



Needs Evaluation Survey for South Pacific Lawyer Associations

Final Report

18 October 2011

About the South Pacific Lawyers' Association

The South Pacific Lawyers' Association (formerly South Pacific Bars' Secretariat) is housed within the Law Council of Australia Secretariat in Canberra. It was established in 2007 with support from the International Bar Association (IBA) in partnership with the Law Council of Australia and the New Zealand Law Society to assist developing law societies and bar associations in the South Pacific and to promote the interests of the legal profession in the South Pacific.

The South Pacific Lawyers' Association (SPLA) seeks to represent the interests of law societies, bar associations and the legal profession generally in the South Pacific. It currently seeks to represent the interests of the legal profession in:

- Australia
- Cook Islands
- Kingdom of Tonga
- Kiribati
- Nauru
- New Zealand
- Niue
- Norfolk Island
- Papua New Guinea
- Republic of the Fiji Islands
- Samoa
- Solomon Islands
- Timor Leste
- Tuvalu
- Vanuatu

The Executive of the South Pacific Lawyers' Association consists of:

- Mr Ross Ray QC: Former President, Law Council of Australia (Chair)
- Mr Richard Naidu: Nominee, Fiji Law Society
- Mr John Marshall QC: Former President, New Zealand Law Society
- Mr Kerenga Kua: President, Papua New Guinea Law Society
- Mr Raymond Schuster: President, Samoa Law Society
- Mr Rodney Kingmele: President, Solomon Islands Bar Association
- Ms Ese Apinelu: Attorney-General, Tuvalu

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Objective of the Survey

The objective of the Survey was to gather information on the needs of legal professional associations in the South Pacific region as a step towards improving the quality of services that they provide to members and the general community.

This report identifies the needs of South Pacific lawyers' associations to support and strengthen the legal profession in key areas. The report will also be used as a basis for the development of strategic plans and proposals seeking sustainable assistance from international legal professional bodies and international aid organisations. These proposals will be developed by the South Pacific Lawyers' Association Secretariat in collaboration with its constituent member associations and will be specific to the needs identified by each association.

It is anticipated that planning documents and proposals will be shared by member associations with relevant local and international authorities for the purpose of seeking financial and other assistance to achieve their goals and objectives.

Background to the Survey

In December 2009, the South Pacific Lawyers' Association (SPLA) developed a proposal for a study into the needs of peak lawyers' associations in the South Pacific and sought assistance from the International Bar Association to fund the preparation and distribution of the Survey and the collation of results. The Bar Issues Commission of the International Bar Association endorsed the proposal and provided funding to conduct the Survey. The Survey was developed by the Steering Committee in consultation with the Law Council of Australia Secretariat and distributed to members in December 2010. Responses from all members – except Timor Leste – were received by May 2011.

A Draft Report was considered by constituent members of the South Pacific Lawyers' Association at its inaugural Annual General Meeting on 11 July, 2011. Recommendations have been developed based on responses to the Survey, discussions at the AGM, and subsequent submissions.

This is the first comprehensive study into the needs of developing law societies and bar associations in the South Pacific region.

Without the continued support of the Law Council of Australia and the International Bar Association and the commitment of representatives of the legal profession in the South Pacific region, this Survey would not have been possible.

Key findings

Legal profession statistics:

- Excluding Australia and New Zealand, there are approximately **1,694** lawyers working in the South Pacific. Of these, approximately **1,023 (60%)** are engaged in private practice and approximately **671 (40%)** are engaged in government / in-house roles.
- Of the **1,023** lawyers engaged in private practice, **591 (58%)** are admitted to practice in Papua New Guinea, **230 (22.5%)** are admitted to practice in Fiji and less than **5%** are admitted to practice in the Cook Islands, Samoa, the Solomon Islands, Tonga and Vanuatu. Less than **1%** are admitted to practice in Kiribati, Niue, Norfolk Island and Tuvalu combined.
- **90-100%** of all lawyers in the region use computers and IT in their practice.
- **Table 1** shows the ratio of lawyers in private practice to population.

Table 1

Ratio of lawyers in private practice to population			
Country	Lawyers in private practice	Population ¹	Ratio
Cook Islands	32	11,124	1 : 348
East Timor	n/a	1,177,834	n/a
Fiji	230	883,125	1 : 3,840
Kiribati	8	100,743	1 : 12,593
Nauru	0	9,322	n/a
Niue	1	1,311	1 : 1,311
Norfolk Island	4	2,169	1 : 542
Papua New Guinea	591	6,187,591	1 : 10,470
Samoa	40	193,161	1 : 4,829
Solomon Islands	42	571,890	1 : 13,616
Tonga	41	105,916	1 : 2,583
Tuvalu	1	10,544	1 : 10,544
Vanuatu	40	224,564	1 : 5,614
Comparison data			
Australia	62,000	21,766,711	1 : 351
Canada	68,000	34,030,589	1 : 500
New Zealand	10,500	4,290,347	1 : 409
United Kingdom	150,000	62,698,362	1 : 418

¹ Source www.worldinfozone.com

Infrastructure

- The PNG Law Society and the Tonga Law Society are the only lawyer associations with a permanent or part-time office. All lawyer associations believe it would be beneficial to the association and the legal profession to have a permanent office – whether housed within a government body (such as a PSO or DPP's office), a court, or separate premises.
- Legislative and regulatory frameworks do not currently provide an adequate basis for sustainable funding of legal professional and regulatory bodies.
- Most legal professional associations believe that infrastructure could be improved by sharing resources (for example through a centrally administered secretariat). However, key barriers include issues with telecommunications, funding, the need to establish common templates and processes such as operational guidelines, and the need for many members to improve communications and resource-sharing domestically, particularly in remote areas.

Continuing legal education

- CLE is only mandatory in one jurisdiction – Vanuatu.
- CLE is offered by six professional associations on an ad hoc basis².
- All legal professional associations believe that there is a strong need for practitioners to participate in CLE (whether mandatory or voluntary) and that such CLE should be offered through the association – whether in partnership with external organisations or locally driven.
- Through the Survey and follow-up with recipients, further needs were identified in the existing limited access to online legal resources (such as any/timely court reports and consolidated legislation), including access to legal education resources.

Complaints and discipline handling

- **Table 2** shows the responsibility of peak legal professional associations in complaints and discipline handling. Most (7 of 12) lawyer associations are responsible for receiving and investigating complaints against practitioners. In Fiji and Vanuatu, complaints and discipline are dealt with by an independent regulator.
- Funding is not provided by government or through statutory regimes to support any association with complaints and discipline handling.
- **92%** of legal professional associations seek to implement or improve existing systems for complaints and discipline handling. The Cook Islands is the only jurisdiction which believes its existing regime for complaints and discipline handling is adequate or effective.

² CLE and training opportunities arise through locally coordinated programs. However, more typically, training opportunities arise from external sources such as the Victorian Bar Association and State and Commonwealth DPP offices, PSOs, and legislative drafting offices.

Table 2

Responsibility for Complaints and Discipline Handling				
Lawyer association	Receiving complaints and/or referring complaints to a statutory authority	Investigating complaints	Reviewing complaints (e.g. power to make determinations and establish or participate in disciplinary panels)	Prosecuting complaints
Cook Islands Law Society	No	No	No	No
Fiji Law Society³	No	No	No	No
Kiribati Law Society	Yes	Yes	Yes	Yes
Nauru Law Society⁴	No	No	No	No
Niue lawyers⁵	No	No	No	No
Norfolk Island Bar Association	Yes	Yes	No	No
Papua New Guinea Law Society	Yes	Yes	Yes	Yes
Samoa Law Society	Yes	Yes	Yes	Yes
Solomon Islands Bar Association	Yes	Yes	Yes	Yes
Tonga Law Society	Yes	Yes	Yes	Yes
Tuvalu lawyers	Yes	Yes	No*	No*
Vanuatu Law Society	No	No	No	No

- All legal professional associations support the development of uniform procedures for complaints and discipline handling, provided that such model rules are developed in consultation with all associations and the implementation of such rules is not mandatory.
- More than 60% of legal professional associations support the listing of outcomes of serious breaches (i.e. offences giving rise to striking off or suspension) of legal professional obligations by practitioners on a central database which is searchable by members of the public. Most legal professional associations do not support the listing of 'minor' complaints.

³ The Fiji Law Society was the Statutory Authority responsible for complaints and discipline handling until the 2009 Legal Services decree.

⁴ In Nauru, complaints against practitioners are dealt with by the Courts.

⁵ In Niue, there are no lawyers in private practice. Complaints are dealt with through the Niue *Public Service Regulations 2004*.

* No legislation currently in Tuvalu.

Legal aid/legal assistance

- The Vanuatu Law Society and the Kiribati Law Society are the only lawyer associations that do not currently provide for legal aid services but which seek to do so.
- Most jurisdictions believe that external providers of legal aid would be beneficial.
- In all jurisdictions, lawyers do a large amount of fee-free/pro bono work, none of which is coordinated through legal aid centres or peak lawyer associations.
- The Cook Islands Law Society, Solomon Islands Bar Association, Tonga Law Society and Vanuatu Law Society believe that lawyers in their jurisdictions could be encouraged to do more pro bono work.
- From follow-up with survey recipients, all jurisdictions believe that pro bono is not a substitute for a properly funded legal aid system.

Register of legal practitioners

- Peak lawyer associations in small jurisdictions (Kiribati, Nauru, Niue and Tuvalu) do not currently maintain a register of legal practitioners.
- All lawyer associations support the development of an online database of lawyers in the region.

Trust accounting and audits

- Papua New Guinea is the only country in the region which requires legal practitioners to submit annual audit reports of trust accounts as a prerequisite for renewal of practising certificates.
- There are currently no statutory provisions to empower any law society in the region to conduct 'spot' audits of legal practitioners.
- Most legal professional associations in the region support the introduction of legislation requiring legal practitioners to hold trust accounts and empowering the law society to conduct 'spot' audits of trust accounts.
- Legal practitioners have reporting requirements under anti-money laundering legislation in approximately 50% of jurisdictions. However, in all jurisdictions, lawyers have never received formal notification of their obligations under financial services legislation nor training in how to meet their obligations under such regimes.

Publications and information resources

- Only the PNG Law Society, Tonga Law Society and Vanuatu Law Society currently provide regular information resources to members and/or the general public.
- All legal professional associations would like to provide or improve information to members and the public but lack financial, IT and human resources to do so.

Recommendations

As noted in the Objects, the purpose of the Survey was to gather information on the needs of South Pacific Lawyer Associations and to make this information available to law and justice sector stakeholders in the South Pacific region and internationally.

Based on the findings of the Survey, the Executive of the South Pacific Lawyers' Association makes the nine Recommendations set out below. The Recommendations are intended to provide a starting point for stakeholder engagement on strengthening peak legal professional associations as a vital component of the law and justice sector. The Executive of the SPLA encourages stakeholders to further analyse the findings of the Survey and to engage with each other to develop strategies to enable peak legal professional associations to provide effective support to the legal profession in the South Pacific region.

Recommendation 1 – review of legal profession legislation and regulation

Governments in South Pacific countries should make it a priority to conduct a comprehensive review of legal profession legislation and regulation with particular regard to:

- The scope and authority of peak legal professional associations and the need to provide for the establishment of financially sustainable peak legal professional associations;
- The appropriateness of introducing mandatory CLE and responsibility for accrediting CLE courses and programs;
- Responsibility for professional discipline and the establishment of effective and financially sustainable regulatory systems (e.g. compulsory contributions by legal practitioners); and
- Trust accounting and audit requirements including:
 - Mandatory provisions for the keeping of trust accounts;
 - Provisions for the annual or periodic auditing of trust accounts;
 - Powers for a legal profession regulator to conduct 'spot' audits of trust accounts on reasonable grounds; and
 - The charging and use of interest on trust accounts to fund legal profession regulation.

Recommendation 2 – reform of legal profession legislation and regulation

International organisations and funding providers should engage with governments to support comprehensive and consultative reform of legal profession legislation and regulation.

Recommendation 3 – review of funding and coordination of legal aid

Governments in South Pacific countries should conduct a comprehensive review of the funding of legal aid/assistance and the improvement of coordination of legal aid and assistance services in partnership with the legal profession to improve access to justice.

Recommendation 4 – reform of funding and coordination of legal aid

International organisations and funding providers should engage with governments to support comprehensive and consultative reform of legal aid/assistance funding and coordination.

Recommendation 5 – CLE access

Legal professional associations should engage with each other and regional providers of legal education through the SPLA to improve access to CLE events, training and resources for legal practitioners and in particular:

- Education and training in trust and office accounting;
- Legal professional ethics and responsibility; and
- Practice management.

Recommendation 6 – long-term strategies

Peak legal professional associations should engage with their members and the SPLA to develop long-term strategic plans (5-10 years) to guide the future development of the association.

Recommendation 7 – infrastructure and human resource needs

International organisations and funding providers should engage with peak legal professional associations to meet short-term (1-3 years) infrastructure (premises and facilities) and human resource needs to enable peak legal professional associations to develop and expand member services and develop governance and administrative structures to achieve long-term financial sustainability.

Recommendation 8 – online database development

Peak legal professional associations should engage with each other and the SPLA to develop an online database of legal practitioners in the South Pacific region.

Recommendation 9 – communication resources

Peak legal professional associations should engage with each other and the SPLA to produce print and web-based publications relevant and available to legal practitioners in the region.

1. General information

Table 3

Lawyer Association	Contact details	Executive members
Cook Islands Law Society (CILS)	PO Box 167 Avarua Rarotonga. T: c/- President +682 21 619 Vice-President: Charles@lawyers.co.ck Members: cheryl.king@crownlaw.gov.ck david@mcnairpc.com marsters@oyester.net.ck	President: Mr Charles Little Elected Council Members: Mr David McNair, Ms Cheryl King and Tuaine Marsters
East Timor Bar Association (AATL)	No response.	No response.
Fiji Law Society (FLS)	c/o Samuel Ram PO Box 1184 Nadi Fiji Islands T: (+679) 6671815 F: (+679) 6671814 fillaw@gmail.com President: pillainaidu@gmail.com Nominee: richard.naidu@munroleyslaw.com.fj	President: Mr Dorsami Naidu Vice-President: Mr Iqbal Khan Acting-Secretary: Mr Samuel Ram Treasurer: Mr Robinson Prasad Council: (elected in October, 2008) Shailend Krishna; Joji Boseiwaqa; Siddarth Nandan. SPLA Executive Nominee: Richard Naidu
Kiribati Law Society (KLS)	PO Box 94 Bairiyai, Tarawa Republic of Kiribati T: c/- President +686 22 262 michael.takabwebwe@gmail.com	President: Mr Michael Takabwebwe Vice-President: Tetiro Semilota Secretary: Ereta Bruce Treasurer: Mr Raweita Beniata Councillor: Ms Debrah Mercurio
Nauru Law Society (NLS)	Postal Address: To be advised Email: c/- President vinmar51@gmail.com	President: Vinci Clodumar Secretary: Miniva Depaune
Niue lawyers	c/o Niue Crown Law Office PO Box 70 Commercial Centre Alofi Niue Island	No formal law society. Current representative: Mr. Togia Sioneholo.
Norfolk Island Bar Association (NIBA)	PO Box 223 Norfolk Island T: +6723 22 543 barassociation@norfolkisland.edu.nf	President: Dr John Walsh of Brannagh Secretary: Mr John Brown

<p>Papua New Guinea Law Society (PNGLS)</p>	<p>Level 1 Mogoru Moto Building Champion Parade PO Box 2004 Port Moresby, Papua New Guinea T:+675 321 7344 F: +675 321 7634 lawsoc@daltron.com.pg</p>	<p>President: Mr Kerenga Kua Secretary/CEO: Mr Robert Mellor Councillors: (8 members)</p>
<p>Samoa Law Society (SLS)</p>	<p>PO Box 1388 Apia, SAMOA T: +685 27 430 F: +685 27 433 rvpapalii@gmail.com</p>	<p>President: Mr Raymond Schuster Vice-President: Ms Mareva Betham-Annandale Secretary: Ms Rosella Viane-Paplili Council members: Leslie Petaia, Tima Leavai-Peteru, Ioane Okesene Ex-Officio member: Attorney-General The Hon. MP Ming Leung Wai</p>
<p>Solomon Islands Bar Association (SIBA)</p>	<p>c/o President SIBA PO Box 498, Honiara, Solomon Islands. T:+677 23 886 RodneyK@sol-law.com.sb</p>	<p>President: Mr Rodney Kingmele Vice-President: Mr Michael Pitakaka Secretary: Ms Katalaini Ziru Treasurer: Mr Donald Marahare Member: Mr Lionel Puhimana, Mr Whitlam Togamae and Mr Philip Tagini</p>
<p>Tonga Law Society (TLS)</p>	<p>PO Box 29, Nuku'alofa, Tonga T: +676 27 671 E: lakiniu@gmail.com</p>	<p>President: Mr Laki M. Niu Vice-President: Mr Sione Vuna Fa'otusa Secretary: Ms Dana E. Stephenson Treasurer: Ms Lesina Tonga Executive Council Members: Ms Petunia Tupou, Tomasi Fakahua, Fatai Vaihu and Mr. Mana Kaufusi</p>
<p>Tuvalu lawyers</p>	<p>c/o Office of the Attorney-General Private Mail Bag, Funafuti E: eapinelu@yahoo.com eapinelu@gov.tv People's Lawyer: iisala@gov.tv</p>	<p>Matters concerning lawyers are generally referred to the Office of the Attorney-General.</p>
<p>Vanuatu Law Society (VLS)</p>	<p>c/o President Bill Bani PO Box 5127, Port Vila, Vanuatu T: +678 26 921 F: +678 27 566 M: +678 537 1362 E: banilaw_vanuatu@yahoo.com, jstougou@vfsc.vu</p>	<p>President: Mr Bill Bani Secretary: Ms Angelyn Saul Treasurer: Mr John Stephen Tougon Members: Ms Bertha Pakoasongi, Mr Willie Daniel Kalo and Ms Sunita Bois-Singh</p>

Supplementary comments

Cook Islands Law Society (CILS)

The CILS is an “Unincorporated Statutory Society” (see *Law Practitioners Act 1993 – 94*).

Niue lawyers

Niue has no official law society. Correspondence is made through the Niue Crown Law Office.

Papua New Guinea Law Society (PNGLS)

The governing body of the PNGLS is the Council, comprising the President and eight Councillors, who are elected by

lawyer members every two years. The Secretary of the PNGLS is its Chief Executive Officer, who is subject to the directions of the Council and administers the affairs of the PNGLS.

Tuvalu lawyers

Tuvalu has no official law society. All correspondence is made through the Office of the Attorney-General.

Vanuatu Law Society (VLS)

The VLS currently has no dedicated office. All correspondence is made through the VLS President.

2. Legal profession statistics

Table 4

Lawyer Association	Number of lawyers				Percentage of lawyers using computers and IT in their practices
	Private	Govt /in-house	Lawyer association members	Total	
Cook Islands Law Society	32	12	58	56	100%
East Timor Bar Association	n/a	n/a	n/a	n/a	n/a
Fiji Law Society	230	120	-	350	90%
Kiribati Law Society	8	25	n/a	33	100%
Nauru Law Society	0	7	0	7	100%
Niue lawyers	1	5	n/a	6	100%
Norfolk Island Bar Association	4	4-5	13	8-9	90%+
Papua New Guinea Law Society	591	288	879	879	95%
Samoa Law Society	40	52	103	92	100%
Solomon Islands Bar Association	42	48	>20	100*	100%
Tonga Law Society	41	11	52	52	80%
Tuvalu lawyers	1	10	n/a	13	100%
Vanuatu Law Society	40	37	100	117*	100%

* Approximate figure only

Supplementary comments

Cook Islands Law Society (CILS)

The 12 government/in-house lawyers includes 10 in the offshore international banking/companies jurisdiction.

Fiji Law Society (FLS)

Since the Chief Registrar took over the regulation of legal practitioners and membership of the FLS made voluntary in 2009, the FLS has yet to tally its membership roll and the various places at which they are employed. The Secretary still emails the membership list, and, at July 2009, less than five members opted out of that list.

Nauru Law Society (NLS)

In private practice, there are no lawyers as such, but five pleaders.

Government/in-house lawyers are divided as follows:

- Ministry for Justice and Border Control – 3 lawyers;
- Director of Public Prosecutions – 1 lawyer;
- Public Defendant – 1 pleader;
- Office of Parliamentary Counsel – 2 lawyers;
- Nauru Phosphate Trust Royalty – 1 lawyer.

All members of the legal profession in Nauru rely on computers and information technology, however not all practitioners have immediate access to all necessary computer equipment and information

technology whether it is internet access, printing or reliable computers.

Norfolk Island Bar Association (NIBA)

The NIBA counts two to three government/in-house Norfolk Islander lawyers, plus two lawyers from the Australian Government.

Of the 13 life members of NIBA, some are inactive and there are up to five or six yearly members.

The total number of lawyers practising on Norfolk Island varies.

Samoa Law Society (SLS)

The 103 members of SLS are financial members. The total of 100 lawyers in Samoa is an approximate figure.

Solomon Islands Bar Association (SIBA)

The number of practising lawyers in the Solomon Islands is an approximate figure for both the private and government/in-house categories. The approximately 48 government/in-house lawyers are spread

amongst the Attorney General's Chambers, the Office of the Director of Public Prosecutions and the Public Solicitor's Office.

SIBA has less than 20 financial members approximately.

Close to 100 per cent of Solomon Island lawyers use computers, mainly for word-processing. A smaller number have emails and an even smaller percentage is connected to the internet and uses their computers for research.

Tonga Law Society (TLS)

Approximately 80 per cent of lawyers in Tonga use computers, mainly for word processing. Government, all overseas-based practitioners and a small number of local private practitioners have emails and use the internet for research.

Vanuatu Law Society (VLS)

The 117 lawyers practising in Vanuatu is an approximate figure.

3. Infrastructure

Table 5

Lawyer Association	Does your lawyer association have a permanent office?		Would it be beneficial to have a permanent office?		Would the infrastructure be improved by sharing resources?	
	Yes	No	Yes	No	Yes	No
Cook Islands Law Society		x	x		x	
East Timor Bar Association	n/a	n/a	n/a	n/a	n/a	n/a
Fiji Law Society	x		x		n/a	n/a
Kiribati Law Society		x	x			x
Nauru Law Society		x	x		x	
Niue lawyers		x		x	x	
Norfolk Island Bar Association		x	x		x	
Papua New Guinea Law Society	x		x			x
Samoa Law Society		x	x		x	
Solomon Islands Bar Association		x	x		x	
Tonga Law Society	x		x			x
Tuvalu lawyers		x	x		x	
Vanuatu Law Society		x	x		x	

Supplementary comments

What is the current administration of your association?

Cook Islands Law Society (CILS)

The current administration of the CILS is undertaken by volunteer Council members elected at the Annual General Meeting. The Council uses offices and office equipment of Council Members (private firms and other organisations) to conduct business including Council meetings. It does not own any computers, photocopiers, scanners, facsimile machines, telephones etc. Stationery is purchased from the operating account made up of annual membership and

practising fees. The administration is often undertaken by way of email and by the Executive attending to CILS duties.

Fiji Law Society (FLS)

The FLS had a permanent office. However, the office was destroyed last year in a fire and since then the FLS has not re-established a permanent office. The FLS currently operates out of the office of its Secretary, Mr. Samuel Ram.

No decision has been taken on a new office given the current political situation.

Kiribati Law Society (KLS)

The KLS would find it beneficial to have a permanent office as they currently hold meetings at the Office of the People's

Lawyer (legal aid) and do not have an office where lawyers or the public can access their services.

Nauru Law Society (NLS)

Due to the size of the NLS and lack of funding, the NLS has not been able to afford nor arrange for a permanent presence such as having an office or access to such facilities. However, having access to an office could be beneficial to the development and support of the NLS. This also would encourage ownership by members.

Currently the NLS conducts meetings at various venues. The NLS does not receive support from any organisation and relies on membership fees paid annually for funding. All costs are met voluntarily by supporting members.

The Executive is elected annually and is responsible for administrative matters of the NLS. Each year the NLS has an Annual General Meeting to deliberate on the annual agenda as well as elect the Executive for the incoming year. The Secretary is responsible for ensuring decisions of the NLS are actioned and ensuring that members are kept informed. Meetings are not regular but are called when necessary.

Niue lawyers

There is no need yet for a central office as all six lawyers in Niue can easily reach each other by phone or email.

Norfolk Island Bar Association (NIBA)

While NIBA would find it helpful to have a permanent, manned office, it would be financially impracticable. At present, services are provided by United Pacific Corporations without charge.

Papua New Guinea Law Society (PNGLS)

Since its inception in 1986, PNGLS has been renting premises, however, it would like to own its own premises. PNGLS presently has a staff of 11, but this is due to increase to 15 in 2011. Its present

rented premises are cramped, and space is at a premium.

Samoa Law Society (SLS)

It is one of the objectives of the SLS to establish a permanent office and employ administrative staff to manage and operate it. Administrative work is currently dealt with by the Secretary out of her own private office.

Solomon Islands Bar Association (SIBA)

A permanent office was set up for the administration of SIBA and for the past couple of years has been manned by an administrator. The relevant officer has now moved on leaving the position vacant. SIBA does not have the financial resources to recruit and pay for such an officer. Funding for the previous officer which covered her salary, office expenses and administrative costs etc. was previously met by the Law and Justice Sector Programme funded by the Regional Assistance to Solomon Islands (RAMSI).

Currently, the members of the SIBA Executive are all volunteers. The Executive generally meets once a month. If a matter needing the Executive's attention arises in the period between monthly Executive meetings, the matters can be discussed and decisions made via email.

The Secretary prepares the agenda for meetings in consultation with the president and minutes are sent out to the members, a few days before the next meeting.

The result of this approach is that action points are usually not followed up as those responsible usually only try to follow up when the minutes are received.

Tonga Law Society (TLS)

The TLS has permanent office premises located next to the Supreme Court. The building was erected with funding obtained through levies on members over the years and is now fully paid for and owned by the TLS. The TLS employs a full-time

administrative assistant to staff the office and maintain the library and conference room. The conference room is used for mediations mandated by the Supreme Court.

Vanuatu Law Society (VLS)

The VLS sees the establishment of a permanent office as being vital for the proper coordination of its affairs as well as timely responses to issues. Currently, the President and one or two other practitioners are endeavouring to be the driving force behind the VLS, but they cannot devote more time away from their practice.

What additional resources would you require to establish/improve your facilities?

Cook Islands Law Society

The CILS would need all the resources associated to properly establish a fully functioning and operating premises for CILS including funding of at least one part-time employee, (particularly if the CILS is to develop CLE programs and pro bono and community law centre-type services) office equipment, training, resources such as legal texts and precedents for use by all of members. Ideally, the office would double as a library or research facility.

Fiji Law Society

The main constraint in opening a new office is the political situation in Fiji. The country is still under a state of emergency and permits are required from the police to hold meetings.

It makes it difficult for the FLS to operate under these conditions.

Kiribati Law Society (KLS)

The KLS is very new and currently has no resources. It would be desirable for the KLS to have full-time/part-time employee(s), financial resources to secure premises and to run the office generally, office equipment and supplies, operational guidelines and training.

Nauru Law Society (NLS)

Having access to an office with basic computer equipment and appropriate funding would significantly benefit the NLS. This would encourage and facilitate organisation development and support functions and the association's agenda. It will revitalise the organisation and will be conducive to realising a more active association nationally, regionally and internationally.

Training would also be necessary to ensure proper management based on self sustainable practices and the administrative requirements of the organisation as well as professional development.

Niue lawyers

Niue lawyers are currently prevented from registering as an association due to the need to register under the *Incorporated Societies Act 1908*, which has a requirement of a minimum of 15 people.

Norfolk Island Bar Association (NIBA)

At present, the Association is not charged for secretariat services.

Papua New Guinea Law Society (PNGLS)

The PNGLS cannot design and construct its own premises without substantial donor assistance. It is considered preferable to be housed in its own premises rather than paying out rent. Financial assistance with furnishing/equipment would be needed. The type of building envisaged is one that would not only house the offices of PNGLS, the Statutory Committee, and a CPD department, but space which could be rented out to provide a source of income. Land is being made available by the Supreme Court near the Court premises at Waigani.

Samoa Law Society (SLS)

The SLS is currently negotiating with the Ministry of Justice to allocate space in the new Courts and Justice Building for an SLS office. The SLS should be able to obtain this in 2011. A full-time staff of two

will be hired to man the office and will require necessary office equipment: furniture, filing shelves, computers, printers, phones, fax, e-mail, website, etc.

Solomon Islands Bar Association (SIBA)

The Executive members of SIBA are all volunteers with limited time devoted to SIBA activities. A full-time person recruited to administer SIBA would ensure that SIBA matters are given the priority and importance they deserve. An administrator would enable SIBA to provide services for members such as CLE. It is difficult for Executive members to devote the time needed to arrange such sessions when they also practise full-time.

SIBA's secretariat used to be housed in an unused office within the Public Solicitor's Office. Given the increasing number of lawyers employed within that office, it is doubtful that the space will be available for SIBA's use for much longer. SIBA's secretariat will need to find a new space from which to operate. That will require financial resources to meet the rental for such new location, office supplies, the salary for the administrator to man the office etc.

Tonga Law Society (TLS)

The TLS would be grateful for assistance with office supplies for the office and assistance towards the salary of our administrative assistant.

Tuvalu lawyers

- Employment of part-time or full-time employee will depend on the workload of the creation of a formal law society in Tuvalu;
- Acquiring and developing land is difficult in Tuvalu and premises would probably need to be leased; and
- Computers, internet access, fax, scanner, etc are a must.

Vanuatu Law Society (VLS)

The VLS is a new association and has no resources at present. The VLS would require:

- A full-time employee;
- A permanent office;
- Office equipment (computer/ photocopier/phone/fax/stationery);
- Operational guidelines/ staff hand book;
- An overall business plan / guideline covering two or three years of intended development of the VLS.

Further comments on sharing resources to meet infrastructure needs.

Cook Islands Law Society (CILS)

In terms of sharing resources, the Cook Islands are fairly isolated so sharing seems a sensible option and some services if properly developed, online research and case reporting services would be extremely helpful. At this time, the CILS would have little to offer/contribute to other lawyer associations in the region.

Kiribati Law Society (KLS)

The KLS is of the view that infrastructure needs could not be adequately served by sharing resources with other lawyer associations in the region, as Kiribati is too remote and often has communication issues with technology, which would not make it an effective partnership.

Niue lawyers

There will always be benefits made from sharing and pooling resources and Niue welcomes outside legal assistance.

Papua New Guinea Law Society (PNGLS)

At present we don't see how this could be done amongst small members, but PNGLS is always willing to consider assistance.

Samoa Law Society (SLS)

The SLS does believe its infrastructure needs could be served by sharing resources with other lawyer associations in the region. However, it would require efficient and reliable communication technology, networks and common

template set up structures in separate jurisdictions for this to work and work efficiently.

Tonga Law Society (TLS)

The TLS does not think that sharing of regional resources would be beneficial because of geographical constraints and the few lawyers who use internet and email (compounded by the slowness of internet speeds in Tonga). It is more of a priority to share resources with lawyers in the outer islands of Tonga (Vava'u, Ha'apai and Eua). There are very few who practise in the outer islands, but there is a demand for legal services there – especially in Vava'u, which has a large seasonal tourist business.

Tuvalu lawyers

Given the number of lawyers in Tuvalu, it is probably better to share resources. It may even be an option to have such a Tuvalu institution affiliated under an existing regional peak lawyers' association.

Vanuatu Law Society (VLS)

The VLS believes sharing resources is something that will prove useful, but it may happen only one or two years after the VLS has operated under a permanent administration and physical location.

4. Continuing legal education/continuing professional development

Table 6

Lawyer Association	Is CLE mandatory in your jurisdiction?		Is CLE offered by your association?		Does your association seek to provide CLE?	
	Yes	No	Yes	No	Yes	No
Cook Islands Law Society		x		x	x	
East Timor Bar Association	n/a	n/a	n/a	n/a	n/a	n/a
Fiji Law Society		x		x	x	
Kiribati Law Society		x		x	x	
Nauru Law Society		x		x	x	
Niue lawyers		x		x	x	
Norfolk Island Bar Association		x		x	x	
Papua New Guinea Law Society		x	x		x	
Samoa Law Society		x	x		x	
Solomon Islands Bar Association (SIBA)		x	x		x	
Tonga Law Society		x	x		x	
Tuvalu lawyers		x	x		x	
Vanuatu Law Society	x		x		x	

Supplementary comments

What is the current nature and scope of CLE in your jurisdiction?

Cook Islands Law Society (VLS)

The CILS does little in terms of continuing legal education other than advise practitioners on courses or scholarship offers received from other organisations. CLE is not mandatory and is not a requirement for the issue of practising certificates. From time-to-time CLE presentations have been made, for example, a presentation on mediation/arbitration by the Chief Justice, but CLE opportunities are few and far between. Other professions, such as the chartered accountants, are more active in this regard and the CILS can see real benefit in such a program.

Fiji Law Society (FLS)

The FLS used to provide CLE. After the abrogation of the Fiji Constitution in 2009 the FLS was not permitted to organise CLE sessions until January, 2011.

The FLS will be offering CLE sessions later in 2011. The topics and presenters list need the prior approval of the Chief Registrar and/or Solicitor-General.

Nauru Law Society (NLS)

The NLS is supportive of professional development and encourages its members to continue legal education. Often this is in the form of applying for certain scholarships and attending seminars and workshops.

Currently, there are no CLE opportunities in Nauru as there is insufficient funding and there are no CLE service providers. However, the NLS affirms its support for

CLE efforts undertaken by members through disseminating relevant information to members who want to participate in CLE. CLE is not mandatory and is undertaken only on a voluntary basis.

The Government in its efforts to strengthen and expand the legal profession will be establishing a training course for pleaders through the local University of the South Pacific centre. This will be a 12-month course targeted at addressing the capacity requirements of pleaders in Nauru.

Niue lawyers

Lawyers on Niue are fortunate to attend various regional and international workshops on various issues, which is an excellent form of networking and continued legal education.

Norfolk Island Bar Association (NIBA)

NIBA does not have the resources to provide CLE. Most of its members obtain CLE in other jurisdictions where they may also have practising certificates.

Papua New Guinea Law Society (PNGLS)

The PNGLS provides CLE, but it now uses the term Continuing Professional Development (CPD). Seminars are conducted in Port Moresby and also at regional/provincial centres. At present CPD is voluntary, but there are plans to make it compulsory and a point system, based on attendance, will be used when issuing practising certificates. Points can be accrued not only by attendance, but also by writing articles for the FLS magazine *LawTok*, giving seminar presentations, undertaking pro bono work, etc.

Samoa Law Society (SLS)

The SLS provides ongoing CLE throughout the year. Every two years, the SLS holds a conference where local and overseas lawyers are invited to present papers of interest to the development of the SLS. Participation is voluntary. Members are encouraged to be speakers and presenters. CLE is the responsibility

of the Council delegated to the CLE Committee.

Solomon Islands Bar Association (SIBA)

While CLE is currently not mandatory in the Solomon Islands, SIBA intends that in the future CLE will be mandatory and will be tied to the renewal of practising certificates. SIBA will be responsible for providing CLE.

The only training arranged by SIBA in the recent past has been basic advocacy training provided by the Victorian Bar for Solomon Islands practitioners. The Queensland Law Society has also provided some advocacy training in the past for SIBA members.

Tonga Law Society (TLS)

There has been discussion in the past suggesting that CLE should be tied to the renewal of practising certificates, but it has not yet eventuated. Practitioners from New Zealand (through funding assistance from NZ Aid) have conducted seminars on trial procedure and local lawyers/judges have also addressed the TLS. The challenge, given that CLE is not mandatory, is getting practitioners to show up for these sessions. The sessions are difficult to organise, expensive to host and do not always attract large numbers of practitioners. The topics must be relevant to the issues that are relevant to all local practitioners.

Tuvalu lawyers

The Office of the Attorney-General currently runs the CLE program for lawyers on a voluntary basis. Topics covered are usually designed by the Office based on areas it finds raises most concerns in legal proceedings as well as a delivery in implementing government policies.

Vanuatu Law Society (VLS)

In 2010, the VLS struggled to meet the requirements outlined in the new *Vanuatu Law Society Act of 2010*, which provides for CLE for lawyers. The VLS needs to have a more structured approach to CLE to the extent that it is spelled out in law as

being mandatory for each practitioner for the purpose of renewing a practising certificate. Our first CLE for this year is planned for two days (31 May-1 June, 2011) in Port Vila with the assistance of the judiciary. Two main topics for training were: advocacy and pleadings. There will be another CLE event later in the year.

The VLS will require assistance from foreign organisations, but from time-to-time will use local resources.

If your association is seeking to establish/implement CLE, what additional resources do you require?

Cook Islands Law Society

Funding, administrative resources, access to course materials, possibly administration staff.

Fiji Law Society

Access to speakers and CLE materials on current legal developments.

Kiribati Law Society (KLS)

The KLS would need administrative resources, access to CLE materials, funding for materials to distribute, venue and hire of equipment.

Nauru Law Society (NLS)

The NLS would require technical and financial assistance in developing and delivering a program that is contextualised to the Nauruan jurisdiction. Administrative resources to coordinate a CLE program, access to CLE material and other necessary requirements such as venue hire would also be required.

Niue lawyers

The lawyers on Niue are limited in their research due to costly online subscription fees hence it would be most useful to have resources and means for online legal publications and case law.

Norfolk Island Bar Association

Possible coordination with Queensland, NSW and Victoria given closeness in terms of distance and legal systems.

Papua New Guinea Law Society (PNGLS)

The PNGLS is currently drafting CPD rules which seek to link participation as a speaker, organiser or attendee to a credit point system, which in turn will be tied to the annual renewal of practising certificates. Access to CPD materials, e.g DVD resources. Assistance in identifying suitable seminar speakers. Financial assistance to bring such speakers from overseas, if this is the case, and with their upkeep while here.

Samoa Law Society

Administrative support from a permanent office, access website, e-mail for information purposes; annual event, network and links with other CLE in different jurisdictions, access to NZ and Australian resources and network, etc.

Solomon Islands Bar Association (SIBA)

If SIBA has a permanent senior administrator, that person would be responsible for coordinating the CLE program, including arranging the logistics associated with arranging specific programs. It is difficult for the members of the Executive to arrange for venues, accommodation, etc., given existing pressures and time constraints.

Sustainable funding models are also required for hire of venues, provision of material for participants, refreshments for participants.

Tonga Law Society (TLS)

Financial assistance to bring presenters to Tonga, hire venues, produce materials and assistance with organisation of the session would be helpful.

Tuvalu lawyers

The major problem Tuvalu finds now is only lack of staff to effectively provide CLE on a continuing basis.

Vanuatu Law Society (VLS)

Firstly, the VLS would need to coordinate a CLE program over a period of, say, 12 months to ascertain its difficulties.

More importantly, the VLS needs to have mechanisms in place to gauge the

effectiveness of such trainings from the participants over a certain period of time.

The VLS would also request administrative support in being able to “hook into” live CLE presentations in Australia for the purpose of gaining CLE points in Vanuatu. That could be administered via the Law School of the University of the South Pacific which is in Port Vila, Vanuatu.

5. Complaints and discipline handling

Table 7

Lawyer association	Does your association have a system in place for complaints/ discipline handling?		Does your association seek to implement or improve its complaints/ disciplinary system?		Does the Association support uniform procedures?		Does the Association support listing of outcomes from complaints/ discipline procedures?	
	Yes	No	Yes	No	Yes	No	Yes	No
Cook Islands Law Society	x			x		x	x	
East Timor Bar Association	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Fiji Law Society		x	x					
Kiribati Law Society	x		x		x		x	
Nauru Law Society		x		x	x		-	-
Niue lawyers		x	x		x		x	
Norfolk Island Bar Association	x		x		x		x	
Papua New Guinea Law Society	x		x			x		x
Samoa Law Society	x		x		x		x	
Solomon Islands Bar Association	x		x		x		x	
Tonga Law Society	x		x		x			x
Tuvalu lawyers	x		x		x		x	
Vanuatu Law Society	x		x		x			x

Supplementary comments

What is the nature and scope of the existing complaints/disciplinary system in your jurisdiction?

Cook Islands Law Society (CILS)

The CILS has a system for processing and investigating complaints against practitioners, making disciplinary determinations and where necessary prosecuting practitioners for breach of professional conduct rules. The grounds are limited and set out in the *Law Practitioners Act 1993 – 94*.

All disciplinary proceedings against practitioners are referred to and dealt with by the Chief Justice of the High Court of the Cook Islands as mandated by the Act. This is an efficacious arrangement as the community is small and the law profession even smaller. The CILS itself has no powers to process and investigate complaints and take disciplinary measures. A complaint is laid with the Chief Justice who then investigates, reports on the matter and determines what disciplinary measures need to be implemented. It has proved effective in recent times.

Fiji Law Society (FLS)

Previously, under the legal practitioners' Act, the FLS handled complaints against lawyers.

Under the current legal practitioners' decree by the current regime, a Legal Services Commission is now responsible for adjudicating complaints against lawyers.

Kiribati Law Society

We are currently in the process of drafting rules of professional conduct. The *Kiribati Law Society Act 2008* also provides mechanisms for processing and investigating complaints against legal practitioners and making disciplinary determinations for breaches of professional conduct rules.

The Act stipulates that upon the receipt of a complaint, the Council is to provide a copy of the complaint to the lawyer and is to try to bring about an amicable resolution of the complaint between the parties.

If the complaint is not resolved and the Council considers it necessary that there should be a formal inquiry into the complaint, a Professional Conduct Committee is to be established to inquire into the complaint. If it deems that no inquiry is necessary, the Council is, on the request of the complainant, to furnish him or her with its reasons in writing. Procedural rules for establishing the Committee, when necessary, have not yet been developed.

Nauru Law Society

Currently, the authority to deal with complaints against legal practitioners remains in the jurisdiction of the Courts. There would have to be an analysis of such a system in the Nauruan context given the small size of the legal profession and jurisdiction. Given the size of the legal profession on Nauru, such a role may not be the most effective approach.

Niue lawyers

Niue Government lawyers are bound by the *Niue Public Service Regulations 2004*

and Code of Ethics, which to an extent provide for professional conduct, proper conduct and other measures regulating all employees of the government.

The Government also has a Complaints Handling Ombudsman Backed Service (CHOBS) to deal with complaints regarding government services.

Norfolk Island Bar Association

Norfolk Island has a *Legal Profession Act*, but the initial two complaints were against government lawyers, so no action was taken.

Samoa Law Society (SLS)

The SLS follow the procedural guidelines in the *Law Practitioners Act 1976*, Part VIII sections 35 to 43, for registering complaints, investigation and filing of charges, the trial process and powers of the Tribunal to sentence in the event of a guilty verdict. There is also provision for appeal. The SLS has dealt with one complaint finding the practitioner guilty of professional misconduct and suspended his practising licence for 24 months. The matter may go on appeal as informed by the practitioner. One other complaint has been lodged and the evidence completed, but is in the process of completing submissions on evidence. The case had been adjourned to January 2011. There are about three complaints with the Council being reviewed by the Disciplinary Committee for recommendation to the Council. The two cases heard before the Tribunal are the first since the 1980s.

Solomon Islands Bar Association (SIBA)

Currently complaints are made either to SIBA or directly to the Chief Justice as required by the *Legal Practitioners Act*. If the complaint has some merit then the complaint is referred to the Attorney General, who under the Act is the Chairman of a Disciplinary Panel made up of five senior practitioners. The Attorney-General then sets up a disciplinary committee made up of three out of the five members of the Disciplinary Panel to

conduct a hearing into the conduct complained of.

No practitioner has yet been sanctioned as a result of a Disciplinary Panel hearing. There are a number of factors responsible for this:

- Lack of commitment by disciplinary committee members;
- Lack of procedural rules as to how a disciplinary hearing should be conducted; and
- Conflicts on the part of practitioners sitting on the Disciplinary Panel.

The most serious complaints that are still outstanding involve breaches of trust by practitioners. There have been some suggestions that other lawyers' associations be approached to see if they can assist in the disciplinary process in the following manner:

- Providing prosecutors to prosecute complaints;
- Providing defence counsel to defend practitioners; and
- Funding to enable such outside practitioners to come, in airfares and per diems.

A comprehensive review of legal profession regulation is currently being undertaken and it is anticipated that these issues will be addressed.

Tonga Law Society (TLS)

Complaints are required to be made in writing. They are forwarded to the respondent practitioners requiring them to respond in writing within 14 days. The responses are forwarded to the complainants requiring them to respond in writing within 14 days. The Disciplinary Committee is then summoned together with the parties to set a hearing date convenient to everyone. The hearing is held and the Committee then deliberates and writes up its decision. If the Committee dismisses the complaint, the complainant may appeal to the Chief Justice. If the Committee upholds the complaint, it recommends the penalty to be imposed to the Chief Justice and the

practitioner may at the same time appeal to the Chief Justice against the decision of the committee. On either appeal, the Committee forwards to the Chief Justice a transcript of the evidence taken at the hearing. The Chief Justice finally decides either appeal.

The problems encountered are:

- There is no full-time Secretary to ensure timely and prompt attendance to the complaints system. The Secretary and officers of the TLS, including the Committee members are all full-time law practitioners who are sole practitioners with heavy workloads.
- There are no facilities for recording and transcribing transcripts of evidence of hearings. They are hand-written (in long hand) by the Chairman only.
- The decision of the Committee takes a long time to be written up and delivered.
- Some remuneration is paid to Committee members but not much due to the limited funds of the Society.

The nature of the complaints vary but they are mostly complaints that work paid for has not be done by the lawyer. Typically, the response from the lawyer is that the work paid for has been done – the disagreement being over the work that was agreed to be done – which usually is not in writing.

Tuvalu lawyers

The Office of the Attorney-General is currently looking at appropriate legislation to address these issues. Various verbal complaints have been received by the Office with regard to the unprofessional attitude and performance of some lawyers. Currently, we discuss complaints with the concerned lawyer and in almost all cases the complaints are exaggerated. There is a disciplinary system in place, but lawyers working for the Government have been disciplined on satisfaction that they have failed to perform their duties.

Vanuatu Law Society (VLS)

The process now is for complaints to be lodged with the Law Council which then deals accordingly. There are some serious complaints now with the Council. The Law Council is established by an Act separate from the VLS Act. There will be some legislative amendments within the next six months to streamline certain matters and that process may then change.

The VLS is now in the process of drafting and implementing its own Rules of Professional Conduct.

What additional resources would your association require to implement / improve the complaints / disciplinary system?

Cook Islands Law Society (CILS)

Some legislative amendment would be necessary once it was identified what changes should be made, particularly if the CILS were to depart from the current process and become responsible for disciplining its own members. The community is relatively small so that status quo with some refinement might still be suitable and appropriate.

Fiji Law Society

- Consultation with the Chief Registrar and Society to provide the Chief Registrar's Office with specialist investigators and prosecutors.
- Consultation with the Chief Justice for the appointment of skilled & independent adjudicators at the Legal Services Commission.

Kiribati Law Society (KLS)

The KLS needs all the basic resources to roll out its Rules of Professional Conduct, such as the publication and notification of rules and complaints processes, human resources to manage complaints, development of complaints handling procedures, training and office resources.

Nauru Law Society

A review to determine the best practice for Nauru for complaints and disciplinary matters.

Niue lawyers

Development of professional rules and a code of ethics specifically for lawyers will assist in expressly setting out the higher standard of work ethics and conduct required of lawyers. Legal training and technical assistance is always welcome especially in highly specialised areas of the law.

Norfolk Island Bar Association

Adoption of IBA model rules and enforcement by the Government and the Supreme Court.

Papua New Guinea Law Society

- More staff to enable better and efficient management of complaints;
- More office space; and
- Specially trained filing clerks.

Samoa Law Society

Review of our professional ethics rules, review of procedure, administrative office and human resources to expedite investigation and recommendations to Council of complaints referred for investigations, recording equipment and supporting resources for Disciplinary Tribunal hearings.

Solomon Islands Bar Association (SIBA)

The needs of SIBA include:

- Assistance to implement a workable discipline system, bearing in mind the fact that the profession in the Solomon Islands is small and the potential for conflicts of interest is high.
- Providing outside practitioners to act as prosecutors and defence counsel.
- Training local practitioners in complaint handling processes.

- Human resources to staff an office so that complaints are received, processed appropriately and records are kept.

Tuvalu lawyers

For Tuvalu lawyers, the starting point would be to establish a peak lawyers' association. The Office of the Attorney-General is currently seeking to do this, but assistance in drafting appropriate laws would be of great assistance.

Vanuatu Law Society (VLS)

The VLS needs assistance to develop professional ethics rules (part of such assistance may be in the form of CLE later this year). After such development, the VLS would then require all the assistance outlined.

What would be the advantages and/or disadvantages of developing uniform procedures for investigating complaints?

Cook Islands Law Society (CILS)

Development of professional ethics rules, publication and notification of rules and complaints processes, and office resources would be helpful.

Given the small size of the community and legal profession the status quo might be more appropriate but the Law Society would consider options. Certainly, the CILS would support developing uniform or model conduct rules.

Kiribati Law Society (KLS)

The KLS would support the development of uniform procedures, as there would be an aim towards consistency within the region. However, the Society would support it being non-binding so that each country could allow for cultural and customary differences, as applicable.

Nauru Law Society (NLS)

The NLS would be willing to consider model conduct rules. However, a consideration for circumstances unique to each jurisdiction is required. Before the

NLS can commit to supporting such an approach, there would have to be an analysis of whether such an approach would best meet the needs of the Nauruan jurisdiction. The potential advantage of having a regional approach would be the consistency of dealing with cases and the ability for easier cross jurisdiction assistance in proceedings. The disadvantage would be that it could be an expensive undertaking for smaller jurisdictions and that it may not cater for individual needs of the jurisdictions.

Niue lawyers

A harmonised procedure to deal with complaints against legal practitioners will be most helpful in determining the process and who to make the complaint to. For instance, Niue has in the past engaged an overseas lawyer that provided incomplete work despite being paid 90% of the fees charged for a highly important matter. The process to lodge a complaint against that lawyer would have required additional work, research and cost. The best option at the time was to disengage services and move forward.

However, should the process be harmonised it would aid in the lodging of complaints and an awareness amongst regional practitioners of the standard of professional conduct and consequences of any deviation.

Norfolk Island Bar Association (NIBA)

The NIBA may support the development of uniform procedures for complaints and discipline handling, however, it would depend on details of the procedures.

Papua New Guinea Law Society (PNGLS)

The PNGLS does not regard developing uniform procedures as a viable proposition at this point in time. The PNGLS would like to attend to outstanding complaints and establish an effective system for complaints and discipline handling within PNG before considering regional integration. In the long-term, the PNGLS supports this idea.

Samoa Law Society (SLS)

Citing and having access to uniform procedures for investigating and prosecuting complaints will be a significant starting point for different jurisdictions to consider and adopt. The question of whether they are binding will be one of preference and appropriateness. The SLS suggests that procedures be developed in consultation with members and be distributed for consideration, submission and development to members and that the question of adoption of the rules 'en bloc' to the individual jurisdictions.

Solomon Islands Bar Association

An advantage would be that lawyers from other Pacific Island countries can sit on disciplinary panels to deal with complaints against practitioners. This would get rid of any potential for conflict on the part of practitioners. The costs involved in getting outside practitioners to come in and deal with complaints would be a disadvantage.

Tonga Law Society (TLS)

The TLS supports the development of regional model conduct rules and procedures. It would ensure that a required standard of conduct is expected of and achieved by all practitioners in the region, and that it is properly and evenly upheld by all practitioners in the region. Such rules and procedures should be able to be operated within the limited means of each law society in the region. Trainers, lawyers and judges perhaps from Australia and New Zealand may assist by conducting workshops and seminars, not only on ethics but also in implementing the system.

Tuvalu lawyers

Advantages of uniform procedures include:

- Reduction of barriers to practise anywhere in the Pacific; and
- Easy to monitor standards required of lawyers for the region.

A disadvantage would be that it may be too onerous for lawyers from small

jurisdictions like Tuvalu where usually culture plays a large part.

Further comments on the listing of outcomes of sustained complaints.

Cook Islands Law Society (CILS)

CILS has preferred to delegate the disciplinary matters to the Chief Justice, therefore listing outcomes of sustained complaints is outside the control of the CILS. However, it has been the Chief Justice's practice to release the outcome of sustained or proven complaints against practitioners for publication to all the members of the Society, and, at the same time, the findings are released to the complainant and an appropriate media release issued.

Kiribati Law Society (KLS)

The KLS would support the listing of outcomes of sustained complaints, but limited to serious cases.

Nauru Law Society (NLS)

The issue of the listing of outcomes for complaints and disciplinary procedures would have to be deliberated by the NLS before a response is provided.

Niue lawyers

Niue often engages external legal services provided to assist in specialised areas of the law. Such a list would assist with the decision to hire a practitioner or not. The outcomes of sustained complaints being listed on a public website will also provide guidance and a level of regional consistency on the severity and types of penalty suited to the complaint.

Norfolk Island Bar Association (NIBA)

While NIBA would support the listing of outcomes from such procedures, it would seem unlikely if the government controlled the website.

Papua New Guinea Law Society (PNGLS)

In PNG, complaints against lawyers of improper conduct as a lawyer are dealt with in confidence, and should remain so. The PNGLS would need to consider the merit of listing outcomes for sustained complaints further.

Solomon Islands Bar Association

Listing outcomes from sustained complaints would not only enable members of the public or other practitioners to identify lawyers who have breached professional standards, it would also:

- Provide a useful resource for lawyers to learn from in terms of professional standards; and
- Be a deterrent to lawyers particularly in smaller jurisdictions because listing outcomes publically might result in loss of business, if the penalties imposed have not already resulted in a loss of business/reputation for them.

Tonga Law Society (TLS)

The TLS, does not support the listing of outcomes from complaints and disciplinary procedures because if a practitioner is guilty enough, he should be struck off the roll; there is no need to publicise it because the practitioner would no longer have a letter of good standing from their law society to practise elsewhere. If the complaint is not serious enough to consider striking off or suspension, the practitioner should not be shamed by publicising their error. The practitioner deserves to carry on their practice without shame or discredit. The sanction or penalty imposed for a minor conduct matter is sufficient.

Vanuatu Law Society (VLS)

The VLS supports the development of uniform procedures at the appropriate time, i.e. after the VLS has adopted and implemented its own domestic procedures in that respect. The VLS, does not necessarily support the listing of outcomes of complaints/disciplinary action.

6. Legal aid/legal assistance

Table 8

Lawyer Association	Does your association provide for legal aid services?		Does your association seek to provide for legal aid services?		Would external providers of legal aid be beneficial?		Could lawyers in your jurisdiction be encouraged to undertake more pro bono work?	
	Yes	No	Yes	No	Yes	No	Yes	No
Cook Islands Law Society		x	x		x		x	
East Timor Bar Association	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Fiji Law Society	x			x	-	-	-	-
Kiribati Law Society		x	x		x			x
Nauru Law Society		x	-	-	x		-	-
Niue lawyers	x		x		x			x
Norfolk Island Bar Association	x		x		x			x
Papua New Guinea Law Society		x		x	x			
Samoa Law Society	x		x					x
Solomon Islands Bar Association		x		x		x	x	
Tonga Law Society		x		x		x	x	
Tuvalu lawyers		x		x	x			x
Vanuatu Law Society		x	x			x	x	

Supplementary comments

What legal aid services are provided in your jurisdiction?

Cook Islands Law Society (CILS)

The CILS is not involved in providing, supporting or facilitating legal assistance services, at least not in a formal way. This service is necessary and the CILS would welcome any support with developing the same. Government-funded legal aid schemes are limited. There is limited criminal legal aid and none for civil, matrimonial and other areas.

The establishment and funding of law society premises may assist with establishing a community law centre, if, in fact, that is desirable.

Fiji Law Society (FLS)

The FLS does not, at present, provide legal aid services. Most of the functions of the FLS have effectively been removed since the abrogation of the Fiji Constitution & the implementation of the Legal Practitioners' Decree in 2009.

Legal aid services are provided by the Legal Aid Commission and the Office of the Chief Registrar.

Kiribati Law Society

As a very new society, the provision of legal aid services may be considered in the future to a limited extent. The Office of the People's Lawyer currently provides pro bono legal services in Kiribati.

Nauru Law Society (NLS)

The NLS has limited capacity and resources to provide support or facilitate legal assistance in terms of pro bono advice and similar voluntary work programs. However, members provide, where possible, such services to the general public. The only legal aid service is that of the Public Defendant, which is only available for criminal matters.

Niue lawyers

All lawyers on Niue are approached by members of the public for assistance and legal assistance is always rendered freely and to the best of the legal practitioner's ability and resources available.

Norfolk Island Bar Association (NIBA)

The NIBA already does much in the pro bono area.

Papua New Guinea Law Society (PNGLS)

No formal pro bono services exist at present, nor are any envisaged. There have been cases where one or two law firms have provided free assistance. The Public Solicitor's office provides assistance in criminal and civil cases, subject to a small means test. However, priority is given to criminal cases.

Trainees at the post-graduate Legal Training Institute also provide limited assistance under supervision. Under a Program partly sponsored by the PNGLS, selected students from the Law School at the University of PNG, spend time during Christmas vacations at provincial centres assisting people with their legal problems. They are supervised by the staff of the Law School. About 15 years ago, the PNGLS operated a small legal aid scheme through a panel of selected lawyers/law firms, but it had to be abandoned because the PNGLS could not afford to keep it running.

Samoa Law Society (SLS)

The SLS provides legal aid services for criminal cases only of a serious nature: murder, treason, manslaughter, sexual offences against children, rape. Drug cases of any kind, District Court offences and Feasoani Court (FF) cases are not eligible under the scheme. The SLS is currently establishing a community law centre as part of the Law and Justice Sector program, but it is limited to the provision of legal information.

Solomon Islands Bar Association (SIBA)

SIBA is not yet at a stage where it seeks to provide legal assistance services such as community legal centres, pro bono advice services etc. In any event, members of the public requiring legal assistance are already catered for through services provided by legal practitioners working in the Public Solicitor's Office.

Tonga Law Society (TLS)

The TLS does not support community law centres. The TLS would rather that legal aid be paid to any lawyer who acts for accused persons who have no means. At present, most practitioners act for those persons for no or very little payment – in accordance with our present code of conduct. The Tongan Government provides no legal aid at all.

Note – the Ashika trial which has lasted seven weeks involves five law practitioners who have not been paid any legal aid at all despite the destitute status of the accused persons they each represent in the trial.

Tuvalu lawyers

Legal assistance services are already provided for by the Office of the People's Lawyer and the Office of the Attorney-General to the people of Tuvalu.

Vanuatu Law Society (VLS)

At the moment, legal services to the needy are provided by the Public Solicitor's Office. Community legal centres and the like, which provide pro bono services, are admirable legal services. However, the VLS is not ready to provide such services. It is an objective of the VLS to provide such services and in the future this may be factored into a lawyer's points for his/her CLE.

The Law School of the University of the South Pacific already provides a Community Legal Centre services.

If your association seeks to establish/improve legal aid services, what additional resources would you require?

Cook Islands Law Society (CILS)

The CILS would require funding, administrative support, possibly legislation, policy and guidelines and premises.

Kiribati Law Society (KLS)

The KLS would require funding, administrative support, possibly legislation, policy and guidelines and premises.

Nauru Law Society (NLS)

Expanding on the constraints stated in the previous question, should the NLS decide to undertake to provide legal assistance services on a regular basis, there would be a requirement for financial assistance and resources to secure an appropriate premises and office equipment. Other assistance would also be required in developing guidelines for the NLS which members could rely on in their voluntary participation in these legal aid programs.

Niue lawyers

Funding for legal aid to assist members of the public especially when Court is in session. Court on Niue is held twice a year and a judge from New Zealand presides. Access to online legal materials and funding for subscriptions will greatly assist in being informed of legal developments.

Norfolk Island Bar Association

NIBA would require some proper encouragement from the government.

Papua New Guinea Law Society (PNGLS)

The PNGLS is not able to handle any further legal aid work. To do so would require significant funding for administrative support and services, and payment of lawyers/law firms.

Samoa Law Society (SLS)

The SLS would require Government support through increased budgetary allocation to this area, proper administration and financial control from the Ministry of Justice and Courts Administration which oversee legal aid.

Tonga Law Society (TLS)

The TLS does not require any funding for community legal services, it requires funding for legal aid directly to practitioners who act for poor accused persons.

Tuvalu lawyers

- Legislative change;
- Administrative support; and
- Increased funding for legal services.

Vanuatu Law Society (VLS)

The VLS would require greater funding to enable the VLS to engage in legal aid services. However, an important factor which could work against it is the small size of the jurisdiction. In addition, it is easy for conflicts of interests to arise. Therefore, there needs to be clear guidelines and policies in place and relevant legislation in that regard.

What role can external providers play in the provision of legal assistance?

Cook Islands Law Society

There are cultural and other issues to consider, but if a community centre could be established then supported by way of volunteer and placement programs for foreign workers, it might be workable.

Kiribati Law Society

Any external providers in legal assistance need to be directed at capacity-building of the local lawyers as opposed to merely being gap-fillers working in a legal centre or the like.

Nauru Law Society (NLS)

The NLS would be very interested in capacity-building and professional

development of the local legal profession to provide legal assistance services and would only require external assistance in bridging gaps in the current capacity void.

Niue lawyers

Niue's legal system would benefit from volunteer services as there are only two lawyers in the Niue Crown Law Office to deal with all government departments. A volunteer will greatly assist with for example the Bills Committee in terms of reviewing Bills and having them ready for the Niue Assembly. A placement program with overseas agencies will be useful in capacity-building as well as networking purposes.

Norfolk Island Bar Association (NIBA)

The NIBA suggests the Commonwealth send lawyers and funding to help.

Papua New Guinea Law Society

The Public Solicitor's office could be expanded to cater for more legal aid. It is established for this purpose. It has its head office in Port Moresby and branch offices in the provinces.

Samoa Law Society

External providers can:

- Facilitate access to secondary advisory assistance;
- Provide mentoring to lawyers;
- Where necessary, provide affordable legal services according to the financial circumstances of local recipients; and
- Provide volunteers for example through the Australian Youth Ambassadors for Development (AYAD), etc.

Solomon Islands Bar Association

So long as relevant assistance is provided to the Public Solicitor's Office to carry out its functions as provided for under the Constitution, the public is currently adequately served through the Office.

Tonga Law Society (TLS)

The TLS does not require any funding for community legal services. It requires funding for legal aid directly to practitioners who act for poor accused persons.

Vanuatu Law Society (VLS)

In Vanuatu, this matter is best left to the University of the South Pacific Law School to see how it can develop further. There is no need for the VLS to develop volunteer or placement programs at this point in time.

How can lawyers in your jurisdiction be encouraged to undertake pro bono work?

Cook Islands Law Society

Designated facilities (premises) properly established and adequately funded might encourage existing members to get involved. There is already a significant amount of pro bono work being undertaken but it is not formalised. There would be a high degree of suspicion of a formal structure for pro bono, but properly thought out and implemented encouraging lawyers to undertake pro bono may help in the initial stages, particularly in organising, managing and implementing such a service.

Kiribati Law Society

The Office of the People's Lawyer is the largest collective group of lawyers for the people in the country and it offers free legal services to individuals (i.e. not groups or businesses etc). It is our view that the legal profession in Kiribati is too small to encourage more pro bono or reduced fee services, as the private sector still needs to be considerably developed.

Nauru Law Society (NLS)

The economic situation in Nauru and the impact on the legal profession must be considered when determining this issue. The NLS would have to first consult with relevant stakeholders as to how to best deal with this professional obligation.

Niue lawyers

Lawyers on Niue are always more than willing to help whenever approached. The one and only private legal office has only just opened this year and it is too early to comment on the suitability of the fee structure.

Papua New Guinea Law Society

If lawyers were to do pro bono work, it could attract CPD points, but it would be difficult to administer for the purposes of gaining CPD points.

Samoa Law Society

Firms in Samoa already carry a heavy load of reduced fees or pro bono work on an individual basis according to the economic circumstances here. We perhaps need a more structured approach for consideration on a wide scale basis.

Solomon Islands Bar Association (SIBA)

Given that Solomon Islands lawyers generally do very little, if any, reduced fee or fee-free/pro bono legal work, SIBA is open to any suggestions from other jurisdictions as to how the country's lawyers may be encouraged to do more of such work.

Tonga Law Society

Crediting CLE points does not pay rent or staff. It is pointless. What is needed is for poor persons to be provided proper legal representation and practitioners are providing that now for free – at our own costs or rather our loss. The best help is to be paid something for providing legal aid.

Tuvalu Lawyers

Lawyers are already providing legal assistance to people and the country free of charge. However, for those in private practice, crediting CLE points to lawyers may be an option.

Vanuatu Law Society

By crediting CLE points, there must only be a certain limit on the number of points allowed for pro bono work so lawyers do not have the opportunity to skip CLE.

7. Register of legal practitioners

Table 9

Lawyer Association	Does your association maintain a register of legal practitioners?		Does your association require additional resources to develop a register?		Would an online database of lawyers in neighbouring countries be beneficial?	
	Yes	No	Yes	No	Yes	No
Cook Islands Law Society	x		x		x	
East Timor Bar Association	n/a	n/a	n/a	n/a	n/a	n/a
Fiji Law Society	x		x		x	
Kiribati Law Society		x	x		x	
Nauru Law Society		x	x		x	
Niue lawyers		x	x			
Norfolk Island Bar Association	x		x		x	
Papua New Guinea Law Society	x			x	x	
Samoa Law Society	x		x		x	
Solomon Islands Bar Association	x		x		x	
Tonga Law Society	x			x	x	
Tuvalu lawyers		x	x		x	
Vanuatu Law Society	x		x		x	

Supplementary comments

What register(s) of legal practitioners are maintained in your jurisdiction?

Cook Islands Law Society (CILS)

There are a number of different but related registers kept in the Cook Islands. The High Court has a record of all practitioners currently enrolled/admitted to the profession. CILS keeps a register of all paid up members including lawyers and non lawyers, practising and non-practising members.

Fiji Law Society (FLS)

The FLS has a register which has not been updated since 2009.

Kiribati Law Society

Currently, the High Court maintains a register of current legal practitioners. However, it is envisaged that the Law Society will do so in the future.

Nauru Law Society (NLS)

The NLS does not maintain a register of all legal representatives in Nauru. However, a register of members is kept.

Niue lawyers

There are only a few practitioners at present and all are known by residents of Niue. In future, when a Law Society is established, a register will be useful.

Norfolk Island Bar Association (NIBA)

The NIBA maintains a register of members.

Papua New Guinea Law Society (PNGLS)

The PNGLS keeps an annual register of legal practitioners.

Solomon Islands Bar Association (SIBA)

SIBA would like to be able to keep an updated register of current legal practitioners. There is currently a rough register in existence, which can be further improved.

Tonga Law Society (TLS)

The TLS and the Supreme Court Registrar both keep a list of registered practitioners.

Vanuatu Law Society (VLS)

The VLS does not have a proper register as yet. The VLS knows the number of practising lawyers, in-house solicitors and those in other jobs via a Google group where we keep abreast of news and developments of the VLS such as the upcoming CLE. This is separate from the Roll of Barristers and Solicitors maintained by the Law Council.

What additional resources would you require to develop or maintain a register of legal practitioners?

Cook Islands Law Society

Updating/maintaining the registers requires very little resource as there are few changes annually. Funding could assist in making the register available publically would be.

Fiji Law Society (FLS)

Since 2009, the FLS has been unable to update its records of members. The FLS

would require all resources associated with maintaining a register – human resources, office supplies, etc, in addition to permission to hold an AGM.

Kiribati Law Society

All resources associated with maintaining a register – human resources, office supplies etc.

Nauru Law Society (NLS)

To maintain a register, NLS would have to consider an appropriate registration system which would require funding. However, a review would need to be undertaken by the NLS to determine the appropriate approach for Nauru.

Niue lawyers

Establishing a Niue law society would be the first priority.

Norfolk Island Bar Association

Co-operation.

Samoa Law Society (SLS)

Establishing an administration office and paid employees would be essential to properly maintaining a register. Currently, SLS Council members, who are also full-time employees of government, or are private practitioners, service the SLS's administrative and operational functions.

Solomon Islands Bar Association (SIBA)

An administrator staffing SIBA's office full-time would, in conjunction with the Registrar of the High Court, be able to maintain such a register.

Tuvalu lawyers

Online linkage to other peak lawyers' associations of confirmed update on a lawyer's standing and their jurisdiction.

Vanuatu Law Society (VLS)

A sample register would assist the VLS to establish an initial register. Administrative support would be required in the long-term to maintain a register.

8. Trust accounting and audits

Table 10

Lawyer Association	Are legal practitioners required to hold trust accounts?		Does your association facilitate periodic audits of practitioners?		Does your association seek to facilitate audit processes?		Are there any reporting requirements for lawyers under anti-money-laundering legislation?	
	Yes	No	Yes	No	Yes	No	Yes	No
Cook Islands Law Society		x		x	x		x	
East Timor Bar Association	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Fiji Law Society		x		x		x	x	
Kiribati Law Society		x		x	x		x	
Nauru Law Society		x		x		x	x	
Niue lawyers		x		x		x		x
Norfolk Island Bar Association		x		x	x			x
Papua New Guinea Law Society	x			x	x		x	
Samoa Law Society		x		x	x			x
Solomon Islands Bar Association		x		x	x			x
Tonga Law Society		x		x	x			x
Tuvalu lawyers		x		x	x			x
Vanuatu Law Society		x		x	x		x	

Supplementary comments

What existing audit processes are supported in your jurisdiction, if any?

Cook Islands Law Society (CILS)

CILS has not involved itself in auditing of trust accounts although there has been some movement in recent years to implement a mandatory audit and reporting scheme linked with the ability or otherwise to practise. A Working

Committee was/has been established to look at this in the context of FIU and FSC obligations. More stringent requirements of the FIU and FSC particularly as it relates to the offshore/international banking industry has led to more urgent discussion in regards to this area.

One of the members of that Committee submitted his practice and trust account to a voluntary audit to assist with establishing rules and requirements for the same.

The President of the Justice of the Peace and Chartered Accountant have been engaged to establish rules for the auditing of trust accounts.

Fiji Law Society (FLS)

The FLS used to conduct spot audits of practitioners' trust accounts. However, these functions have been now assumed by the Office of Chief Registrar.

Nauru Law Society (NLS)

There are no commercial banks on Nauru and therefore any trust accounts are maintained overseas. There are laws in place to deal with these accounts, but, these need to be updated and in practice are not enforced. At this stage, the NLS would be interested in providing training to lawyers in the maintenance of trust accounts with transparency and accountability. The power to audit such accounts would be better retained by the Courts as they have jurisdiction to do so and would provide an impartial mechanism of deliberation given the size of the NLS.

Niue lawyers

No comment. This is yet to be tested.

Norfolk Island Bar Association (NIBA)

NIBA itself does not undertake audits, but encourage members to have audits undertaken by the resident auditors.

Papua New Guinea Law Society

Lawyers with Unrestricted Practising Certificates are required to submit audit reports of their trust accounts every year,

or a statutory declaration in lieu if no trust monies were held. This is a pre-condition to the issuing of annual practising certificates. The auditors have to be registered as company auditors under the *Accountants Act*.

Samoa Law Society

We have no provision for periodic audits in Samoa's *Law Practitioners Act 1976* except under section 34, providing for the making of regulations to enable periodic auditing, investigative powers of the council in trust accounts, etc. Such regulations have not been drafted.

Solomon Islands Bar Association (SIBA)

The Solomon Islands legal profession has recently had some of its legal practitioners involved in abuse of trust cases. Some of SIBA's outstanding discipline complaints relate to abuse of trust monies.

Although the *Legal Practitioners Act 1987* gives the Chief Justice and the Rules Committee the power to make rules/regulations for maintaining trust accounts, no such rules are currently in place.

Anecdotal evidence suggests that there are only about three firms/practitioners who arrange for auditing of their trust accounts.

SIBA would like to get to a stage where legal practitioners are required to:

- Open and maintain a trust account;
- Have their trust accounts audited annually. Later, SIBA may be able to get to a stage where there is a scheduled audit and an unannounced audit of practitioners' trust account each year.

Tonga Law Society

There are no existing audit processes in place for lawyers in Tonga and only a few lawyers maintain trust accounts.

Tuvalu lawyers

Currently Tuvalu does not have laws for the admission and practice of lawyers in Tuvalu. Providing a legislative framework for the periodic audit of practitioners trust accounts is needed in Tuvalu. Training assistance for lawyers to develop transparent trust accounting processes would be welcomed by the Tuvalu lawyers.

Vanuatu Law Society (VLS)

Currently, there are no clear legislative guidelines and the VLS needs support on the principles of trust accounting and related requirements.

What additional resources would your association require to facilitate audit processes?

Cook Islands Law Society

Development of professional trust account guidelines/rules, administrative and financial support, training programs and funding for practitioners to comply with rules and guidelines, appointments and funding for properly qualified auditors.

Kiribati Law Society

All resources required to conduct an audit – legislative power, human resources, administrative assistance, development of/distribution of professional trust accounting rules, development and conduct of training programs, etc.

Nauru Law Society

The resources would have to be based on analysing the current account keeping situation on Nauru and updating the relevant laws so that it supports the appropriate principles of accountability and transparency when dealing with client's money. This would require both technical and financial assistance to coordinate with the relevant Nauruan agencies. Once that is completed, there will be a need for a comprehensive training program for the legal profession on Nauru on how to maintain their obligations under these rules, which should provide support to practitioners to

adhere to financial accountability guidelines.

Norfolk Island Bar Association

Adequate funding.

Papua New Guinea Law Society (PNGLS)

- Regular CPD sessions on the management of trust accounts;
- This would require changes to legislation to provide authority to the PNGLS to conduct random checks of lawyers' trust accounts – this does not exist at present.

Samoa Law Society (SLS)

- The establishment of a staffed SLS office;
- approval of regulations to empower periodic audits and to empower the SLS Council to deal with audits, or investigations of alleged misuse or unethical/unprofessional conduct; and
- A review of rules on management and operation of trust accounts.

Solomon Islands Bar Association

- Development of professional trust accounting rules;
- Training for lawyers on the compliance with and implementation of the rules.

Maybe financial support in retaining an auditor who can perform audits of legal practitioners' trust accounts.

Tonga Law Society

All resources – human resources, administrative assistance, development of trust accounting rules, development of training programs etc.

Tuvalu lawyers

Tuvalu would be in a better position to recommend what is necessary for Tuvalu after some training on these requirements. Tuvalu lawyers believe most countries in the region, especially Australia, should be able to provide such training before we

can state definitively, the needs of Tuvalu lawyers in this area.

Vanuatu Law Society

Conduct of training programs, administrative support and financial assistance in developing professional trust accounting rules.

What are the reporting requirements for lawyers under anti-money-laundering legislation in your jurisdiction, if any?

Cook Islands Law Society

Lawyers are “reporting institutions” for limited purposes only and pursuant to the *Financial Transactions Reporting Act* must maintain copies of documentation in terms of identification and verification of persons identity. The Act is inadequate in terms of its application to lawyers. The Act has not yet been enforced against lawyers as guidelines for lawyers are being prepared by the Financial Intelligence Unit in consultation with members of the profession to assist lawyers with compliance.

The Cook Islands was blacklisted for some years. As a result, it now has some of the most compliant legislation. This has raised issues for lawyers and the keeping of trust accounts.

Fiji Law Society

There is financial transaction reporting under law. The central bank has regulatory and monitoring responsibilities under this law. From time to time the bank runs seminars on the legal obligations of lawyers under the relevant legislation.

Kiribati Law Society

The relevant anti-money laundering legislation in Kiribati is the *Proceeds of Crime Act 2003*.

Under the Act, a lawyer is considered to be a “financial institution” if the lawyer gives investment advice or receives funds in the course of his/her business for the purpose of deposit or investment, or

settling real estate transactions (whether or not the funds are deposited into a separate trust account) (section 3).

Financial institutions have reporting obligations under section 107 of the Act to report transactions as suspicious if the financial institution is a party to the transaction and has reasonable grounds for suspecting that information which it has concerning the transaction may be relevant to the investigation or prosecution of a person for a serious offence. It must report its suspicions no later than three working days after forming that suspicion, and if possible before the transaction is carried out.

Reporting is required where:

- Satisfactory evidence of the identity of the customer is not provided, as required by section 102 of the Act. In this case, the financial institution shall not proceed any further with the transaction unless directed to do so by the Financial Intelligence Unit and it must also report the attempted transaction (section 103).
- The transaction is complex, unusual or large, or if there are any unusual patterns of transactions, that have no apparent or visible economic or lawful purpose (section 104(1)).
- The business relations and transactions are with persons in jurisdictions that do not have adequate systems in place to prevent or deter money laundering or the financing of terrorism or wire transfers that do not contain complete originator information (section 104(2)).

It is unknown how these reforms have affected the profession or how lawyers were informed.

Nauru Law Society (NLS)

The provisions of the *Anti-Money Laundering Act* of Nauru apply to practitioners dealing with financial transactions particularly when they prepare for or carry out transactions for their clients relating to:

- a) Buying or selling real estate;
- b) Managing client money, securities or other assets;
- c) Managing bank, savings or securities accounts;
- d) Organising contributions for the creation, operation or management of companies;
- e) Creating, operating or managing legal persons or legal arrangements and buying and selling of business entities.

The AML laws of Nauru protect client/lawyer privilege, where appropriate, and under qualified circumstances are consistent with general common law practices. Lawyers are not informed of any new obligations as it is expected that each practitioner is aware of any new development in the laws of Nauru and would adhere to them accordingly. However, it is an acknowledged issue that there are capacity constraints amongst practitioners that must be addressed particularly in emerging concerns, which are formulated on an international-based agenda.

These laws have not yet impacted private practitioners. Under the Mutual Evaluation of the FATF recommendations, which will be conducted by the APG this year in Nauru, there would be obligations on the profession in terms of discussing and informing the evaluator of current practices when dealing with financial transactions that could potentially lead to money-laundering and the financing of terrorism. The investigative function of the FIU would also have a potential impact on the profession in terms of the requirements of disclosing relevant records. The NLS would welcome capacity-building and technical assistance in training the local practitioners of their obligations under such regimes.

Niue lawyers

The *Financial Transactions Reporting Act 2006* contains various reporting requirements, but it is mainly for financial institutions to report transactions of \$10,000.00 or more and any suspicious

activity. There are no requirements specifically regarding lawyers.

Norfolk Island Bar Association

Reporting requirements have not yet been incorporated into the Norfolk Island legislation.

Papua New Guinea Law Society (PNGLS)

Papua New Guinea has a *Proceeds of Crime Act*. The impact of the reporting provisions of the Act is a stumbling block for lawyers because of the confidential nature of the lawyer/client relationship. This relationship is preserved in Rule 9 of the Professional Conduct Rules.

This does not mean that the PNGLS will tolerate illegal usages of lawyers' trust accounts. The PNGLS Council considers that the correct approach is to amend the *Lawyers Act* to allow the Council, on complaint or on its own initiative, to appoint an auditor to audit a lawyer's trust account and consider the nature of any given transactions.

Tuvalu lawyers

There are no reporting requirements in Tuvalu. These reforms have not had any impact on the profession in Tuvalu. Due to the size of the population and the limited number of lawyers in the country, they tend to be well-informed of any new laws coming into effect that may impose certain obligations on their practice. Lawyers have a group mail list and tend to share information on any new laws. They also share information on court decisions that may affect their practice.

Vanuatu Law Society

The minimum requirement for lawyers is to verify that the transaction giving rise to receipt of funds is genuine and properly documented. The effect of reforms have been positive – lawyers and law firms are adhering to internationally-accepted best practices. The Financial Intelligence Unit - part of the State Law Office communicates with practitioners from time-to-time regarding new obligations.

9. Publications and information resources

Table 11

Lawyer Association	Does your association provide any information services?		Do you seek to provide any information services?	
	Yes	No	Yes	No
Cook Islands Law Society		x	x	
East Timor Bar Association	n/a	n/a	n/a	n/a
Fiji Law Society		x	-	-
Kiribati Law Society		x	x	
Nauru Law Society		x	x	
Niue lawyers		x	x	
Norfolk Island Bar Association		x		
Papua New Guinea Law Society	x		x	
Samoa Law Society		x	x	
Solomon Islands Bar Association		x	x	
Tonga Law Society	x		x	
Tuvalu lawyers		x	x	
Vanuatu Law Society	x		x	

Supplementary comments

What information services does your association provide?

Cook Islands Law Society (CILS)

Given that all lawyers regularly use e-mail, dissemination and publication of information for lawyers is a fairly easy and efficient process. There is no formal, structured and organised service to produce publications and related services for members and the community.

Once a year the CILS participates in a Careers expo, but otherwise the information available to the public, particularly in printed media such as pamphlets giving generic legal advice, is limited.

Fiji Law Society (FLS)

The FLS used to provide these services, but no longer does. The combination of

amendments to the law coupled with the fire at the Law Society premises have effectively shut down its operations.

Nauru Law Society (NLS)

The NLS would invite technical and financial assistance in the area of publication and related services for members and the community. As there are currently no affordable printing options given the financial constraints of the NLS, any required publication is done by volunteers and often it is only for members. The financial constraint on the NLS does not allow for community publication particularly in terms of printed publications.

The use of the internet has assisted in distributing relevant information but internet access is not always available to members and the community at large. This limits information sharing to those who have access to regular internet facilities. The NLS does not currently have

a periodic publication or information service.

Norfolk Island Bar Association

Our resources are limited and we are unable to provide such services.

Papua New Guinea Law Society (PNGLS)

The PNGLS currently produces two publications: *LawTok* and the *President's Newsletter*. Both publications are disseminated by the Society's journalist. Members are informed of legal news and legislative changes through the periodic newsletter. The *LawTok* is a journal which publishes articles of legal interest to lawyers, including PNG case law and case studies. Annual Reports are also produced at Annual General meetings which are held each year.

Samoa Law Society (SLS)

Though not an immediate objective of the Law Society, 99 per cent being practitioners rather than academics, establishing a publications capacity would form part of the need to set up an SLS office tasked with dissemination of legal information, encourage publications by members relating to legal issues on a day-to-day experience from court, newsletters, etc. The Society would certainly look into establishing and improving such a service.

Solomon Islands Bar Association (SIBA)

Currently there are no existing information services produced by SIBA except for a rudimentary fact sheet produced by the members of SIBA's Executive Committee in October 2010 for use during the Association's first ever law week.

Tonga Law Society

The Crown Law Office runs a "Law Week" once a year to create awareness amongst members of the public as to the services provided by law practitioners. This is the main way in which legal services to the public are publicised.

Tuvalu lawyers

It would be ideal to seek to produce and improve the publication of relevant legal information. Currently, there is no publications capacity, although people come to the Office of the Attorney-General and the People's Lawyer Office and are informed of the lawyers who may be of assistance.

Vanuatu Law Society (VLS)

The VLS has recently appointed an Awareness Programs Sub-Committee of the Society whose role is to conduct awareness programs in the civil society at large. The Sub-Committee has commenced engagement with local high schools in mid-April 2011 to provide education about the law and governance. The Committee hopes to gradually progress its work. The VLS plans to eventually have a monthly legal news/information for lawyers and Annual Reports in the future.

What additional resources would your association require to develop or improve its publication and information services?

Cook Islands Law Society

Funding for at least one part-time staff member to compile and publish information. Access to software and existing publications, IT and design support as well as administrative support.

Fiji Law Society (FLS)

Changes to current regulatory and administrative arrangements for the FLS.

Kiribati Law Society

All resources – human resources, administrative, financial, development of templates, software, IT and design support, distribution and printing resources.

Nauru Law Society (NLS)

The NLS would require financial assistance, development of templates, software and IT and design support and printing resources.

Niue lawyers

Funding for printing, design support and printing of publication would be most helpful. For instance, the public have many questions regarding land laws so it would be useful to have a layman publication regarding land laws, the necessary procedures and the expected outcomes for public information.

Templates or access to various templates would save time for both the lawyer and client.

Norfolk Island Bar Association

Money, contributions and administrative resources.

Papua New Guinea Law Society

IT and design support.

Samoa Law Society (SLS)

The SLS requires technical advice to set up proper process, structures and rules relating to publications. The bulk of the resource would have to be funding for initial set-up timeframe for establishment and operation. As indicated elsewhere, establishment of an SLS office and staffing is paramount for this to be operational.

Solomon Islands Bar Association (SIBA)

- An administrator to staff SIBA's office;
- Funding of infrastructure for material, computer, etc;
- Development of templates;
- Software, IT and design support;
- Distribution and printing resources.

Tonga Law Society

Funding to develop a website containing information relevant to the public and an online directory of law practitioners would be most useful.

Tuvalu lawyers

- Financial assistance;
- Templates;
- Distribution and printing resources;
- IT and design support;
- Administrative support.

Vanuatu Law Society

All resources.