

Response to Grounds

4. Ground 1: The Defendant's Decision was made without jurisdiction and in breach of the Legal Profession Uniform Law (NSW)
- 4.1 Pursuant to s 45(1) of the Uniform Law, the Council, as the designated local regulatory authority pursuant to ss 3 and 11(1) of the Application Act, may grant or renew an Australian practising certificate.
- 4.2 Pursuant to s 45(2) of the Uniform Law, the Council "must not" grant or renew an Australian practising certificate if it considers that the applicant is not a fit and proper person to hold the certificate, subject to s 45(4) of the Uniform Law.
- 4.3 Section 45(3) of the Uniform Law states that in considering whether a person is or is not a fit and proper person to hold an Australian practising certificate, the designated local regulatory authority "may" have regard to the matters specified in the Uniform Rules for the purposes of s 45.
- 4.4 Section 45(4) of the Uniform Law provides that a person may be considered a fit and proper person to hold an Australian practising certificate even though the person does not satisfy the requirements for a matter to which the designated local regulatory authority may have regard, if it is satisfied that this action is warranted in the circumstances.
- 4.5 Section 13(1) of the *Legal Profession Uniform General Rules 2015* (NSW) provides that "for the purposes of section 45 of the Uniform Law, in considering whether an applicant is or is not a fit and proper person to hold an Australian practising certificate, the designated local regulatory authority may have regard to any of the following matters—
 - (a) whether the applicant is currently of good fame and character,
 - ...
 - (m) whether the applicant is currently unable to carry out satisfactorily the inherent requirements of practice as an Australian legal practitioner,
 - (n) whether the applicant has provided incorrect or misleading information in relation to any application for an Australian practising certificate under an Australian law relating to the legal profession ..."
- 4.6 There is no statutory requirement for:
 - (a) the Council to give consideration to Chapter 5 of the Uniform Law when making a decision pursuant to s 45 of the Uniform Law; or

- (b) a referral to the NSW Civil and Administrative Tribunal or a finding of professional misconduct or unsatisfactory professional conduct to be made before the Council can make a decision pursuant to s 45 of the Uniform Law.
- 4.7 The Plaintiff has a right of appeal by way of a merits review of the Decision pursuant to s 100 of the Uniform Law.
- 4.8 This Ground is not made out.
- 5. Ground 2: The Defendant's Decisions constituted a denial of procedural fairness and natural justice
- 5.1 The Law Society and the Council say that procedural fairness and natural justice were provided to the Plaintiff.
- 5.2 By letter dated 17 July 2024 from the Law Society, the Plaintiff was asked to provide, by 9 August 2024, submissions in respect of the alleged conduct specified in the letter.
- 5.3 The Plaintiff provided a response to the letter dated 17 July 2024 and the alleged conduct by email dated 14 August 2024, attaching a letter dated 13 August 2024.
- 5.4 On 15 August 2024, the Plaintiff and Ms Marie Odtojan sent a joint email and letter to the Law Society and others from the account <artemb7@gmail.com>.
- 5.5 On 12 February 2025, the Plaintiff and Ms Odtojan sent a joint email to the Law Society and others from the account <admin@odtojanbryllawyers.com.au> in respect of their practising certificates.
- 5.6 By letter dated 24 March 2025, the Law Society:
 - (a) drew the Plaintiff's attention to the fact that in addition to the matters raised within the letter of 17 July 2024, the Council would have regard to material contained on his social media accounts and the website in the name of the law practice 'Odtojan Bryl Lawyers'; and
 - (b) provided the Plaintiff with a further opportunity to provide, by 17 April 2025, any submissions in relation to the concerns raised the regarding Odtojan Bryl Lawyers' website and LinkedIn account or his LinkedIn account, and any additional submissions he may wish to make in relation to the issues arising from the Court of Appeal referrals.
- 5.7 No response to the letter of 24 March 2025 was received by 17 April 2025.

- 5.8 On 15 May 2025, after the expiry of the period for submissions, the Plaintiff and Ms Odtojan sent a joint email to the Law Society and others from the account <admin@odtojanbryllawyers.com.au> requesting, inter alia, copies of the social media posts and amended letter referred to in the letter of 24 March 2025. The email further stated that the Plaintiff and Ms Odtojan reserved their right to respond to the balance of the letter dated 24 March 2025 after receipt of a response to matters raised in that email.
- 5.9 On 21 May 2025, the Law Society sent an email to the Plaintiff and Mr Bryl responding to the email of 15 May 2025. The Law Society noted that the reference to an "amended letter" was a typographical error and that the reference should have been to the corrections of the two inadvertent errors that had been explained in previous correspondence. It noted that it would revert in due course regarding the outcome of the Plaintiff and Mr Bryl's applications for renewal of the practising certificate for the practising certificate year ending 30 June 2025.
- 5.10 The Law Society and the Council otherwise rely upon paragraphs [4.1] to [4.6] of this Response.
- 5.11 This Ground is not made out.

6. Ground 3: The Section 45 Decision was an abuse of power and misuse of regulatory discretion

- 6.1 The Law Society and the Council say that the Council appropriately followed the proper statutory process as provided for in the Uniform Law.
- 6.2 The Law Society and the Council otherwise rely upon paragraphs [4.1] to [4.6] of this Response.
- 6.3 This Ground is not made out.

7. Ground 4: The Defendant's conduct amounts to a serious interference with the administration of justice and the statutory disciplinary framework

- 7.1 To the extent that Ground 4 alleges an error of law on the basis of legal unreasonableness, the Law Society and the Council say that the Council appropriately followed the proper statutory process as provided for in the Uniform Law.

7.2 Law Society and the Council otherwise rely upon paragraphs [4.1] to [4.6] of this Response.

7.3 This Ground is not made out.

8. Ground 5: The Decision was made in bad faith and constituted a retaliatory act against the Plaintiff and Ms Odtojan, who are witnesses, victims and whistleblowers in relation to matters stemming from the reports made by Ms Odtojan to the OLSC and Law Society of NSW PSD from 2016

8.1 To the extent that Ground 5 alleges an error of law on the basis of legal unreasonableness or lack of evidence, or a denial of procedural fairness, the Law Society and the Council say that the Council appropriately followed the proper statutory process as provided for in the Uniform Law.

8.2 This Ground is not made out.

9. Ground 6: Apprehended Bias and Denial of an Impartial Decision-Maker

9.1 The Law Society and the Council say that the Council appropriately followed the proper statutory process as provided for in the Uniform Law.

9.2 The Law Society and the Council otherwise rely upon paragraphs [4.1] to [4.6] of this Response.

9.3 This Ground is not made out.

10. Ground 7: Consequences of the Decisions

10.1 The Law Society and the Council say that Ground 7 does not disclose an independent basis for judicial review.

10.2 The Decision was made based on the material considered by the Council in accordance with the Uniform Law.

10.3 The Law Society and the Council rely upon paragraphs [4.1] to [4.6] of this Response.

10.4 This Ground is not made out.

11. Ground 8: Failure to Consider Relevant Matters

- 11.1 The Law Society and the Council say that the Council appropriately followed the proper statutory process as provided for in the Uniform Law.
- 11.2 The Law Society and the Council rely upon paragraphs [4.1] to [4.6] of this Response.
- 11.3 This Ground is not made out.

12. Ground 9: Legal Unreasonableness

- 12.1 The Law Society and the Council say that the Council appropriately followed the proper statutory process as provided for in the Uniform Law.
- 12.2 The Law Society and the Council rely upon paragraphs [4.1] to [4.6] of this Response.
- 12.3 This Ground is not made out.

13. Ground 10: No Reasonable Decision-Maker Could Have Concluded Unfitness

- 13.1 The Law Society and the Council say that Ground 10 does not disclose an independent ground of judicial review to that alleged in Ground 9.
- 13.2 The Decision was made based on the material considered by the Council in accordance with the Uniform Law.
- 13.3 The Law Society and the Council rely upon paragraphs [4.1] to [4.6] of this Response.
- 13.4 This Ground is not made out.

14. Ground 11: Public Interest Considerations

- 14.1 The Law Society and the Council say that Ground 11 does not disclose an independent ground of judicial review.
- 14.2 The Law Society and the Council say that the Council appropriately followed the proper statutory process as provided for in the Uniform Law.
- 14.3 The Law Society and the Council rely upon paragraphs [4.1] to [4.6] of this Response.
- 14.4 This Ground is not made out.

15. Ground 12: Error on the Face of the Record and Jurisdictional Error

15.1 The Law Society and the Council say there has been no error of law on the face of the record or jurisdictional error.

15.2 The Law Society and the Council rely upon paragraphs [4.1] to [4.6] and [5.1] to [5.11] of this Response.

15.3 This Ground is not made out.

SIGNATURE OF LEGAL REPRESENTATIVE

Signature

Heaver per Chloe Ellis, Solicitor on record

Capacity

Solicitor on record

Date of signature

25 July 2025