was progressively delegated by the Judiciary to the University.

In 1925, a Royal Commission which had been commissioned to examine a number of matters relating to University education in New Zealand, recommended that – <sup>1</sup>

...a Council of Legal Education representative of the Judges, the leaders among practising barristers and solicitors, and the University teachers of law is the most satisfactory method for providing and for watching over a course of legal education which shall comply with the requirements of a good professional education, and at the same time satisfy the demand for a training which is strong enough on the practical side.

Accordingly in 1930 the Council of Legal Education was established.<sup>2</sup> The original Council consisted of six members: two judges of the Supreme Court, two representatives of the New Zealand Law Society, and two law professors or teachers from the University of New Zealand. The Council was given recommendatory powers for the purpose of enabling the University to discharge its functions, which concurrently with the establishment of the Council had been given the responsibility for prescribing and conducting<sup>3</sup> the necessary legal qualifications and examinations.<sup>3</sup>

However, in 1961 the University of New Zealand was dissolved and the constituent Colleges established in their own right.

In order to preserve uniformity across law degrees, to maintain standards, and to secure input from representatives of all, rather than one particular category of stakeholder in legal education, the Council of Legal Education was reconstituted in 1961 as an independent statutory body<sup>4</sup> to take over the role of defining, prescribing and arranging for the provision of courses of study, including practical training, for those persons (from New Zealand and overseas) wishing to be admitted as barristers and solicitors, and generally to supervise legal education in New Zealand.

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<sup>1</sup> *University Education in New Zealand* (Royal Commission) (AJHR 1925, E-7A), page 45.

<sup>2</sup> New Zealand University Amendment Act 1930.

<sup>3</sup> Law Practitioners Amendment Act 1930.

<sup>4</sup> Law Practitioners Amendment Act 1961.

In 1961 the membership of the Council consisted of representatives from the Judiciary, the New Zealand Law Society, and the Law Schools. By 1982 membership had been extended to encompass a District Court Judge and law student representation, and by 1990 a non-lawyer member nominated by the Minister of Justice.

A major change to the operation and funding of the Council occurred in 1990 with the disestablishment of the University Grants Committee, as from 30 June of that year.<sup>5</sup>

The Council's activities had previously been carried out within the framework of the University Grants Committee and it had been a source of funding for the Council which was no longer available, although the Council was subsequently given the power to charge fees for its services, and also began to receive funding from the New Zealand Law Foundation pursuant to section 91F(2)(b)(ii)(B) of the Law Practitioners Act 1982.

The 1990 Amendment Act amended the Law Practitioners Act 1982. Some major consequences for the Council were –

- (a) It expanded the membership of the Council to strengthen the interests of the public without affecting the balance between academic and professional legal interests which had always been a characteristic of the Council.
- (b) It established the Council as a body corporate with perpetual succession, a common seal, and the rights, powers and privileges necessary to carry out its functions.
- (c) It established the basis for the Council to be subject to Part V of the Public Finance Act 1989 as if it were a Crown entity specified in the Fourth and Fifth Schedules to that Act.
- (d) It authorised the charging of fees for work done or services performed by the Council and for entry into the Council's examinations.
- (e) It made requirements of the Council as an employer, including consultation with the State Services Commission.
- (f) It set out the Council's financial responsibilities and exempted it from income tax.
- (g) It set out the Council's duty to report annually to the Minister of Justice.

The Lawyers and Conveyancers Act 2006 was passed in March 2006 and came into force on 1 August 2008.

The Council is covered by Part 8 of the Act. The Council was reconstituted with its current form and membership. Some changes were made to the Council's operations as noted below –

- (a) The Council was renamed the New Zealand Council of Legal Education.

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<sup>5</sup> Education Amendment Act 1990.

- (b) The functions and powers of the Council, whilst remaining essentially the same as in the 1982 Act, were enhanced and modernised to reflect current terminology and practices.
- (c) A new function was introduced into the Council's role namely responsibility for recognition of qualifications for the purposes of the principles set out in section 15 of the Trans-Tasman Mutual Recognition Act 1996.
- (d) The Act makes the Council responsible for making the final decision in respect of the assessment of applications of all overseas graduates and admitted practitioners.
- (e) The Act confirms that the Council may deliver courses itself, or arrange for the delivery of courses by other providers.
- (f) There is a specific power enabling the Council to license other providers of practical legal training.
- (g) The funding mechanism for the Council was changed and secured. Section 277 of the Act requires the New Zealand Law Society to levy practitioners annually to secure the necessary funding for the Council's operations.
- (h) With respect to the Institute of Professional Legal Studies, new provisions were included in the Act. Under these provisions the Council is statutorily required to maintain the Institute in its current form as a committee of Council. An express requirement was imposed on the Council to ensure that the Institute continues to provide practical legal training for candidates for admission as barristers and solicitors of the High Court.

## 2. MEMBERSHIP OF THE COUNCIL

### APPOINTED BY THE GOVERNOR-GENERAL As at 31 December 2020

#### Member

#### Nominated By

The Honourable Justice M Cooper (Chair)  
The Honourable Justice van Bohemen

Chief Justice  
Chief Justice

The Honourable Judge W Hastings

Chief District Court Judge

Ms H Bowie  
Ms N Coates  
Ms K Dalziel  
Mr D Green  
Ms M Wikaira

New Zealand Law Society  
New Zealand Law Society  
New Zealand Law Society  
New Zealand Law Society  
New Zealand Law Society

Mr T Austen  
Mr F Boswell

New Zealand Law Students Assoc  
New Zealand Law Students Assoc

Ms J Langley JP

Minister of Justice

### EX OFFICIO — DEANS OF LAW FACULTIES/SCHOOLS

Professor P Mathew  
Professor C Rickett  
Professor A Roy  
Professor M Hickford  
Professor U Cheer  
Professor J Palmer

Auckland University  
Auckland University of Technology  
Waikato University  
Victoria University of Wellington  
Canterbury University  
Otago University

## 3. CHIEF EXECUTIVE

The Chief Executive is responsible for discharging all responsibilities and duties required by the role pursuant to the Council's operations under Part 8 of the Lawyers and Conveyancers Act 2006.

The Chief Executive is statutorily responsible for the efficient operation of the organisation, including the Institute of Professional Legal Studies, and must ensure and promote compliance with all statutory obligations imposed on the Council.

The Chief Executive is responsible for ensuring that the Council's operations are conducted in a manner that conveys the highest personal, professional, and ethical standards, and conforms to standards and values expected of a public sector entity.



The Chief Executive of the Council is Rosemary Gordon, MNZM, a Wellington lawyer.

#### 4. **MEETINGS**

The full Council met once in 2020. The Annual Meeting took place in November 2020. The May meeting was cancelled owing to Covid-19.

#### 5. **OVERALL WORK OF THE COUNCIL**

##### *Major Tasks*

The major tasks of the Council during the year in discharge of its functions in the Lawyers and Conveyancers Act 2006 were –

- maintaining the work of the Council;
- maintaining the work of the Institute (see section 18 on the Institute of Professional Legal Studies);
- meeting the requirements of the legal status of the Council;
- securing funding for the general work of the Council;
- maintaining the servicing arrangements for the Council; and
- ensuring the organisation and oversight of practical legal training in New Zealand.

##### *General Activities*

The Council is a regulatory body and is responsible for the regulation, quality and provision of legal training for those wishing to be admitted as barristers and solicitors to the profession in New Zealand.

These activities include –

- setting courses of study for the examination and practical legal training of persons wishing to be admitted as barristers and solicitors in New Zealand;
- providing, or arranging for the provision of, those courses of study;
- arranging for the moderation and assessment of those courses of study;
- assessment of qualifications particularly those of overseas law graduates and legal practitioners wishing to practise in New Zealand;

- arranging for the provision of research as necessary, and tendering advice on legal education;
- administering and conducting certain examinations.

To carry out its tasks in discharge of its functions set out in the Lawyers and Conveyancers Act 2006, the Council maintained its general liaison with the Judiciary, the legal profession, the Universities and law students, and specifically undertook the activities detailed below.

## 6. PROVISION OF COURSES

### *Compulsory Law Subjects*

The Council prescribes the core curriculum for the Bachelor of Laws (LLB) degree and monitors these subjects through a moderation system.

The five compulsory subjects which are moderated are –

Law of Contracts  
 Law of Torts  
 Criminal Law  
 Public Law  
 Property Law (or Land Law, and Equity and Succession where Property Law is not offered.)

In respect of each of the above subjects the examination papers are drafted by course lecturers with the agreement of a moderator appointed by the Council. Moderation is also required for Legal Ethics which is a compulsory course for admission to the profession. A sixth Council prescribed core degree subject (Legal System) is not moderated owing to the introductory nature of the course and variations between courses.

The role of the moderator is threefold. The moderator ensures that the examination paper is of a satisfactory standard, and must be satisfied that there has been adequate coverage of the Council prescription. The moderator also ensures that the standard of examination is comparable between Law Schools.

The moderators are required to report each year to the Council on the moderation process in their subject area. The Reports provide valuable information for the Council on the examinations, and the courses generally in the compulsory subjects of the law degree, and also provide an opportunity for the Council to be informed of any administrative or substantive difficulties, to take action to remedy any problems, and to ensure that the courses are generally taught in a manner which conforms to the Council's requirements.

It is also valuable for the Law Schools to receive an independent outside view on the operation of these courses particularly vis-à-vis other Universities. The moderation procedures also ensure fairness for students in that a uniform system is shown to be operating over all the compulsory subjects.

During 2020 in the course of administering the moderation system the Council, inter alia, approved the appointment of moderators from amongst legal practitioners nominated for their academic ability and legal experience, and members of the Judiciary. The Council received and analysed the moderators' reports. The Council revised the Moderators' and Examiners' Guidelines, and gave advice to the Universities and moderators on matters relating to the compulsory law subjects, and the Council's expectations in these areas.

During 2020 the Council passed a special resolution regarding assessment of core subjects in response to Covid-19.

### ***Subjects Compulsory for Admission***

During 1997 the Council introduced a requirement for all law students who completed their Bachelor of Laws, or Bachelor of Laws with Honours degrees after 31 July 2000 to pass a university course in legal ethics as a further requirement for admission. On 1 August 2008 the requirement was extended to all applicants for admission regardless of the completion date of their degree.

The course which is prescribed and moderated by the Council, has as its broad principles –

- an introduction to ethical analysis including an examination of various theories of ethics;
- the applicability of ethical analysis to legal practice;
- the principles of ethical conduct and the role and responsibilities of lawyers;
- the wider responsibilities of lawyers in the community.

The course was introduced in response to a report<sup>6</sup> which had recommended that courses in legal ethics be required at three levels of legal education: academic, vocational training and continuing education after admission to the profession. In New Zealand this was implemented by the Council by the introduction of the undergraduate university course in legal ethics which, while not a compulsory degree subject, is required for those students wishing to be admitted to the profession. The requirement was further implemented by the introduction of Ethics and Professional Responsibility components into the Professional Legal Studies Course.

The Council also introduced the Legal Ethics requirement into its overseas qualification assessment system in 2001, and since that time it has also been a requirement for overseas law graduates and practitioners.

During 2020 the Council continued to monitor the subject, giving advice as required through the Chief Executive's Office, to Law Schools' administrators and students, on the legal ethics requirement and its implementation.

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<sup>6</sup> WB Cotter QC and C Roper *Report on a Project on Education and Training in Legal Ethics and Professional Responsibility for the Council of Legal Education and the New Zealand Law Society* (Wellington, 1996).

## ***Moderators***

Moderators during the year were –

Mr D Kalderimis	-	Law of Contract
The Honourable Justice Gilbert	-	Law of Torts
The Honourable Justice Whata	-	Criminal Law
The Honourable Justice Palmer	-	Public Law
Mr J Greenwood	-	Property Law
The Honourable Justice French	-	Legal Ethics

## ***Law Student Statistics***

Each year the Council collects statistics from the University Law Schools. The Statistics relate to the following areas –

### **Graduates**

These statistics detail the number of law students graduating in the following degrees as at 31 December of the relevant year.

- PhD
- Masters
- LLB (Honours)
- LLB

### **Enrolments**

These statistics detail the number of students enrolled in various degrees for the relevant academic year.

The degrees are –

- PhD
- Masters
- LLB (Honours)
- LLB

Figures are also collated relating to numbers of students admitted to the first year and to the second year for the first time.

### **Summary of Results**

These statistics relate to results. The statistics detail the results in the Council's prescribed core law subjects for the relevant academic year.

Figures are gathered as to the number of candidates in each subject at each University, percentages passing and failing, and grades awarded.

The results statistics give a valuable insight into the numbers of students enrolled in the core courses and the distribution of grades. The graduates and enrolments statistics allow the Council to monitor the number of students enrolling in law courses, and also the number who graduate. Overall, the statistics give a picture of current trends as against previous years.

#### Gender and Ethnicity Statistics

In addition to statistics relating to graduates, enrolments and results, the Council also compiles gender and ethnicity statistics. Overall, the three ethnic groups that occupied the top percentages are Pākehā, Asian and Māori; female students outnumber male students.

Statistics are compiled annually and are considered at Council meetings.

#### ***Related Issues***

During the year the Council in the course of fulfilling its role in this area also advised Universities as required on a number of Council-related issues, or those relating to legal education.

#### ***Other Provision***

During the year the Council (through the Institute of Professional Legal Studies) provided onsite and part-distance taught courses, for New Zealand law graduates, and for those overseas law graduates and practitioners required to undertake it (see section 18 on the Institute of Professional Legal Studies). The Council also administered the New Zealand Law and Practice Examination for overseas graduates and practitioners required to undertake it (see section 9 on the New Zealand Law and Practice Examination).

## **7. ASSESSMENT OF OVERSEAS LAW QUALIFICATIONS**

### ***Background***

The overseas qualification assessment system prescribed in the Lawyers and Conveyancers Act 2006, and relevant Council Regulations, involves examination of the credentials of overseas law graduates and practitioners through a process of analysis and written assessment, verification of qualifications, notification and liaison with candidates and sometimes overseas universities and institutions, assistance and advice, reviews and appeals. It also involves reporting requirements, and preparation of material for applicants.

Applications are decided by the Council's Credits Committee which operates under delegated authority from the Council, and provides an assessment for each application.

The assessment forms the basis for eligibility for admission of overseas graduates and practitioners to the legal profession in New Zealand, upon completion of the prescribed requirements.

Applications are decided on their merits, after thorough examination of all documents, and following earlier policy and precedents established by the Council.

The assessment process involves a detailed analysis of —

- the applicant's tertiary academic qualifications;
- the nature and extent of the applicant's professional training;
- the nature and extent of the applicant's professional experience; and
- the nature and extent of the applicant's knowledge and experience in the use of the English language.

The examination requires an analysis of the extent to which the applicant's degree, training and experience equate with the admission requirements for New Zealand candidates.

In particular it is necessary to establish –

- That the applicant has completed the equivalent of the New Zealand four year Bachelor of Laws degree (LLB) and that at least three years full-time study of law subjects has been undertaken by the applicant. If, on analysis, it is found that the applicant's degree is not in terms of length or breadth broadly the equivalent of the New Zealand law degree the applicant may be required to sit New Zealand University degree courses to broaden their degree.
- That the applicant has included in their degree and passed courses that broadly cover the principles of the compulsory Council of Legal Education New Zealand LLB subjects. Currently these subjects are Legal System, Contract, Torts, Public, Criminal and Property Law. (The Property Law course includes a land law, and equity and succession law component.) If the applicant has completed a course that is found to adequately correspond with any of the above subjects, the applicant may receive a credit in that subject and be required to sit the New Zealand Law and Practice Examination, otherwise the applicant will usually be required to undertake that course at a New Zealand University.

All New Zealand law graduates who wish to be admitted to the profession must undertake a university course in legal ethics. During the assessment process it is necessary to establish whether an overseas applicant has completed a course in legal ethics and professional responsibility. Any applicant who has not completed such a course may be required to do so.

An assessment is also made of the scope of any courses or practical training that an applicant may have completed, and any related experience. If the combined practical training and experience is insufficient an applicant will be required to complete a skills-based training course.

Applications are processed as expeditiously as possible. A typical application may take sixteen weeks to consider; sometimes it may be more speedy or a longer time may be required depending on the nature of the application, the need to clarify issues with the applicant or others, and the number of cases under consideration.

A reconsideration process is available for applicants who present new material not considered in the earlier assessment.

In late 2014, the Professional Examinations in Law Regulations 2008 were amended to provide for a final review process for overseas applicants. Such applications are decided by the Chair of the Council.

### **Number of Applicants**

The total number of applications received for the year was 99. This is significantly lower than the last four years and has resulted from the Covid-19 pandemic.

Applications were received from the following countries:

Australia, Brazil, China, Chinese Hong Kong, Fiji, France, India, Ireland, Japan, Mauritius, Mexico, Philippines, South Africa, Sweden, UK and USA.

The total number of applications received since 1998 are listed in the table below:

<b>Year</b>	<b>Applications</b>
1998	67
1999	71
2000	85
2001	101
2002	124
2003	123
2004	99
2005	123
2006	109
2007	85
2008	135
2009	117
2010	101
2011	106
2012	117
2013	94
2014	95
2015	95
2016	126
2017	149
2018	123
2019	158
2020	99

### ***Applicant Database***

During the year the Chief Executive's Office continued to maintain a comprehensive confidential database of all applicants, together with information on their academic qualifications, and practical training and experience, in order to preserve consistency in the assessments.

### ***Inquiries***

During the year the Chief Executive's Office handled numerous inquiries from applicants and potential applicants for assessment of their qualifications, and related general inquiries.

### ***Completion Certificates***

The Chief Executive's Office continued during the year to issue certificates of completion to overseas graduates and law practitioners who completed the Council's prescribed requirements. Forty completion certificate applications were received from overseas graduates and practitioners in 2020.

## **8. INTERNAL CREDITS**

### ***Background***

This area is specific to overseas undergraduates. When an overseas graduate or admitted practitioner applies to the Council to have an overseas qualification assessed, the Council examines the core law degree subjects undertaken by that person. If that person's degree subject is found to adequately cover the common law principles in the subject, the applicant is given a credit in that particular subject. However the applicant will almost certainly have to undertake the Council's New Zealand Law and Practice Examination in the corresponding Part, which tests understanding of the New Zealand law. It is rare for any exemptions to be granted from the New Zealand Law and Practice Examination.

However, if an applicant has not graduated overseas, but has partially completed an overseas law degree, and wishes to enter the profession in New Zealand, or to obtain a law degree here, the applicant will proceed to a University in New Zealand, enrol in an LLB degree, and seek credit in any relevant subjects, which may include the core law subjects.

Historically, a potential difficulty arose because if the Universities granted credit in the core law subjects without any further requirements being imposed, those undergraduates who commenced their undergraduate degree overseas, but transferred, or wished to transfer to a New Zealand LLB degree, were significantly advantaged over their graduate/admitted compatriots, who would have to undertake the New Zealand Law and Practice Examination prescribed by the Council. From the Council's standpoint there was also a public interest concern in that those undergraduate students had at no stage studied or been assessed in New Zealand law in these core law subjects.

Similar considerations applied to students seeking to undertake core law courses on an exchange programme. In those cases students might obtain passes in the equivalent core law



subjects overseas, but not be required to undertake any further study in the area in New Zealand.

As a result of these potential inconsistencies, a Protocol was drafted in 2002, by the Chief Executive's Office and the Law Deans, as a joint initiative between the Council and the Law Schools. The Protocol, entitled the *Protocol between the Council and the Universities on Internal Credits*, was designed to remedy any inconsistencies in processes, by establishing a standard procedure to be followed in internal credit cases.

### ***The Protocol***

The Protocol encourages the Law Schools to seek a recommendation from the Council as to the credit to be given in core law subjects in respect of –

- students presenting with a course from an overseas country or jurisdiction in substitution for any core law course;
- students seeking to undertake a course at an overseas institution and to substitute that course for a core law course through an Exchange Programme.

The Council's recommendation may include requiring the applicant to complete the corresponding Part of the New Zealand Law and Practice Examination.

The Protocol came into effect on 1 April 2003. Since then the Council has regularly provided recommendations for a number of applications from the Law Schools, and to those applicants who have not yet approached a Law School, but have chosen to come directly to the Council.

## **9. EXAMINATION IN NEW ZEALAND LAW AND PRACTICE**

### ***Background***

The Council requires almost all overseas applicants who have been given credits for the core law subjects to pass all, or a number of Parts, of an examination on the law of New Zealand – the New Zealand Law and Practice Examination.

The Examination consists of a six-Part written examination following a comprehensive self-taught prescription. It is generally held bi-annually, over a period of four days. The purpose of the Examination is to test the applicant's knowledge of the distinct features of the New Zealand law, and proceeds on the basis that the applicant will already have an understanding of the common law principles in that subject, by virtue of the applicant's overseas law degree.

The Examination covers the areas of Legal System (equivalent to Public Law), Contract Law, Criminal Law, Property Law, Torts, and Equity and Succession. Each Part consists of one written examination of 90 minutes duration.

The examiners are generally Law Faculty professors and lecturers who specialise in the above subjects. The Examination may be sat at any of the six New Zealand University Law Schools.

It may also be sat at a venue in the United Kingdom arranged by the Council. However, in 2020 the United Kingdom was experiencing multiple lockdowns and the venue was closed.

During the reporting period, the Council –

- administered and conducted an Examination in February, and a special sitting of the Examination in November;
- appointed an independent moderator and assessor to report on the Examination;
- operated an appeal system within the confines of the Council's regulations for the conduct of the Examination, which provided for aegrotat, compassionate and compensation passes in appropriate circumstances;
- updated the Prescription for the Examination for use in 2021.

In 2020 the usual July sitting was postponed to November due to uncertainties and travel restrictions caused by Covid-19. The UK venue was cancelled. As noted the United Kingdom was experiencing multiple lockdowns and the venue was closed. It was therefore not possible to have an overseas sitting in November 2020. Instead the Council trialled allowing sittings in the candidates' home countries where appropriate arrangements were able to be made for security and invigilation. The trial was done on a limited basis, but was successful and will be extended into 2021 while the pandemic continues.

### *Staff*

The examiners during the year were –

Part I	Dr Grant Morris, Law Faculty, VUW
Part II	Professor Tony Angelo, Emeritus Professor, Law Faculty, VUW
Part III	Professor Elisabeth McDonald, Law Faculty, Canterbury
Part IV	Dr Mark Bennett, Lecturer, Law Faculty, VUW
Part V	Dr Bevan Marten, Law Faculty, VUW
Part VI	Dr Mark Bennett, Law Faculty, VUW

The moderator/assessor for the course was The Right Honourable Sir Andrew Tipping.

*Statistical Data for the Examination*

<b>Month</b>	<b>Year</b>	<b>Number of Candidates</b>	<b>Number of Parts</b>
February	1997	20	40
July	1997	47	140
February	1998	51	116
July	1998	49	127
February	1999	54	125
July	1999	61	124
February	2000	46	105
July	2000	46	128
February	2001	43	97
July	2001	51	116
February	2002	48	116
July	2002	47	112
February	2003	72	159
July	2003	68	174
February	2004	74	152
July	2004	81	211
February	2005	79	181
July	2005	72	140
February	2006	82	206
July	2006	101	222
February	2007	86	171
July	2007	89	192
February	2008	78	155
July	2008	80	188
February	2009	99	204
July	2009	99	205
February	2010	100	220
July	2010	87	210
February	2011	103	241
July	2011	87	224
February	2012	74	164
July	2012	90	218
February	2013	78	192
July	2013	86	214
February	2014	86	184
July	2014	77	178
February	2015	72	163
July	2015	80	192
February	2016	81	200
July	2016	91	210
February	2017	90	214
July	2017	101	253
February	2018	98	233
July	2018	113	257
February	2019	119	267
July	2019	123	273
February	2020	119	267
November	2020	97	200

The following tables detail the registration statistics for the February and November Examinations during the year.

### *February Sitting*

Of the prospective candidates who requested information from the Examination Administrator regarding the February 2020 Examination sitting:

- 122 registered for a total of 273 Parts. Four candidates withdrew from a total of 6 parts, 3 of whom withdrew from the exam, which meant that 119 candidates sat 267 Parts.

*Table - Candidates by Parts*

	Part I	Part II	Part III	Part IV	Part V	Part VI
Candidates	65	57	52	35	34	30

### *November Sitting*

Of the candidates who requested information from the Examination Administrator regarding the November 2020 Examination sitting –

- 101 registered for a total of 217 Parts. Nine candidates withdrew from the sitting with a total of 17 Parts, including 4 withdrew from the exam, which meant that 97 candidates sat 200 Parts.

*Table - Candidates by Parts:*

	Part I	Part II	Part III	Part IV	Part V	Part VI
Candidates	44	51	40	19	40	23

## 10. **EXEMPTIONS**

During the year the Council, through the Chief Executive's Office, implemented systems to deal with applications for exemptions from certain Council requirements on the basis of equivalent training. These include exemptions in relation to the Professional Legal Studies Course in regard to applicants who held equivalent skills-based training qualifications from other countries.

## 11. **ADVICE TO UNIVERSITY COUNCILS**

The Council may tender advice to University Councils on any matter relating to legal education.

## 12. **MINISTERIAL ADVICE**

The Council may provide advice to the Minister of Justice (if required) on any matter relating to legal education. No advice was required in 2020.

## 13. **INQUIRIES**

During the year the Chief Executive's Office continued to respond to numerous inquiries related to its areas of operation. The inquiries emanated from a diverse and large group of bodies and individuals. Such bodies ranged from Government departments requesting information, to general student and applicant inquiries.

## 14. **COMPLETION CERTIFICATE SYSTEM**

### *Background*

As from 1 August 2008, the Council became responsible for issuing completion certificates to New Zealand law graduates who have fulfilled the Council's prescribed requirements for admission to the profession.

### *Certificates Issued*

During the year the Council received 1120 completion certificate applications from New Zealand law graduates. All candidates were issued a completion certificate after stringent verification.

## 15. **EXTERNAL LIAISON**

The Council continued to liaise externally and as required with the following bodies –

### **The Judiciary**

The Chief Justice

The Chief District Court Judge

Registries of the High Court

**The Profession**

The New Zealand Law Society  
NZLS President  
NZLS Executive Director and Senior Staff  
NZLS Registry  
NZLS Branches  
Auckland District Law Society Inc.  
Law firms as appropriate

**Academia**

Law Staff  
University Administrators  
University Management  
University Students  
University Bodies (eg CUAP)

**Government Departments and Agencies**

Audit New Zealand  
State Services Commission  
Ministry of Justice  
Attorney-General's Office  
Department of Internal Affairs  
Immigration New Zealand  
Ministry of Business, Innovation and Employment  
Ministry of Education  
Crown Law Office  
Office of the Controller and Auditor General  
New Zealand Qualifications Authority  
Tertiary Education Commission

**Government Ministers**

Minister of Justice  
Attorney-General

**The Public**

Public (applicants, candidates, general inquiries)  
News Media

**Well Being Services**

Vitae Workplace Support Psychotherapists, Counsellors and trauma response team

## **General**

Accountants

Insurance personnel

Legal Advisers

IT Advisers

Verification Authority

College of Law

Australian Law Admissions Consultative Committee

Australian Admission Authorities

Australian Productivity Commission (on TTMRA)

## **16. FEES**

During the year the Council –

- Maintained at \$1375.00 (exclusive of Goods and Services Tax) the fee charged to overseas law graduates for assessment of applications for credits, and maintained at \$1640.00 (exclusive of Goods and Services Tax) the fee charged to overseas practising lawyers.
- In accordance with its user-pays policy set the entry fee for each Part of the New Zealand Law and Practice Examination maintained at \$500.00 but November increased to \$750.00 (exclusive of Goods and Services Tax), and prescribed fees for the various concession (aegrotat, compassionate and compensation) passes.
- Set the fee for the Professional Legal Studies Course offered by the Institute of Professional Legal Studies.
- Maintained the fee for certificates of completion at \$165.00 (exclusive of Goods and Services Tax).

## **17. PROFESSIONAL LEGAL STUDIES COURSE**

### ***Provision***

The Council is also responsible for providing practical legal training for New Zealand law graduates, and overseas graduates and practitioners as required.

In 1986 a review commissioned by the Council of Legal Education and the New Zealand Law Society<sup>7</sup> recommended the establishment of a full-time practical skills-based training course which would complement the experience which a law graduate gained while working in a legal environment, and would replace the fifth professional year at university where students had previously been trained in practically oriented legal subjects.

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<sup>7</sup> N Gold *Report on the Reform of Professional Legal Training in New Zealand for the New Zealand Law Society and the Council of Legal Education* (Wellington, 1987).

In order to provide the course the Council established the Institute of Professional Legal Studies in 1987.

### ***Institute of Professional Legal Studies***

The Institute is the Council's provider arm for the delivery of the Professional Legal Studies Course. The Council has a statutory duty to arrange the provision of such a course, and must ensure that it has the ability to do so to ensure that the course is accessible to all students.

The Institute is managed by a National Director, responsible to the Chief Executive of the Council. A Delegation Document has been in place since 2003 under which the National Director operates and reports to the Chief Executive of the Council.<sup>8</sup>

### ***Constitutional Changes***

During 2002 and 2003, the Council considered and implemented a number of key constitutional changes relating to the Institute. A major initiative involved clarifying and better defining accountability to the Council. This outcome was achieved partly by dissolving the Administration Committee which had been established in 1987 and replacing it with the Executive Committee of Council. The latter body consists of the Chair and Chief Executive of the Council, and two other Council Members.

Contemporaneously with this step, the Council, through the Chief Executive's Office, drafted a major constitutional document governing the accountability relationship between the Council and the Institute referred to above. The document established certain delegations from the Chief Executive to the National Director of the Institute with reserve powers in the Chief Executive.

The document, which involved consultation with Audit New Zealand and other bodies operating similar systems, defined and clarified the relationship between the Council and the Institute, and incorporated personnel delegations, financial delegations and management guidelines. The overall effect was to strengthen the lines of accountability to the Chief Executive and the Council. The document provides a sound structural base which recognises the special nature of the Institute, and against which the organisation can operate effectively.

### ***Accreditation of Providers***

In 2002 the Council drafted two sets of Regulations establishing a process of accreditation and monitoring of providers of professional legal training course.

The first of the two sets of Regulations<sup>9</sup> set out the aims of the Professional Legal Studies Course and specified the required course content. The Regulations dealt with delivery standards encompassing areas such as the duration of the course, the methods of delivery, and the weighting to be given to components within the course. The Regulations also gave a detailed analysis of the course outcome specifications, namely a description of the skill required and the abilities which a student should have obtained after completion of that particular component of the course.

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<sup>8</sup> *Statement of Accountability Relationship Between the Council of Legal Education and the Institute of Professional Legal Studies* (Wellington, 2002).

<sup>9</sup> Professional Legal Studies Course Assessment and Standards Regulations 2002.



The second set of Regulations<sup>10</sup> dealt with the accreditation process establishing the system for accreditation, and requiring providers to make detailed and comprehensive applications showing how they complied with the requirements specified by the Council, and to provide evidence as to their financial viability, proposed teaching methods, staff and related matters. The Regulations provided for detailed monitoring requirements to be conducted by the Council. The first monitoring exercise took place in early 2005.

The Regulations provided for the establishment of an Accreditation Committee whose brief is to provide recommendations to the full Council on all provider applications matters, including monitoring, and re-accreditation.

In 2003 the Council also redrafted the regulations governing the Professional Legal Studies Course which allowed for a generic, rather than provider specific, set of regulations<sup>11</sup>. A major review of these regulations was undertaken in 2004 which resulted in the promulgation of the Professional Legal Studies Course Regulations 2004 which further emphasised the generic nature of the regulations.

In 2003 the Council licensed the Institute of Professional Legal Studies to provide a 13 week face to face, full-time course, and a 19 week part face to face, part distance delivered course. In the same year the Council also licensed the College of Law New Zealand to provide an 18 week part face to face, part distance delivered course. Both organisations were licensed for initial periods of two years. The licensing of a second provider added a significant new dimension to the Council's operations.

In 2013 the Council approved changes to the IPLS full-time course, introducing online components into that course. In 2015, approval was given to the IPLS to again deliver a 13 week onsite course. The new Course was 13 weeks full time, and fully onsite.

At the same time approval was given to the College of Law to deliver a variation to their 18 week blended online and onsite Course. The College's 13 week Course involved 6 weeks onsite and 7 weeks online.

In 2016 the Council approved a further variation to the College's courses enabling it to vary the 13 week Course to 5 weeks onsite and 8 weeks online, and to provide a new 13 week course with 4 weeks onsite, and 9 weeks online.

In 2018 the Council approved a redesign of the PLS course by the College of Law, which restructured the existing content in response to students' learning needs.

Both providers were licensed to deliver wholly online courses in 2020 owing to the Covid-19 pandemic. This has been extended into 2021.

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<sup>10</sup> The Professional Legal Studies Course Accreditation Regulations 2002. During 2006 these regulations were comprehensively reviewed, and the Professional Legal Studies Accreditation Regulations 2006 were promulgated.

<sup>11</sup> See now Professional Legal Studies Course Regulations 2004.

### ***Re-Accreditation and Monitoring Exercises***

Every third year providers must re-apply for accreditation to deliver the course. 2020 was a re-accreditation year. Both providers submitted comprehensive applications in August 2020, and were each re-accredited for further periods of three years.

In the first quarter of every year which does not follow a re-accreditation round, the Council undertakes a monitoring exercise of both providers of the Professional Legal Studies Course in accordance with the provisions of the Professional Legal Studies Course Accreditation Regulations 2006. The exercise involves receipt and consideration of detailed reports from both providers, and discussion and liaison with the provider organisations. No provider monitoring was done in 2020 as it was a re-accreditation year.

### ***Course Content and Delivery: Background***

The Professional Legal Studies Course was reviewed in 2001. The reviewers noted that the face to face version taught by the Institute of Professional Legal Studies provided –<sup>12</sup>

a well-structured approach to skills development. Students are provided with sufficient opportunities to practise and improve their skills before assessment tasks are undertaken. The content of the relevant courses appears to be of a high quality and of immediate relevance to legal practice. Supporting instruction and resource materials are of good quality and well-presented.

However in order to further improve the course the reviewers suggested that the transactional base of the course, which the Review stated was relatively under-developed, should be increased.<sup>13</sup>

The Review noted that in many Australian institutions, while skills based training was a key factor, transactionally based learning and the offering of substantive course options to trainees was also an important factor.<sup>14</sup>

The Review noted that a transactional approach would use –<sup>15</sup>

simulated cases or problems to teach skills and substance in an integrated fashion. This contrasts with a generic approach which focuses on the underlying skills common to a wide range of transactions with little reference to transactional context. Transactional approaches have become increasingly the norm in the common law world, having been adopted in all the jurisdictions of Australia, Hong Kong and the United Kingdom.

The Review noted that in respect of the Professional Legal Studies Course there were few common transactions used as a means to deliver the skills. This had the disadvantage that students were not experiencing a wide variety of common transactions, nor was there an opportunity for the students to acquire practical knowledge of additional areas of specialisation which might be extremely valuable from an employment or interest perspective.<sup>16</sup>

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<sup>12</sup> CF Finlayson, R Hughes, J Webb *Report of the External Review Group Appointed by the Council of Legal Education to Conduct a Review of the Professional Legal Studies Course* (Wellington, 2002), paragraph 64.

<sup>13</sup> Paragraph 67.

<sup>14</sup> Paragraph 65.

<sup>15</sup> Paragraph 67.

<sup>16</sup> Paragraph 68.

The Review stressed that to develop an extensive transactional base would lengthen the course. It was noted that transactional courses run in England and Wales consisted of 34 to 36 weeks of full-time study. However some increase in the transactional base could be achieved within about 15 to 16 weeks of full-time study, or its equivalent.<sup>17</sup>

As a consequence, the Review commented that the course should not involve less than the equivalent of 15 weeks of full-time study.<sup>18</sup> However a key recommendation of the Review was that the course should involve distance learning for large sections of the course, and possibly teaching the course intensively in weekend or evening sessions. This was felt to be desirable not only because of the educational benefits of distance learning, but because it enabled a reduction in the amount of time which new graduates spent away from their places of employment.

The Report concluded that a course could be structured thus –<sup>19</sup>

- (a) Compulsory full time attendance at the IPLS for the existing skills based training could take 8-9 weeks. There is an argument to be made for extending the hours that students attend the course from the present 9.00 a.m. to 3.00 p.m. to 8.30 a.m. to 5.30 p.m (ie., a normal working day).
- (b) Thereafter the students would return to their places of employment (if they had them) but would be required to attend weekend intensive sessions or lectures in the evening on transactional subjects. Such lectures could take place over a seven or eight week period, or even longer if necessary.
- (c) Aspects of the transactional curriculum could also be covered by distance learning.

During 2002 the Council authorised the Institute to investigate the viability of provision of a part-distance course and considerable work was undertaken by the Institute to develop a prototype for a part distance course. Several refinements were undertaken during 2002 and 2003 and the part distance course was offered from January 2004, in addition to the 13 week full time, face to face course. Since that time the distance course has been substantially developed. As noted earlier, the Council also licensed the College of Law (New Zealand) to provide a distance taught course. This course has operated in New Zealand since 1 January 2004.

## ***REVIEW OF THE PROFESSIONAL LEGAL STUDIES COURSE***

To ensure the Professional Legal Studies Course is fit for purpose and responsive to the needs of law graduates, graduate employers and users of legal services, the Council undertook a comprehensive review of the Course in 2013. It had been over a decade since the Professional Legal Studies Course had been reviewed.

The review was conducted by the Right Honourable Sir Andrew Tipping. It was composed of three phases: The first phase called for submissions, which were provided from a wide range of law firms, professional bodies and the respective course providers. After consideration of these written submissions, proposed recommendations were drafted for targeted consultation.

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<sup>17</sup> Paragraph 70.

<sup>18</sup> Paragraph 81.

<sup>19</sup> Paragraph 82.

Taking into account further submissions, supplied by a number of those who supplied a first submission, the final report to the Council was produced.

The review examined the skills required by the Professional Legal Studies Course and Assessment Standards Regulations 2002 and potential skills that could be included in the Regulations, transactional content and substantive content for the Course, types of teaching and learning, method of delivery, skills that may be developed outside the Course, expected attributes, and professional competence of candidates for admission. The review also took a comparative approach to other Commonwealth jurisdictions in the practical legal training field.

With regard to the content of the Professional Legal Studies Course the reviewer concluded that the conventional skills listed in the Professional Legal Studies Course and Assessment Standards Regulations 2002 remained generally adequate for candidates for admission as barristers and solicitors. Some additions to the way the skills were presented were recommended by the reviewer including a more client orientated focus of the “advising” skill 2, a wider scope of the “management” skill 11, and emphasis on effective and accurate communication.

A change of the existing Professional Legal Studies Course structure from a skills based content to a more transactional emphasis of the skills in order to enhance generic and transferrable skills was not recommended. The reviewer noted that there was nothing to persuade him that a move to more transactional content was necessary, and that such a change would fail to recognise the focus and purpose of the skills-based course. It was recommended that the Course should not deliver substantive content which went beyond the substantive content necessary as background to skills, as it was the primary obligation of the Law Schools to teach substantive subjects. The reviewer addressed the need to review the relationship between Legal Ethics as taught at the University and as addressed in the Course.

The reviewer concluded that, while allowing the providers of the Professional Legal Studies Course certain flexibility, the current method of delivery as a mix of face to face and online learning was adequate, and that the tendency to favour online learning could be balanced by enhancing the focus of the Course on good relationships with clients and interpersonal skills. The reviewer noted that teaching transferrable skills required initial instructions followed by practical application by the trainee and needed to be accompanied by individual feedback. The reviewer also noted that the Regulations should emphasise face to face instructions for certain skills where this was necessary.

The reviewer concluded that the requirement to complete an accredited Course was necessary to ensure a consistency of standards, although skills developed outside the Professional Legal Studies Course (e.g. through employment) may overlap with Course skills, and should be seen as of additional benefit.

The reviewer concluded that articles and training contracts as a pre-condition to admission was not desirable in New Zealand as the benefits of such a system were considerably outweighed by the disadvantages of implementation and administration.

The reviewer also proposed that an external exam be conducted by the Council which trainees would be required to pass.

It was pleasing to note that according to the consensus view of the submissions the Professional Legal Studies Course was providing an adequate and satisfactory transition between University and practice, in content and method of delivery, and the Course was evolving well and reflecting the contemporary needs of the trainees.

During 2014, the Council considered all recommendations in the Report and adopted all but the requirement for an external exam which raised feasibility issues for the Council. The following Regulations were amended to take account of the recommendations –

Professional Legal Studies Course Assessment and Standards Regulations 2002

Professional Legal Studies Course Accreditation Regulations 2006

Professional Examinations in Law Regulations 2008.

## **18. THE WORK OF THE INSTITUTE OF PROFESSIONAL LEGAL STUDIES IN 2020**

The Institute of Professional Legal Studies (IPLS) is a committee of the Council of Legal Education. It has financial and reporting responsibilities as a section of the Council's activities. It is maintained as a separate cost and activity centre within the Council's operations.

### **National Director of IPLS**

The National Director of the Institute is Ms Bernadette Wilson.

### **Work of IPLS**

IPLS, as part of the New Zealand Council of Legal Education, offers the Professional Legal Studies Course (PLSC) in Auckland, Hamilton, Wellington, Christchurch and Dunedin. The course is taken following completion of the LLB degree and is a prerequisite for admission to practice as a barrister and solicitor.

IPLS currently offers four versions of its course:

- 13 weeks fulltime onsite (February start in Auckland & Wellington only)
- 13 weeks blended online and face to face course – 10 weeks online and 3 weeks face to face.
- 18 weeks blended online and face to face course – 14 weeks online and 4 four weeks face to face.
- 18 weeks blended online and evening/weekend face to face course – 14 weeks online and 4 weeks face to face delivered on Saturdays and evenings.

In 2020 with the start of the COVID 19 lockdown, all face-to-face blocks and the remaining 3 weeks of the fulltime onsite course were delivered using ZOOM.

The content of the course complies with Regulation 3(2)(b) of the Professional Examinations in Law Regulations 2008. This Regulation lists Professional Conduct and eleven skills. As

required by the Regulation, these skills are taught in the context of legal transactions commonly undertaken by newly admitted lawyers.

### **Funding and Accommodation of IPLS**

The Institute of Professional Legal Studies (IPLS) is required by the Tertiary Education Commission (TEC) to register with the New Zealand Qualifications Authority (NZQA) as a Private Training Establishment (PTE).

IPLS receives Student Achievement Component (SAC) funding from the TEC. Without SAC funding, IPLS would be ineligible for trainee access to student loans and allowances.

The 2020 course fee (including manual) was \$ \$5,486.75 (GST inclusive) for NZ residents and \$6,300.00 (GST inclusive) for international students.

### **IPLS Onsite Premises in 2020**

Auckland	Level 7, 120 Albert Street, Auckland Central 1010
Hamilton	3/210 Collingwood Street Hamilton Lake, Hamilton 3204
Wellington	Urban Hub serviced offices Level 2, 318 Lambton Quay, Wellington 6011
Christchurch	L1, 86 Moorhouse Avenue, Addington, Christchurch 8011
Dunedin	Otago Branch of the New Zealand Law Society 4th Floor, John Wickliffe House, 265 Princes Street, Dunedin 9016

### **Compliance Activities in 2020**

- Ministry of Education Single Data Returns
- TEC financial viability report; TEC Mix of Provision return for funding purposes
- NZQA Annual Registration Fee Return Form; NZQA Annual Return Statutory Declaration; and NZQA Annual Student Fee Protection Audit report
- NZCLE Annual Report; NZCLE Quarterly Reports; NZCLE Legal Compliance Report; and Marketing Plan
- NZQA Pastoral Care Attestation;
- Student Fee Protection “Fee Protect” onsite audit – Ernst and Young
- Financial Audit – Audit NZ

### **Liaison with Profession**

- IPLS meets with members of the profession to discuss their needs and expectations of new graduates entering the profession and expectations while their law clerks are studying our course
- IPLS works closely with members of the profession to deliver events at universities
- IPLS consults with members of the profession to review course content to ensure our materials remain current and relevant

- IPLS engages members of the profession to serve as external moderators.

### **Trainee evaluations**

IPLS operates an anonymous online survey to evaluate trainee learning experiences. Combined with other information such as grade outcomes, feedback is considered for course improvements, to monitor adjustments, and to guide professional development.

### **Equal Employment Opportunities Policy**

The Council has an equal employment opportunity (“EEO”) policy and programme that extends to IPLS. In 2008, IPLS set up new contracts of employment that are equitable across all instructors and allows greater flexibility of work hours. Instructors opting for a casual contract can work at a distance and are paid per trainee.

This arrangement allows instructors to work hours suitable to their needs enabling a work life balance. For example, instructors with children can work around child care needs. This is also good for the organisation of work, as trainees working online often work in evenings and weekends, so if instructors are working similar hours they can provide greater access to timely feedback and assistance to their trainees.

Additionally, the flexible contracts have given IPLS opportunity to employ instructors who are in practice on a part time basis. This has widened the pool of available instructors. There were no outstanding EEO related issues in 2020.

### Course Enrolments in 2020

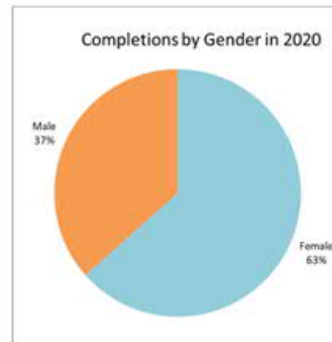
Course enrolments in 2020 was 15% ahead of enrolments in 2019.

### Trainee profile

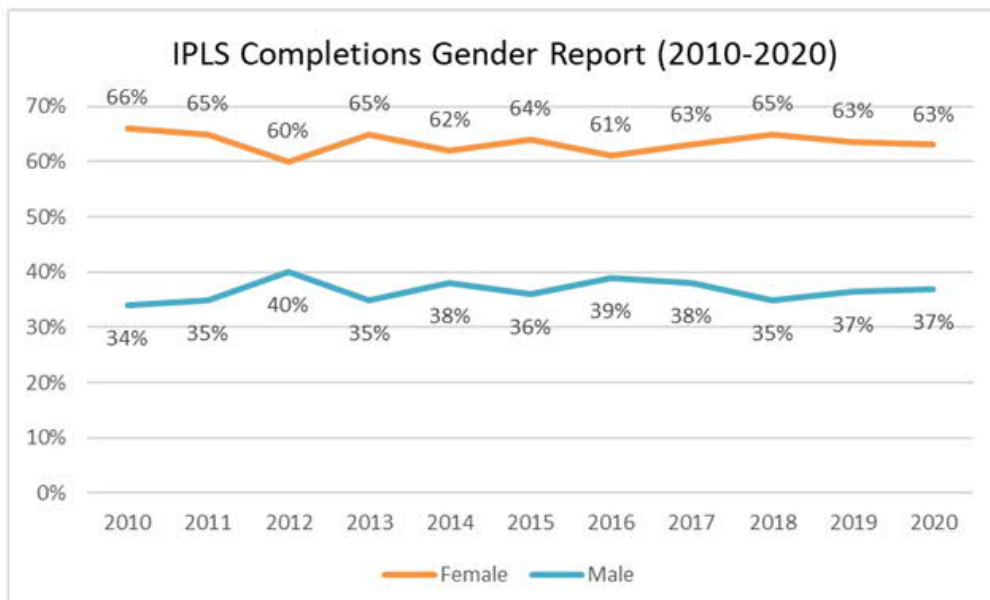
#### Gender

Of the total number of completions in 2020, 62% (2018: 65%) were female and 38% (2018: 35%) were male.

Female	63%
Male	37%
<b>Total</b>	<b>100%</b>



The graph below displays the percentage of male and female trainees that completed the IPLS Profs course each year, from 2010 to 2020. The 2020 gender proportion remains relatively consistent with previous years.





## 19. **EQUAL EMPLOYMENT OPPORTUNITIES POLICY AND PROGRAMME**

In 2005 the Council amended its EEO Policy to accord with current best practice. The Council used as guidance the State Services Commission 'Public Services Commitment to EEO to 2010' policy.

A copy of the Policy is reproduced below.

### **CLE Policy on Equal Employment Opportunities**

1. The Council of Legal Education endorses the principles and practice of Equal Employment Opportunities (EEO) and is committed to ensuring equality of opportunity for all potential and current employees, focusing on merit.
2. In accordance with legislation and EEO principles, the Council recruits, promotes and evaluates all employees without unfair discrimination, (including but not limited to discrimination on grounds of sex, marital status, religious or ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status, sexual orientation) save where any such characteristic is relevant to the qualifications for a particular employment position and is lawful discrimination.
3. The Council is committed, through this Policy, to recognising the aims and aspirations of Maori and the need for greater involvement of Maori as employees of the Council.
4. This Policy will apply to all aspects of employee relations, policies, procedures and practices. The Council's human resource policies, practices and procedures will seek to identify and eliminate any direct, indirect, or institutional, discriminatory barriers to the ability of individual employees to be recognised, rewarded, advanced or supported on their merits.
5. This Policy is a dynamic document and all policies, procedures and practices of the Council, and this Policy itself, will be regularly reviewed to ensure continuing compliance with best EEO employment practice.
6. Consultation and participation are good employment practice and the Council will ensure that employees are consulted in the ongoing development and implementation of this Policy and the Council's EEO Programme.

The policy and EEO programme were adhered to in 2020, with no outstanding issues.

## 20. **HUMAN RESOURCES**

The NZCLE sees Human Resources as an essential part of its core function in order to ensure the highest quality work is carried out at all levels of the organisation. The HR strategy includes recruitment, retention and employee engagement plans to enable a positive work environment which encourages employee participation, professional development and job satisfactions. The HR contribution continues to evolve and in 2020 the main focus was on health and safety and wellbeing, change management, employee relations and professional development.

## 21. **HEALTH AND SAFETY AT WORK**

The Council has developed a robust health and safety policy and procedures in line with the Health and Safety at Work Act 2015 and these are reviewed to ensure compliance at all times. Premises where the Council has responsibility for employees are checked for the purposes of health and safety and procedures are in place to report on the key responsibilities outlined in the policy.

The Council was required to vacate the premises it leased from the law Society at 26 Waring Taylor Street Wellington this year after an engineering report considered the building unsafe in the event of an earthquake. The building was therefore unfit for occupancy for the purposes of work. Council employees were required to work remotely and make alternative arrangements for work, but this resulted in minimal disruption to the work of the Council.

An Employee Wellbeing policy (EAP) is in place for employees and all workers are encouraged to access personal support at any time.

The Council receives Health and Safety at Work reports at its Council meetings and reviews its risk mitigation strategy to address any compliance issues which may be identified from the reports. The primary duties of the Council are detailed in the health and safety policy and an implementation plan is in place for the provision and maintenance of a work environment that is without risk to health and safety.

The Health and Safety at Work Act 2015 required the Council to create a health and safety policy setting out its obligations as a “PCBU” (a person conducting a business or undertaking) under the Act.

The Council is required to ensure so far as “reasonably practicable” the health and safety of workers while at work with the Council and exercise due diligence in order that the Council complies with its obligations. Workers also have an obligation to take reasonable care of their own health and safety while at work and systems and procedures have been introduced to ensure all employees of the Council are aware of these obligations.

The Council considers a Health and Safety at Work report at each Council meeting. This ensures the NZCLE Health and Safety policy and procedures continue to be in line with the Health and Safety at Work Act 2015.

The Council has implemented a robust HSW policy, and procedures are in place to address and report on key responsibilities outlined in the policy. These responsibilities are broadly related to:

- Incidents and accidents and notified events
- Prevention of injury
- Work and non-work related activity causing injury or incapacity
- Risk and hazard
- Physical environment, psychological and stress related issues

The Council has developed a risk mitigation strategy to ensure all compliance issues are identified and addressed.

The Council reviewed its policies and procedures related to sexual harassment, workplace bullying, stress and wellbeing and has provided the opportunity for employees to access professional employee support services where needed. The policy and procedures acknowledge the importance of employee wellbeing and outlines the Council's commitment to ensuring a healthy workplace culture.

The Council operated from various temporary premises in 2020 due to the building it previously occupied being deemed earthquake prone. During the Covid-19 lockdown in 2020, staff worked from their own premises and the Council has developed a good and effective system of remote working and communication.

## **22. REPORTING REQUIREMENTS**

In 2020 the Council met its on-going financial requirements and reporting requirements under the Crown Entities Act 2004 as if it was a Crown entity by having its financial statements, including performance measures, audited by Audit New Zealand, on behalf of the Controller and Auditor General, and by submitting its twenty-ninth report to the Minister of Justice in respect of the approved reporting period of 1 January 2019 to 31 December 2019.

## **23. GOVERNING LEGISLATION**

The Council's governing legislation is the Lawyers and Conveyancers Act 2006 (Part 8), and the Council operates under the following Council Regulations –

- the Professional Examinations in Law Regulations 2008;
- the Conduct of the New Zealand Law and Practice Examination Regulations 1996;
- the Professional Legal Studies Course Accreditation Regulations 2006;
- the Professional Legal Studies Course Assessment and Standards Regulations 2002;
- the Professional Legal Studies Course Regulations 2004;
- the Trans-Tasman Mutual Recognition Regulations 2008.

The first set of Regulations update the earlier Professional Examinations in Law Regulations 1987, to take account of the Council's expanded role under the Lawyers and Conveyancers Act 2006.

The last set of Regulations were made to give effect to the Council's role under the 2006 Act in relation to recognition of qualifications for the purposes of the principles set out in section 15 of the Trans-Tasman Mutual Recognition Act 1996.

## **24. FUNDING**

The Council has continued to maintain, as largely self-funding activities, its functions in relation to the New Zealand Law and Practice Examination, and the assessment of applications from law graduates and practitioners for entry into the New Zealand profession. Funding was

also received pursuant to the statutory levy imposed on practitioners under the Lawyers and Conveyancers Act 2006.

## 25. COUNCIL COMMITTEES

The following main Committees operated during this year –

### **EXECUTIVE COMMITTEE**

The Chair of the Council (Chair)  
Professor M Hickford  
The Chief Executive

#### *Key Role*

To deal with Council and Institute business arising between Council meetings, or which does not require referral to the full Council.

### **CREDITS COMMITTEE**

The Chair of the Council  
The Right Honourable Sir Andrew Tipping  
Professor M Henaghan (Auckland University)  
Professor Angelo (Victoria University of Wellington)  
The Chief Executive

#### *Key Role*

To review recommendations relating to applications for assessment, and to advise on matters relating to overseas qualifications.

**STATEMENT OF NEW ZEALAND COUNCIL OF LEGAL EDUCATION  
STAFF RESOURCES FOR YEAR ENDED 2020**

<b>The Council</b>	<b>Full time</b>	<b>Part-Time</b>
Chief Executive .....	1	
EA to CEO and NZLPE Administrator .....	1	
Project Manager .....	1	
Overseas Admission Administrators .....	2	
HR and Health and Safety Manager .....	1	
Credits Consultant .....	1	
Academic Adviser Overseas Admissions .....	1	
Private Investigator .....	1	
NZLPE Academic Co-ordinator and Academic Adviser .....	2	
Policy Advisers .....	4	
University Moderators .....	6	
New Zealand Law and Practice Examiners .....	5	
New Zealand Law and Practice Examination Moderator/Assessor .....	1	

## THE INSTITUTE OF PROFESSIONAL LEGAL STUDIES

<b>Role</b>	<b>Full-time</b>	<b>Part-time or Casual</b>
National Director .....	1	
Communications Manager .....	1	
Finance Manager .....	1	
Enrolments Manager .....	1	
Receptionist/Office Administrator .....	1	
Marketing Assistant .....	1	
IT Manager .....		1 (contract casual)
Instructors .....		16 (contract casual)

**New Zealand Council of Legal Education**  
**Statement of Service Performance**  
**For the Year Ended 31 December 2020**

1 This Statement of Service Performance sets out the performance of the New Zealand Council of Legal Education (“**Council**”) against the key outputs arising from its functions, as set out in the Council’s Statement of Performance Expectations for the 2020 financial year (“**SPE**”).

2 The Statement forms part of the Council’s Annual Report.

**AUTHORITY**

3 The Council is an independent statutory body with continued existence established under the Lawyers and Conveyancers Act 2006 (“**the Act**”).

4 Under section 273(5) of the Act, sections 153 to 156 of the Crown Entities Act 2004 apply to the Council as if it were a Crown entity within the meaning of the Crown Entities Act 2004.

5 Accordingly this Statement of Service Performance is prepared by the Council in accordance with the requirements of the Crown Entities Act 2004.

**COUNCIL’S FUNCTIONS**

6 Under s 274 of the Act the Council has the following functions:

- (a) subject to this Act, to set the qualification and educational requirements for candidates for admission as barristers and solicitors of the High Court:
- (b) subject to this Act, to define, prescribe, and approve, from time to time and as it thinks fit, the courses of study required to be undertaken by candidates for admission as barristers and solicitors:
- (c) to arrange for the delivery of the courses of study referred to in paragraph (b) or to provide those courses where necessary:
- (d) to deliver courses of study in practical legal training for candidates for admission as barristers and solicitors or to license other persons to deliver those courses:
- (e) to arrange for the courses of study referred to in paragraph (b) to be monitored and assessed:
- (f) to prescribe, in relation to the admission of barristers and solicitors, mechanisms and criteria for —
  - (i) the recognition of foreign qualifications, registration, and experience; and
  - (ii) the recognition of qualifications for the purposes of the principle set out in section 15 of the Trans-Tasman Mutual Recognition Act 1997:

- (g) to tender advice to the council of any university on any matter relating to legal education:
- (h) to inquire into, consider, and report to the Minister on any matter relating to legal education as the Minister may, from time to time, require.

### **OUTPUT CLASS**

- 7 The Council has one reportable output class: the regulation of pre-admission legal education in New Zealand.

The three key services involved are:

- The assessment of overseas law qualifications;
  - The provision of a bi-annual New Zealand Law and Practice Examination (“NZLPE”) for overseas law graduates; and
  - The provision of practical legal training for candidates for admission through the Council’s provider arm, the Institute of Professional Legal Studies (“IPLS”).
- 8 The Council’s financial statements set out the revenue earned and expenses incurred for the reportable output.

### **KEY SERVICES 1 AND 2: ASSESSMENT OF OVERSEAS LAW QUALIFICATIONS AND PROVISION OF NZLPE**

- 9 These services refer to the requirement of those who would like to practise law in New Zealand who hold a law degree or a practising certificate from a foreign jurisdiction. This class is intended to ensure that the highest standards of competence are maintained for persons who wish to practise law in New Zealand and do not hold a domestic qualification.

Performance in these services was measured by the extent to which the Council assessed overseas qualifications, and delivered the twice yearly examination.



SERVICE	QUANTITY		QUALITY		TIMELINESS	
	Forecast	Actual	Forecast	Actual	Forecast	Actual
<b>Key Service 1 - Assessment of Overseas Qualifications</b>						
Administration and consideration of applications from overseas law graduates for assessment of their qualifications for the purpose of admission to the profession in New Zealand.	The Council estimated that 107 applications would be received. <sup>1</sup>	The Council received 99 applications.	For all applications the Council will proceed through the designated process as prescribed by the Professional Examinations in Law Regulations 2008.	The Council administered all applications pursuant to the Regulations.	All applications will be determined within 16 working weeks.	100% of successful applicants were provided with determinations on their applications within 16 working weeks. <sup>2</sup>

<sup>1</sup> The number was lower than anticipated owing to the Covid-19 pandemic and restrictions on movement and travel. Up until end of March 2020 numbers were tracking as per 2019 but decreased after that event.

<sup>2</sup> Complete applications does not include applications which have inadequate documentation or are delayed by overseas verification issues. This occurred despite disruptions resulting from the Covid-19 pandemic lockdowns.

SERVICE	QUANTITY		QUALITY		TIMELINESS	
	Forecast	Actual	Forecast	Actual	Forecast	Actual
<b>Key Service 2 - Provision of Bi-annual Examination</b>						
Setting and administering a six-part examination in New Zealand law and practice twice a year for those overseas applicants who are required to take some or all of its parts for the purpose of admission to the profession in New Zealand.	Approximately 200 exam parts were anticipated to be sat at each exam.	267 exam parts were sat at the February 2020 exam, and 200 exam parts were sat at the November 2020 exam. <sup>3</sup>	Hold an examination twice yearly in accordance with the Conduct of the New Zealand Law and Practice Examination Regulations 1996. Examination papers are moderated by an independent assessor.  Examination is to be fair, secure, rigorous, accurate and up-to-date	Standard 100% per achieved.	Examination results are to be released within 50 working days of the exam.	The February Examination results were released within 61 days after the exam. <sup>4</sup>  The November Examination results were released within 50 working days of the exam.

<sup>3</sup> Numbers of applicants applying to have overseas qualifications assessed has progressively increased since 2016 and this has been reflected in the higher number of parts sat in the exam. The November sitting number decreased significantly, because of the Covid-19 pandemic and the subsequent lockdowns. In addition closure of the overseas venue in the United Kingdom meant that the overseas sitting could not take place.

<sup>4</sup> The Covid-19 lockdown delayed the release of the results of the February exam.

### **KEY SERVICE 3: PROVISION OF PRACTICAL LEGAL TRAINING THROUGH IPLS**

- 10 The Council regulates the provision of professional legal education prior to admission as a barrister and solicitor for persons in New Zealand. This role includes the provision of a professional legal studies course (“PLSC”) through the Council’s provider arm, the Institute of Professional Legal Studies (“IPLS”).
- 11 The key service is intended to ensure that the highest standards of education are maintained in the provision of professional legal studies for persons who wish to be admitted to the bar.
- 12 Performance of this key service was assessed by the extent to which the Council monitored PLSC providers, re-accredited PLSC providers and monitored IPLS with regulations and in a manner which complied with the forecasts below for timeliness and quality.

SERVICE	QUANTITY		QUALITY		TIMELINES	
	Forecast	Actual	Forecast	Actual	Forecast	Actual
<b>Key service 3 – Provision of Practical Legal Training through IPLS</b>						
Delivering a professional legal studies course through the Council's provider arm, the Institute of Professional Legal Studies.	<p>The Council estimated the following:</p> <p>416 anticipated trainees;</p> <p>1 monitor appointed to review each year that is not a re-accreditation year;</p> <p>12 monthly financial statements to be submitted by IPLS;</p> <p>4 quarterly management reports to be submitted by IPLS;</p> <p>and Completion rates -</p> <p>All students 95%</p> <p>Maori 95%</p> <p>Pasifika 95%</p>	<p>The Council's actual number of trainees was 544 (higher than anticipated)<sup>5</sup></p> <p>Monitor was appointed.</p> <p>The Council received 12 financial statements and 4 quarterly management reports from IPLS.</p> <p>99%</p> <p>94%</p> <p>100%</p>	<p>The professional Legal Studies Course at IPLS is run in accordance with the Professional Legal Studies Course Accreditation Regulations 2006.<sup>6</sup></p>	<p>Standard 100% per cent achieved.</p>	<p>Quarterly reports submitted: March, June, September and December.</p> <p>Financial statements submitted by the end of the month following submission of reports.</p>	<p>All reports were submitted by the due date.</p> <p>The financial statements were all submitted by the end of the month following the submission of the reports.</p> <p>Standard 100% achieved.</p>

<sup>5</sup> Trainee numbers increased significantly during 2020. This was because of the Covid-19 pandemic which imposed travel and movement restrictions meaning that there was a larger cohort of trainees wanting to complete the Course. In addition the Council, in response to the Covid-19 pandemic, licensed the providers to teach wholly online courses. This was highly appealing to a large number of trainees because of the flexibility that was generated. Also, as a wholly online delivered vehicle, the Course became accessible to a number of trainees who would not have been able to undertake the Course because of geographical or other considerations.

<sup>6</sup> As per the Regulations a re-accreditation exercise is undertaken by the Council on IPLS every 3 years. The reported information is based on the report completed in 2020.