

25 March 2021

President's Report – AGM 25 March 2021

The last twelve months have been incredibly busy for the Tasmanian Bar and many members also experienced unique challenges due to Covid-19. The Bar Council has regularly worked to promote the strength, growth and reputation of the independent bar. As I conclude my term as President, I am pleased to provide this report for the Annual General Meeting as I hand over to a newly elected President.

I wish to thank each member of Bar Council and recognise the voluntary assistance they have provided for the benefit of all members. I also formally record my thanks to:

Tom Cox, for representing the Tasmanian Bar on the Law Council of Australia and serving as Vice-President.

Kate Cuthbertson, for serving as Secretary and Treasurer and taking on the significant work, the positions involve.

Andrew Walker, for assisting me with preparation of documents required to implement the initiatives of the Bar.

Jessica Sawyer, for her contribution to the significant project of upgrading the website and assisting with recent submissions relating to criminal law trials.

Patrick O'Halloran, for being our representative on the Burnie Court redevelopment Working Group and Rules and Regulations Working Group (Mag Court Criminal and Gen Div. Legislation Project), established by the Department of Justice. Patrick has also assisted with preparation of recent submission relating to criminal law trials.

Mary Anne Ryan, for representing the Tasmanian Bar on the ABA Ethics Committee and participating in our committee for sexual harassment reform. Mary Anne was also involved in the working group convened for the Intermediaries Scheme that has been introduced.

I also wish to acknowledge and thank Philip Jackson SC, for accepting my nomination to the Australian Bar Review, editorial committee. I thank Michael Trezise for participating in our sexual harassment reform committee.

As President, I have served as a Director of the ABA and participated in a number of committees including, Justice Department Stakeholder Delivery committee, LPBT Sexual Harassment Working Group, TASLAF, Magistrates Court Criminal and General Division Reform Project – Advisory Group, Diversity and Inclusion Committee of ABA, ABA Diversity and Inclusion Committee, Professional

Development group of Judicial College on Cultural Diversity. Finally, I regularly engaged in consultation with the Department of Justice, the Attorney General, the Courts and Legal Aid.

In December last year, I reported to members and for convenience I **attach** a copy of that report to address some of the work of Bar Council during my second term as President. Since December 2020, Bar Council continued to be busy and participate in many activities consistent with the Tasmanian Bar's objectives.

TasCAT

The Bar Council has made a submission in relation to the Tasmanian Civil and Administrative (Amendment) Bill 2020. A copy of the submission is available to be read on the website.

Judicial conduct

I am pleased to report that the establishment of a Judicial Conduct Protocol which I initiated last year has been finalised. A copy of the protocol is available to be read on the website.

I encourage any members who have concerns or complaints to use the Protocol as it has worked very well and been useful in recent times.

The Protocol was utilised to satisfactory effect to raise concerns about the conduct of a Judge at the end of January 2021.

CPD points

As we approach the end of the CPD year, I remind you of the access members now have to the Victorian Bar's resources. We all need to ensure that we attain our 10 points for the year and you may find the Victorian Bar's resources available to you at no charge very helpful. If you wish to access the resources, please contact admin@tasbar.com.au and request the instruction sheet which explains how to make the resources available to you as you need to set up a Victorian Bar login.

Criminal Code (Judge alone) Bill 2020

Thank you to Patrick O'Halloran, Jessica Sawyer and Cameron Scott who provided input on the Tasmanian Bar's submission about this Bill. The submission on the Bill can be viewed on the website.

Sexual Harassment Working Group

As members may know, last year Bar Council established a committee to work on initiatives to curb sexual harassment and discrimination. The committee members included myself, Andrew Walker, Mary Anne Ryan and Michael Trezise.

The committee had already made some progress on the necessary work when the Legal Profession Board of Tasmania established an all of profession working group. The first meeting of the LPBT's working group was held on 11 February 2021 and was attended by all parts of the profession, including representatives from the Courts.

It was good to hear about the work being done across the profession and there was consensus that cultural change is very much needed to curb conscious and subconscious harassment, discrimination and bullying.

You can read the letter sent to the LPBT working group on the website.

New Textbook - Fatal Accident's claims

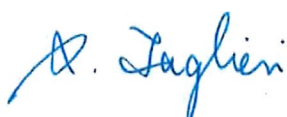
Craig Hobbs, a member of the Tasmanian Bar, has achieved the honour in having a text book entitled *Wrongful Death Claims: A Practical Guide* published by LexisNexis. Craig has long been renowned as an expert on the subject and it is fantastic that one of our members has been recognised in this way. The preliminary pages of the text book include the following commentaries:

- Foreword by the former High Court Chief Justice, The Honourable Robert French AC;
- Preface by Dr Paul Vout SC, Co-editor, Commonwealth Law Reports;
- Review commentary by Professor Joachim Dietrich, Bond University, Editor, Torts Law Journal;
- Review commentary by James Goudkamp, Professor, Law of Obligations, Oxford University;
- Review commentary by Michael Kent QC, London Bar; and
- Author's Note and Acknowledgements. The Author's Note details many jurisdictions including all jurisdictions in Australia, Ireland, Northern Ireland, Scotland and most if not all of the former British colonies in the African continent, Asia and South East Asia, Caribbean, NZ, Canada (with the exception of Quebec) and many of the States comprising the USA, all of which have followed substantially the *Fatal Accidents Act 1846* (UK) (Lord Campbell's Act).

The book was written between March and July last year during lockdown in Tasmania – a positive emanating from the pandemic – and published in late December. The book is available from LexisNexis online.

The Tasmanian Bar Association is a small organisation and depends on the generosity of members of Malthouse Chambers, who allow Tamara and Eril to provide administrative support to Bar Council. I wish to recognise and send enormous thanks to Tamar and Eril for the invaluable support they give.

I have found the Presidency of the Tasmanian Bar to be rewarding and am proud of the initiatives, progress and successes achieved by the Bar Council in the last two years. I wish the next President and members of Bar Council every success and hope that the excellent work of the past continues.



Sandra Taglieri SC
President

PRESIDENT'S REPORT TO MEMBERS – 21.12.2020

Dear members,

It has been said many times, “2020 has been a hell of a year”! Despite this Tasmanian barristers have been relatively fortunate. A fair proportion have been able to continue practicing largely unaffected apart from having to adapt to appearances by video-conference and phone. For our criminal barristers it has been harder but the grapevine tells me that largely we have survived and thrived. All this is a credit to the resilience and capacity of the Tasmanian Bar.

As the year draws to an end, it is an opportune time to extend thanks to all members of Bar Council for their voluntary work during the year. A lot of important work has been done, supporting all members, contributing to legislative projects and the administration of justice more broadly. It is also worth noting some of our work since the March 2020 Annual General Meeting.

1. Website upgrade

Our improved and modern website was completed and launched on 10 September 2020. For those interested in viewing the launch event, somewhat belatedly there is a short video-clip available on the “News” tab of our website.

2. Public Statements Policy

At its June 2020 Council meeting, a public statement policy was adopted. The policy will ensure public comment is specifically limited to subjects that are within the remit of the Tasmanian Bar and given with proper authority.

We are grateful to the Victorian Bar for allowing us to adapt their policy to fit the Tasmanian context and our needs.

3. Stakeholder representation and Committees

Members of Bar Council regularly participate in consultation across the justice system. Throughout the year and in the year ahead the Bar will be involved in the following –

Australian Bar Association

Law Council of Australia

Magistrates Court Criminal and General Division
Reform Project Advisory Group

ABA (Ethics Committee)

ABA (Diversity & Inclusion Committee)

Burnie Magistrates Court Redevelopment Project

Sexual Harassment and Conduct Committee

LPBT Sexual Harassment Working Group

Routine consultation has continued with the Attorney General, the Justice Department and the Courts.

4. Diversity & Inclusion at the Tasmanian Bar

The Bar Council has adopted Diversity and Inclusion Principles. These are published on our website under the “Useful Resources” Link. They are intended to provide guidance about and improve diversity and inclusion at the Bar.

The Financial Support Fund has been established to promote growth of the independent bar, including diversity and inclusion. A call for Expressions of Interest has now been made following launch of the initiative by the Attorney General on 10 September 2020. This initiative was publicised via social media also and received many favourable comments.

Expressions of interest for interest free loans to new Barristers are open until 31 December 2020 and the Bar Council will determine who succeeds in securing a loan(s) in January. Periodically other calls for Expressions of Interest will be made. The website has further details: tasbar.com.au/resources-links/ and **Barrister Financial Support – [Rules](#) and [Policy](#)**.

5. Covid-19 update

We have negotiated access to free counselling support to members through the Victorian Bar’s BarCare initiative. Further, through the Australian Bar Association, financial advice was secured to assist members.

6. Legislative consultations

Some of the consultations of note have been:

Tasmanian Civil and Administrative Tribunal Bill 2020

Sentencing Amendment (Dangerous Criminals & High Risk offenders) 2020

Uniform Barristers Conduct Rules – Rule 123 (Prohibiting sexual harassment and discrimination) – ABA proposal to amend

Workers Compensation & Rehabilitation Act (Presumptive disease)

Justice Miscellaneous (Court backlog & related) Bill 2020

Criminal Code Amendment (Judge Alone Trials) Bill 2020 Consult - Comments by 12 February 2021. In relation to this last bill, an email was recently sent to members who have identified that they take criminal briefs. I encourage you to provide feedback to me or a member of Bar Council by mid to late January at the latest, so that your comments and feedback can be considered for the submission to be made on behalf of the Tasmanian Bar. Please note all members are welcome to comment or provide feedback to us.

7. Judicial Protocol

The Bar Council is working on developing a written protocol with the Chief Justice of the Supreme Court of Tasmania and the Chief Magistrate, to govern the process for raising grievances or complaints about conduct of judges and magistrates. The Protocol is intended to largely mirror the protocol entered into between the ABA and the heads of Federal Jurisdiction. The Law Society of Tasmania has also been invited to be a signatory to the Protocol. Further information about this will be made available in 2021.

8. Continuing Professional Development

Covid-19 presented challenges for some members relating to the need to use video-conferencing and other technologies for appearances. A CPD seminar (virtual) was undertaken in collaboration with the Magistrates Court and Justice Department to provide education and training.

Arrangements have been made with the Victorian Bar to permit our members to access their online resources. This will provide alternative options to the LST CPD program and offers Barrister specific topics/training to enable members to meet the 10 point requirement for their Practising Certificates. This service is free. I refer you to the website for details, under the "Useful Resources" link.

I extend my best wishes to you all for Christmas and hope that you have a relaxing break.

SANDRA TAGLIERI SC

PRESIDENT