

A departing Council Member leaves an enduring legacy for Professional Standards in Australia



After 12 years service, the Professional Standards Councils have farewelled Deputy Chair, Steven Cole. A member of the Councils since 1997, Steven has made an enormous contribution to their work and achievements. We spent some time with Steven after the December 2009 Councils meeting in Sydney and asked him to reflect on more than a decade of service.

A sense of mission and the chance to giving something back are what first persuaded Steven Cole to accept the nomination to the Professional Standards Councils 12 years ago.

“I believe professionals have an obligation to their community,” he explains. “Professional endeavour is a worthy cause and as such it isn’t always about what’s in your best interests, or your career’s. So when I saw an opportunity to use some of the knowledge and skills I have through my legal experience, I was happy to take up the challenge.”

Taking up the challenge saw Steven embark on a journey with the Professional Standards Councils that has delivered much change to professional standards and consumer protection in Australia. “In the late 90s Professional Standards Legislation and *Cover of Excellence*[®] schemes were just a concept about how to raise professional standards and give professionals an opportunity to limit the open-ended exposure that emerged as business became more and more litigious.

“They’ve since come to be seen as a compact between professionals and society, where professionals commit to formalising risk management, complaints and disciplinary procedures, codes of ethics, and continuing professional development, as well as providing an assurance that consumers have recourse against negligence in exchange for limitations on their liability.”

According to Steven, this has been an important step that has enabled consumers to enjoy further benefits in their relationships with professionals. “Before our schemes, we observed cases of ‘protective professionalism’, with professionals offering hyper-conservative advice to protect themselves. While they thought they were just playing safe, the consumer wasn’t really getting quality advice or service as a consequence. It was important to find a way of balancing the needs for professionals’ protection and consumers’ value for money.”

Growth, highlights and acceptance

The transition from the concept of Professional Standards Legislation to the reality of *Cover of Excellence*[®] schemes has been the greatest highlight for Steven during his time on the Councils. “We’ve delivered a lot,” he states. “We started with an untried,

unproven legislative model, first in NSW and then WA. We then recognised the enormous potential for schemes if we could implement them nationally, which led to the adoption of legislation in all States and Territories by 2005. We then actively engaged with the Commonwealth to gain its support through the prescription of certain schemes under the Trade Practices Act.”

Steven explains that part of the Councils’ engagement with the Commonwealth included participating in Senator Helen Coonan’s committee of enquiry into liability insurance in the early 2000s. “This helped position the Professional Standards Councils as a driving force in professional standards and consumer protection and led to several constructive outcomes, not the least of which is this unique ‘federated’ model that the Councils currently operate under. I think this has been a huge achievement and I’m proud to have been part of the team that delivered it.”

He is also proud of what the Councils have been able to achieve from a zero-funded position. “When you look at the structure in place today and the impact it has had across hundreds of thousands of professionals and people right throughout society at no cost to the taxpayer, it’s something of which we can be immensely proud. If that doesn’t point to a model that’s special, then I don’t know what will!”

Why now?

Steven is reflective when asked to comment on his reasons for retiring. “You should never stay too long in a job,” is his first observation before sharing that his time on the Councils has been based on a series of milestones. “I have delayed retirement on several occasions in the past, when the Councils were at critical stages of their evolution. Each time, I felt it was appropriate to remain in office to assist in overcoming the next challenge.

“Now that the Professional Standards Councils have achieved financial viability, are governed by a group of Council Members who are engaged and committed, and are administered by a Secretariat which exudes professionalism and discipline, the time is right for someone else to take up the baton.”

Steven will now focus his attention on some other causes close to his heart. In particular, he is active in the Australian Institute of Company Directors, and looking forward to becoming further involved in some interesting work concerning the role of the limited liability corporation in society. It seems clear that if the impact he has had on the Professional Standards Councils is any indication, we can soon expect to see some outstanding work in other areas of professional practice.

To the future

Against the background of the preceding 12 years, Steven is confident that the model operated by the Professional Standards Councils in all the States and Territories of Australia is now “of age”. “Some aspects of it still have to be proven,” he admits, “not the least of which is demonstrating the measurable impact the legislation has had on improving professional standards and, in turn, consumer protection. Once we’re able to confidently point to a number of tangible indicators of our success, we should also hope to see a proliferation of schemes which can deliver the statutory mandate to enhance standards and deliver consumer protection.”

Concerning the future for the remaining Council members and any who may join, Steven has two pieces of advice. "Continue to apply good governance," he urges. "We've come a long way and another of our many worthy achievements is found in our structure and the way we manage ourselves. It's important to maintain that and to build on it further."

His second piece of advice relates to how the Councils determine liability caps for associations and their schemes. "I believe that setting liability limits is an art, not a science. But we need science, in the form of actuarial advice, to inform the practice of our art. It's essential we get the balance right between the two and to not lean too far one way or the other. This will require focus and determination from the Councils, going forward."

There seems little doubt that Steven Cole has had a significant impact on the evolution of Professional Standards Legislation and *Cover of Excellence*[®] schemes in Australia. This is perhaps best reflected in these closing remarks from Mr Brian Rayment QC, Chairman of the Professional Standards Councils: "Steven has been a dependable, loyal and engaged Council member and Deputy Chairman, whose presence will be greatly missed. We all understand why he feels it is time to move on after 12 years, but we are going to be all the poorer for his absence. He has helped the Councils reach a strong position in the Australian professional standards landscape, which will prove to be his enduring legacy."