

WESTERN AUSTRALIA
LEGAL PRACTICE BOARD

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PRIVATE & CONFIDENTIAL

22 December 2005

The Hon. Mr J McGinty, M.L.A.
Attorney General
Level 30, Allendale Square
77 St George's Terrace
PERTH WA 6000

Dear Attorney General

ANNUAL REPORT

In accordance with the *Legal Practice Act 2003*, section 17(1) I enclose seven copies of the Report of the Chairman of the Board for the period 1 July 2004 to 30 June 2005 for tabling. An electronic version will also be forwarded.

The Board would appreciate being informed when the Report has been tabled.
Thank you.

Yours faithfully



MARY-ANNE PATON (MS)
Secretary and General Manager
Legal Practice Board

map.ms

**LEGAL PRACTICE BOARD
OF WESTERN AUSTRALIA**

**ANNUAL REPORT
1 JULY 2004 - 30 JUNE 2005**

**5TH FLOOR
KINGS BUILDING
533 HAY STREET
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REPORT FROM THE CHAIRMAN OF THE BOARD

The work of the Legal Practice Board is ever increasing. With an ever growing number of legal practitioners to regulate and new initiatives being undertaken, the workload of those members of the Board who regularly attend the many meetings of the Board and its Committees and who readily and repeatedly volunteer their services, often at short notice, to undertake specific tasks as they arise, is significant. In this regard I note that, whilst there are 53 members of the Board, during 2004/2005 only 32 volunteered to serve on the Board's various committees (which is where most of the work is done) or supported the Board in other roles.

To meet the ever increasing demands upon the Board, and to counteract the diminished revenue of the Board (largely as a consequence of the introduction of the Legal Practice Act which dispensed with the requirement of interstate practitioners to take out practice certificates in order to practice in WA and which abolished the requirement for interstate partners of national law firms to be certificated in Western Australia in order for them to share profits earned by their partners in this State), this year the Board, reluctantly, resolved to significantly increase practice certificate fees this year. The reasons for that were set out in a contemporaneous letter that I wrote to each legal practitioner in the State, and is summarised in the attached Annual Report. The Board is very mindful of the impact this had upon legal practitioners and will do all it can to avoid any significant increases in the foreseeable future. Whilst at the time of writing this report it would appear that a further increase in 2006 is unlikely, it remains a possibility which cannot yet be discounted.

As foreshadowed in my report last year, an Advisory Committee was established to consider the introduction of an alternate route to admission in Western Australia through the satisfactory completion of a PLT course in the State. I can now advise that, after extensive consultation with various stakeholders, including law students themselves, the Advisory Committee has resolved to recommend to the Legal Practice Board that such an alternate route to admission be established, preferably to in 2007. A report is presently being prepared for submission to the Legal Practice Board in the early new year. As the proposed reform will require amendment to the Legal Practice Act, if approved by the Board, it will then be submitted to the Attorney General.

The Board is disappointed that the introduction of mandatory continuing legal education has stalled. This happened for two reasons. The first is that, in correspondence with the Board, the State Solicitor expressed reservations as to whether or not the Legal Practice Act sufficiently empowered the Board to introduce a scheme similar to those which operate in other States. The second is because of uncertainty as to whether the Board has power to impose such a scheme upon solicitors employed by the State (who, by Section 36 of the Act, are not required to take out practice certificates). These matters have been the subject of correspondence with the Attorney General. It is hoped that the matter will soon be resolved, one way or the other, by appropriate amendments to the Act.

The Board is also now formulating its views on the national legal profession model laws, a project that will likely see further substantive changes to the regulation of the legal profession in Western Australia in the not too distant future.

In conclusion, I would like to publicly acknowledge the hard work and dedication of the Board's Deputy Chair, Anna Liscia, the Board's Secretary and General Manager, Mary-Anne Paton, the Convenors of the Board's various Committees, the members of the Board who have actively involved themselves in the Board's activities this year and, as always, the Board's wonderful staff.



S Penglis
Chairman
December 2005

REPORT FROM THE SECRETARY AND GENERAL MANAGER

During 2004/2005 the Legal Practice Board (the Board) has continued to implement the *Legal Practice Act 2003*. This process has not been as straight forward as might have been anticipated particularly in view of the Board's considered decision to postpone the introduction of Continuing Legal Education (CLE) in this state; a matter which is reported more fully later in this report.

Notwithstanding the delay in introducing CLE in WA the Board has undertaken extensive work in drafting a CLE Scheme and then consulting as widely as possible with the profession as to its proposed structure. In addition, through the Secretary and General Manager the Board has participated in a national CPD (Continuing Professional Development) taskforce reviewing current and proposed CLE or CPD schemes. Overall therefore, despite a delay in implementation of a local CLE scheme, the process has given the Board an opportunity to liaise widely through out Australia on this topic.

The Board has also undertaken a review of Practical Legal Training in WA and once again has done so by an inclusive model involving key stakeholders and consulting widely with the local profession as well as liaising with other jurisdictions.

With the National Legal Profession Model Laws, likely to be introduced in WA sometime during 2006, the Board's close interaction with the local as well as the national profession is a harbinger of future operations. Throughout 2004/2005 the Board has been working hard at all levels to be well prepared for the national laws. The best preparation is a strong, local profession able to match, if not better, national standards.

To this end the Board and its organisation continue to work to ensure the delivery of the highest standards of professional practice in the legal profession in Western Australia.

To achieve this aim both the Board and its organisation have commenced strategic reviews. This will ensure that the necessary increase in the Board's resources is undertaken with maximum efficiency and effectiveness. Regretfully this also required an increase in practice certificate fees in early 2005. Such an increase was not undertaken lightly by the Board but has been reviewed and accepted by the Joint Standing Committee for Delegated Legislation.

The following report aims to give the profession a clearer insight into the regulatory responsibilities undertaken by the Board on its behalf. The report also hopes to show how the Board operates in undertaking these responsibilities.


The financial year 2004/2005 has been immensely busy and demanding. The Board, made up of voluntary members, has given enormous time and commitment to the profession.

In addition members of the Judiciary as well as other members of the profession have supported the Board by serving on various advisory committees. In this regard, on behalf of the Board, I thank in particular the Hon. Justice McKechnie, the Hon. Justice Hasluck, and the Hon. Justice Simmonds.

In response the staff of the Board has once again worked exceedingly hard to support the Board in its endeavours. From time to time I suspect perhaps not all the profession realise the commitment and effort of both members and staff of the Legal Practice Board in guiding the local profession through a period of truly significant change.

I am grateful however to my colleagues for their continued dedication and support of the Board.

And I thank members of the Board, in particular the Chairperson, Steven Penglis, the Deputy Chairperson, Anna Liscia and the Convenors and Deputy Convenors of the Board's Committees, Ted Sharp, Robert Cock QC, Ken Martin QC, Mark Ritter SC (as he then was), Michael Odes QC, Wayne Martin QC, Gail Archer, Clare Thompson, Grant Donaldson SC and John Syminton for the particular workload each has been prepared to undertake – on top of a busy personal legal career.


Mary-Anne Paton
Secretary and General Manager
December 2005

ROLE OF THE BOARD

The Legal Practice Board (the Board) is constituted under the *Legal Practice Act 2003*. The Board has statutory authority for the admission, supervision and discipline through the Legal Practitioners Complaints Committee and the State Administrative Tribunal, for all legal practitioners in Western Australia. The Board regulates the issue of annual practice certificates, and owns and administers the Law Library in the Supreme Court and its branch library in the Central Law Courts.

The Board provides a practical legal training course through the Articles Training Program, for the training of articulated clerks.

HISTORICAL BACKGROUND

It has been stated in past annual reports and other Board records that the Barristers Board was established in 1893 with the proclamation of the *Legal Practitioners Act 1893*. It is furthermore noted that celebrations were held in 1993 to commemorate the centenary of the Barristers Board.

Recent inspection of early Board and other legal records has indicated, however, a need to review these facts. Revisiting early records of the legal profession in Western Australia has revealed that a regulatory Board was established in 1881, and that this Board was named the Barristers Board in 1889 with proclamation of the *Barristers Board Act 1889*.

Whilst the early history of the Board was well documented in the Board's annual reports some decades ago, over the years certain facts appear to have been confounded or even lost.

Accordingly a brief summary of the recent recovery of these facts is included in this year's annual report. Given the Board must fulfil legislative requirements in the area of recordkeeping in accordance with the *State Records Act 2000*, it is anticipated that continued clarification of the Board's history – and that of the legal profession in WA - will flow from an increased attention to the Board's historical archives.

The Board recognises this is a 'work in progress' and one which has revealed in a short space of time the well organised regulation of the legal profession in this State from the earliest decades of the colony's establishment.

INVESTIGATION OF BOARD RECORDS

From time to time the Board receives queries of a historical nature and it is noted that such inquiries are increasing. As a result of such queries during the year under review the Board's early records were reviewed by staff on a number of occasions. One example was a request for information in preparation for the centenary celebrations in August 2004 to commemorate Edyth Haynes, the first woman to seek admission in Western Australia. This request entailed investigation of original Board minute books and early practitioner files.

As mentioned above, an ongoing review of records is being conducted in response to recordkeeping requirements applicable to the Board under the *State Records Act 2000*.

In reviewing the Board's records it was noted that the Board has in its custody admitted practitioner files which date from 1893, but that admission documents prior to this date are held by the Supreme Court of Western Australia.

Inspection of a small sample of early records held at the Supreme Court revealed references to a 'Barristers Admissions Board' dated prior to 1893.

This created an interest to clarify the early history of the Board, as much as time constraints and resources will allow. Staff referred to research already conducted in relation to the Western Australian legal profession. It was found the following texts include details of the early establishment and development (pre-1893) of a Board responsible for admitting and regulating the legal profession in Western Australia.

- *Admission of Barristers and Solicitors in Western Australia: An Historical Review* by FM Robinson, Vice President, WA Bar Association, 1978
- *A History of the Law in Western Australia and its Development from 1829 to 1979*, Enid Russell, 1980
- *May it Please Your Honour: A History of the Supreme Court of Western Australia 1861-2005* by Geoffrey Bolton and Geraldine Byrne, 2005

Drawing from the above texts and from Board records, a brief historical outline of the establishment and development of the Board, as known to date, is provided as follows:

Brief historical outline

- 1832-1860 Regulation of legal practitioners in Western Australia was first administered by the Civil Court. The requirement for a practice certificate and fee was introduced in 1833.
- 1861 The Supreme Court was established under the 1861 Supreme Court Ordinance and, amongst its roles, was responsible for the admission and regulation of legal practitioners.
- 1881 In 1881 a Board responsible for the admission and regulation of legal practitioners in Western Australia was established. Membership comprised the Chief Justice, the Attorney General and one practising barrister elected annually by the practising barristers of the Court.
- 1889 With proclamation of the *Barristers Admission Board Act 1889* the Board was named the Barristers Board, and membership was amended by omitting the Chief Justice and adding the Crown Solicitor and all Queen's Counsel. Membership was retained for the Attorney General and one elected practising barrister. Provision was made for the Board to investigate complaints against legal practitioners, and to refer matters to the Supreme Court for disciplinary action.
- 1893 On 4 October 1893 the *Legal Practitioners Act 1893* came into operation, repealing all previous legislation relating to the admission and regulation of legal practitioners in Western Australia. Board membership was extended to include five elected members. Over the years amendments to the *Legal Practitioners Act 1893* saw the number of elected members increase, eventually to nine. Membership was amended to include the Solicitor General, and if there was no Solicitor General, the Crown Solicitor.
- 1993 The Barristers Board was renamed the Legal Practice Board when the *Legal Practitioners Amendment (Disciplinary and Miscellaneous Provisions) Act 1992* came into effect on 1 February 1993. The Board's disciplinary functions operated through two new statutory bodies – the Legal Practitioners Complaints Committee and the Legal Practitioners Disciplinary Tribunal. Both these bodies were made up of members of the Board as well as Community representatives.
- 2004 On 1 January 2004, the *Legal Practitioner Act 1893* was repealed with the proclamation of the *Legal Practice Act 2003*. Key new regulatory areas were introduced, largely in relation to new business structures permissible to legal practitioners, and membership was extended to include Senior Counsel plus twelve elected members from the profession.
- 2005 On 1 January 2005 the State Administrative Tribunal was established, absorbing the disciplinary functions of the Legal Practitioners Disciplinary Tribunal, which ceased to exist.

Ongoing project

Review of the Board's records will continue as the Board addresses recordkeeping obligations pursuant to the *State Records Act 2000*. While the focus will be on improving recordkeeping systems, it is hoped that an improved awareness of the history of the Board will flow from the records project, and that future annual reports may be enriched by ongoing rediscoveries.

MEMBERSHIP

The Board as constituted under section 7 of the *Legal Practice Act 2003* consists of:

- (a) The Attorney General;
- (b) The Solicitor General, or, if there is no Solicitor General, the State Solicitor;
- (c) Each Queen's Counsel, and each Senior Counsel, whose principal place of practice is in this State and who is not a full-time judicial officer; and
- (d) 12 legal practitioners of at least 3 years standing and practice in this State who are elected as members.

QUEENS COUNSEL

At 30 June 2005 there were 22 Queens Counsel resident and practising in Western Australia, and therefore members of the Board.

Previously in the year under review:

- Mr Brian F Singleton QC passed away on 6 February 2005;
- Mr Stephen P Pallaras QC relocated to South Australia following his appointment as the Director for Public Prosecutions for that state;
- The Hon. Daryl Williams AM QC returned to legal practice in Western Australia from Federal Parliament.

SENIOR COUNSEL

At 30 June 2005 there were 17 Senior Counsel resident and practising in Western Australia, and therefore members of the Board.

During the year under review:

On 14 April 2005, Mr Antony N Siopsis SC was sworn in and welcomed as a Judge of the Federal Court of Australia and so ceased to be a member of the Board.

On 1 December 2004 the following practitioners were appointed as Senior Counsel, and became members of the Board:

- Mr GA Calcutt AM SC
- Mr CP Shanahan SC
- Mr AR Beech SC
- Mr MT Ritter SC
- Mr GR Donaldson SC

TOTAL NUMBER OF SILK AS AT 30 JUNE 2005

At the conclusion of the year under review the Board had a total of 39 Queens Counsel and Senior Counsel as members of the Board.

ELECTED MEMBERS

1 July 2004 to April 2005 election

Elected members in office during this period were: Ms GA Archer, Mr GR Donaldson, Ms RJ Lee, Ms AM Liscia, Mr S Penglis, Mr MT Ritter, Ms SM Schlink, Mr TH Sharp, Mr JG Syminton, Ms CH Thompson, Ms FB Walter and Mr I Weldon.

April 2005 election to 30 June 2005

Elected members in office during this period were: Ms GA Archer, Mr JGM Fiocco, Ms RJ Lee, Ms AM Liscia, Mr S Penglis, Ms SM Schlink, Mr TH Sharp, Mr JG Syminton, Ms CH Thompson, Ms AM Van Onselen, Ms FB Walter and Mr I Weldon.

Due to the appointment of Mr Mark Ritter as Senior Counsel in December 2004 a one year casual vacancy arose and was subsequently filled during the April 2005 election by Ms AM Van Onselen.

Appointment of Chairperson and Deputy Chairperson

- Mr S Penglis was re-appointed Chairperson on 5 May 2005, effective for the ensuing year
- Ms AM Liscia was re-appointed Deputy Chairperson on 5 May 2005, effective for the ensuing year

Board members as at 30 June 2005

Attorney General The Hon. Mr J McGinty, MLA	Solicitor General Mr RJ Meadows QC	Chair Mr S Penglis	Deputy Chair Ms AM Liscia
Queens Counsel Mr MJ McCusker AO QC The Hon. D Williams AM QC Mr RJ Davies QC Mr RI Viner AO QC Mr CL Zelestis QC Mr RK O'Connor QC Mr S Owen-Conway QC Mr WS Martin QC Dr AF Dickey QC Mr MJ Buss QC Mr J Gilmour QC Mr RJ Meadows QC The Hon Mr P Foss QC Mr MW Odes QC Mr RE Birmingham QC Mr KJ Martin QC Mr F Castiglione QC Mr NW McKerracher QC Mr TF Percy QC Mr RE Cock QC Mr PI Jooste QC Mr MT Trowell QC	Senior Counsel Mr KR Wilson SC Mr MH Zilko SC Mr CB Edmonds SC Mr CG Colvin SC Ms G Braddock SC Mr KM Pettit SC Mr PMC Dowding SC Mr GMG McIntyre SC Mr EM Corboy SC Mr GTW Tannin SC Mr SD Hall SC Mr GH Murphy SC Mr GA Calcutt AM SC Mr CP Shanahan SC Mr AR Beech SC Mr MT Ritter SC Mr GR Donaldson SC	Elected Members Ms GA Archer Mr JGM Fiocco Ms RJ Lee Ms AM Liscia Mr S Penglis Ms SM Schlink Mr TH Sharp Mr JG Syminton Ms CH Thompson Ms AM Van Onselen Ms FB Walter Mr I Weldon	

COMMITTEES

COMMITTEES ESTABLISHED PURSUANT TO SECTIONS 10 AND 11 OF THE LEGAL PRACTICE ACT 2003

Pursuant to section 10 of the *Legal Practice Act 2003*, the Board may appoint committees of its members, and pursuant to section 11 of the Act the Board may delegate to a committee established under section 10 any power or duty of the Board under the Act other than this power of delegation.

The Board's committees so constituted in the year under review were:

- Admissions and Registrations Committee
- Professional Affairs Committee
- Management Committee
- Legal Education Committee

A summary of the main areas of responsibility and activities of the above committees during 2004/2005 is set out further on in this report.

OTHER COMMITTEES

The Board also continued to use the services of its members through various committees without delegated authority. In the year under review such committees were:

- Legislation Committee
- Trust Accounts Review Committee
- IT Sub Committee

The Board has a number of advisory Committees whose members include representatives of key stakeholders. For the period concerned these Committees were:

- The Law Library Committee
- Practical Legal Training Advisory Committee
- Articles Training Program Advisory Committee
- PLEAS Advisory Sub-Committee

MEETINGS OVERVIEW

During the year under review the Board met on a total of 51 occasions as follows:

Full Board (every 3 months)	4
Special Full Board Meeting	3
Admissions and Registrations Committee	10
Professional Affairs Committee	11
Management Committee	11
Legal Education Committee	7
Trust Accounts Review Committee	1
Special Management Meeting	1
Admissions Sub-Committee	1
IT Sub-Committee	1

Meetings of Advisory Committees to the Legal Practice Board took place as follows:

The Law Library Committee	11
Practical Legal Training Advisory Committee	2
Articles Training Program Advisory Committee	1
PLEAS Advisory Sub-Committee	1

ORGANISATIONAL STRUCTURE

As presently structured the Board carries out its functions in four distinct locations:

- Central Administration (Kings Building, Hay Street, Perth); to 31 December 2004 also the location of the Legal Practitioners Disciplinary Tribunal
- The Articles Training Program (Mt Lawley)
- The Law Library (Supreme Court and a branch library at the Central Law Courts)
- The Legal Practitioners Complaints Committee (55 St Georges Tce, Perth)

As noted above, until 31 December 2004, the Legal Practitioners Disciplinary Tribunal was located in the Kings Building. The Disciplinary Tribunal ceased as of 31 December 2004 when its functions, along with approximately 40 other boards and committees, were subsumed into the State Administrative Tribunal.

CENTRAL ADMINISTRATION

The Central Administration Office, in the Kings Building, provides administrative and executive support to the Board and its committees as well as undertaking other core functions of the Board as provided for in the *Legal Practice Act 2003*. Central Administration also ensures the Board complies with considerable additional legislation as these impact upon both the Board and its organisation.

Accordingly, key responsibilities of Central Administration include, but are not limited to:

- Executive support of the Board and Committees
- Maintenance of the practitioner register (a record of all practitioners admitted to practice in Western Australia), plus various other records pertaining to legal practitioners in this State
- Processing of admissions applications
- The issue and renewal of annual practice certificates, and the administering of other practitioner compliance matters
- Conducting the Board's annual election
- Management of the Board's human, financial and physical resources

THE ARTICLES TRAINING PROGRAM (ATP)

Established in 1995, the ATP is a post-graduate pre-admission course designed to enhance practical legal training for articulated clerks.

The ATP office, situated in Mt Lawley, administers the course and its ongoing review and development, in accordance with the direction of the Board. Part-time lecturers are contracted to conduct the courses. Please refer to the section below on the Articles Training Program.

THE LAW LIBRARY (SUPREME COURT AND CENTRAL LAW COURTS)

The Law Library, located in the Supreme Court of WA is owned and administered by the Board, and operates a branch library at the Central Law Courts.

The Law Library provides reference and research facilities for the legal profession in Western Australia and through Rule 64 of the *Legal Practice Board Rules 2004* gives wide access to members of the Judiciary, certificated practitioners, articulated clerks, members of Parliament (and their departmental staff), members of the Police Force, holders of an office, post or position established under an Act and public service officers and employees. Several groups such as law students, interstate practitioners, foreign lawyers and litigants in person may use the library subject to any restrictions, including payment of a fee, determined by the Law Library Committee.

The operation of The Law Library is supported by the Law Library Advisory Committee, chaired by the Hon. Justice Hasluck. (Please see next page.)

THE LEGAL PRACTITIONERS COMPLAINTS COMMITTEE

The Legal Practitioners Complaints Committee is responsible for supervising the conduct of legal practitioners and the practice of law. Pursuant to the *Legal Practice Act 2003*, it has investigative and conciliation powers, and also initiates disciplinary proceedings.

As noted earlier the Complaints Committee is comprised of members of the Board and Community Representatives.

Pursuant to section 166 of the *Legal Practice Act 2003* the Complaints Committee provides an annual report in relation to its activities to the Attorney General.

STAFF OF THE LEGAL PRACTICE BOARD

- As at 30 June 2005, the following numbers of staff were in full-time, part-time or contract employment:

Divisions	No. of Staff
Central Administration	16
Articles Training Program (includes casual employees, being lecturers and other staff)	21
Supreme Court Library and Central Law Courts Library	7
Legal Practitioners Complaints Committee	15
Trust Account Inspector	1
Total Staff	60

New Appointments

During the year under review three new positions were filled at the Legal Practitioners Complaints Committee and five new positions were created and filled at Central Administration.

Mrs Natalie Kent and Ms Franca Sala Tenna were appointed Deputy Directors of the ATP, in a shared arrangement.

Professional Development

To better equip staff in their respective roles within the organisation, the Board encourages training and development activities which enable staff to enhance their skills and experience.

Such courses undertaken include:

- Management skills
- Reception skills
- Web development
- Business online
- First Aid
- Record keeping
- Interviewing techniques
- FBT Seminar
- Organisational Behavior
- EOY Seminar
- Emerging Issues in HR Management
- Annual Reports Writing
- Tax research
- Information online
- Web design and development
- Triumph
- Office suite (introduction and intermediate)
- Litigation timeline
- Presentations
- Legal assistance training
- Inheritance claims
- Performance appraisals
- Magistrates Court reform
- Communication skills
- Court of Appeals – new procedures
- Violence resistance orders
- Micro skills refresher
- Practical editing

Equal Employment Opportunity

The Board is committed to promoting Equal Employment Opportunity (EEO) for all its employees, and has devised policy statements with a view to encouraging and supporting staff development opportunities. Policy statements are provided to all new staff as part of their induction.

SIGNIFICANT ISSUES AND DEVELOPMENTS

LEGISLATIVE REFORM

State Administrative Tribunal Act 2004

The State Administrative Tribunal (the SAT) was established with the proclamation of the *State Administrative Tribunal Act 2004* on 1 January 2005. The SAT has absorbed the disciplinary functions either in part or wholly, of 40 WA Boards and Tribunals, including the Legal Practitioners Disciplinary Tribunal (LPDT).

It is noted that as such, all existing matters of the LPDT were transferred to the SAT if at 1 January 2005 such matters were partly or fully heard before, but not determined by the LPDT. The Board has retained custody of LPDT records relating to closed matters, as well as administrative records and electronic registers.

Whilst the SAT has absorbed the functions of the Legal Practitioners Disciplinary Tribunal, it has not taken over the role of the Legal Practitioners Complaints Committee which continues to investigate and prosecute complaints against legal practitioners. The LPCC also retains its powers of summary jurisdiction.

Legal Practice Regulations 2005

The *Legal Practice Regulations 2005* were proclaimed on 19 April 2005. Regulations are in relation to incorporated legal practices, multi-disciplinary partnerships, and foreign lawyers.

PRACTICAL LEGAL TRAINING

Western Australia is the only Australian State or Territory in which articles remain the sole form of pre-admission practical legal training (PLT). This system does not satisfy the requirements of the Uniform Admission Rules which the Board, like other Australian jurisdictions, has accepted in principle. The Board is also aware that in the last several years it has become increasingly difficult to obtain articles. It is common knowledge that each year a number of graduates travel to either New South Wales or Victoria to complete the pre-admission year at the College of Law or the Leo Cussen Institute.

In 2002 the Board established an Advisory Committee to review practical legal training in this state. Membership of the Advisory Committee comprised representatives from the Judiciary, the Attorney General, the Law Society, WA Universities with a Law School and the Board. In April 2004 the Advisory Committee submitted its final report to the Board. The Advisory Committee considered workplace training, supplemented by programmed training, remains an effective method of pre-admission practical legal training. In addition the report made 7 main recommendations which have been endorsed by the Board. Six of the recommendations are presently being implemented.

The seventh recommendation stated that consideration ought to be now given to establishing an alternate route to admission in Western Australia (that is, in addition to articles) through the satisfactory completion of a PLT course offered in this State. In adopting recommendation 7 the Board also resolved to establish a new Advisory Committee, to be chaired by the Chairperson of the Board, and once again, comprising representatives of all relevant stakeholders.

Early in 2005 the Advisory Committee resolved, in principle, to recommend to the Board an alternate route to admission in Western Australia via practical legal training courses to be accredited by the Board.

The Legal Practice Board noted the Advisory Committee's in principle recommendation and in May 2005 agreed that the Advisory Committee ought to now proceed to consult with the Judiciary, the legal profession and law students.

Accordingly such consultation is proceeding with the profession as noted above.

NATIONAL LEGAL PROFESSION MODEL LAWS

The Board understands the National Legal Profession Model Laws may be enacted in Western Australia during 2006 and continues work to be prepared for the legislation.

PRACTICE CERTIFICATE FEES

As the profession was advised by the Board's Chairperson in a letter dated 29 April 2005 sent to every member of the profession holding a current practice certificate, annual practice certificate fees were increased in April 2005. Whilst the Board took this step with regret it was necessitated by prudent financial management to provide the Board with the revenue to discharge its statutory functions at a time of ongoing significant legislative change.

The fee increase did not cover all of the Board's expenses. The Board is still required to have recourse to its reserves to pay for all of its budgeted expenditure.

The Board is largely self funding. It charges fees for some of the services it provides, but otherwise the revenue from practice certificate fees generates its sole and main source of income, apart from Government. The fee increase was necessary to enable the Board to carry out its functions under the *Legal Practice Act 2003*. The Board has been cognisant of the fact that the costs of regulation fall initially on the legal profession and ultimately on the public who have recourse to the profession. That is plainly the regime contemplated by the Act. Ultimately, the public interest is served and protected by the regulatory, training and information services provided by the Board.

No fees are payable to Board members undertaking their duties. All Board members who take an active role in the Board contribute their time and expertise without any remuneration and hence at personal cost to them – both in terms of time and loss of revenue.

The Board uses its funds to carry out its statutory obligations, which include the following:

- Dealing with complaints against practitioners through the Professional Affairs Committee and the Legal Practitioners Complaints Committee. This includes the conduct of disciplinary proceedings before the State Administrative Tribunal and the Supreme Court of WA.
- Dealing with the introduction and administration of mandatory continuing legal education.
- Monitoring and auditing of trust accounts operated by practitioners.
- Liaising with the profession in relation to issues impacting upon the profession, such as mandatory continuing legal education, practical legal training. These are issues that arise particularly in the context of the move to a national legal profession.
- Liaising with the accounting profession regarding the provision of audit certificates for law firms so that the same comply with the Act.
- Operating and maintaining the Law Libraries. All staff of the Libraries other than the head librarian of the Supreme and the branch librarian at the Central Law Courts are employees of the Board.
- Liaising with the Courts and the Justice Department in relation to common issues, such as the Law Library. This includes attendance at the monthly Law Library Committee meetings.
- Preparing and conducting monthly meetings for each of the following Board committees: Management, Professional Affairs, Legal Education, Admissions and Legal Practitioners Complaints Committee. In addition, the Full Board meets four times a year, with special meetings being called as needed. Supporting the above committee structure, the Board has a number of sub committees which are created as the need arises to deal with specific issues; for example, the Practical Legal Training Committee and the Strategic Review committee.
- Liaising with Parliamentary Counsel's Office in relation to recommended changes to legislation.
- Liaising with the Attorney General and Solicitor General regarding changes to legislation, the impact of the national practice model laws and the Board's financial and administrative requirements.
- Liaising with the Law Society with regard to the Law Mutual professional insurance scheme, especially during April to August (the yearly renewal cycle).
- The consideration and response to various public bodies responsible for public sector compliance issues.

IT DEVELOPMENTS

Systems

In order for the Legal Practice Board to carry out its core functions, various procedures and systems must be in place, not only to aid staff in their roles but also to provide efficiency and effectiveness in productivity and results gained.

One such essential system tool currently utilised is a database of practitioners. Its use includes but is not restricted to:

- general enquiries
- quick access to practitioner details
- pre-admission
- the processing, issue and renewal of practice certificates
- a historical record of firms and practitioners
- retrieval of statistical reports

Since the time this database system was first installed and implemented, modifications have been made to the system to keep up with changes in the organisation's environment. However with recent significant changes in business structures, legislation and general IT trends, the database is noticeably out-of-date, unable to reflect these changes. This lessens the Board's efficiency in providing complete, accurate and timely information and services to the legal profession and the general public.

Towards the end of 2004, an Information Systems Project Officer was appointed to undertake various IT projects of the Board with the database being a priority. A review of the database began firstly with a systems analysis of its current functions, processes and capabilities. This was followed by a review of its problems and areas of improvement together with an examination of legislation. A scoping exercise was further carried out to describe and develop the requirements for a redeveloped database.

As at 30 June 2005, the Board is undertaking an investigation of potential and alternative solutions to deliver these requirements. It is the Board's goal to have the redevelopment of the database commence by 30 June 2006.

Website

Since the launch of the Board's website in 2004, areas of information have expanded to include:

- a list of struck off and suspended practitioners together with reports of proceedings
- notices to the profession
- policy statements
- employment opportunities

The Board recognises the importance of the website as a communication tool and welcomes comments from the legal profession and the general public. The present website is an interim site whilst a review of the website is under consideration in terms of its structure, navigation and overall look and operation.

IT Oriented Research

Extensive research was conducted in the areas of network security, maintaining a standard operating environment (SOE), electronic document and records management systems (EDRMS) and business online. As a result:

- identification of differing application software and programs across the Board has been carried out
- office suites were purchased and rolled out through the Administrative division where needed
- secure user access to division networks have been resolved
- further investigation, and work in relation to the *State Records Act 2000* will need to proceed before any decisions for the implementation of an EDRMS will occur

STATE RECORDS ACT 2000

Recordkeeping Plan

The Board is required under section 19 of the *State Records Act 2000* to have a Recordkeeping Plan approved by the State Records Commission (SRC). The Recordkeeping Plan must include details of the Board's recordkeeping systems, disposal arrangements, policies, practices and processes. A key component of the Recordkeeping Plan is the Retention and Disposal Schedule, which specifies the retention periods of all records relating to the Board's core business functions.

Drafts of the Board's first Recordkeeping Plan and Retention and Disposal Schedule were lodged with the State Records Office by the statutory due date in March 2004. In December 2004 the SRC cleared the Board's Recordkeeping Plan, its final approval being subject to approval of the Retention and Disposal Schedule. The Board's Retention and Disposal Schedule is likely to be approved in early 2006.

Needs and developments

The Board's recordkeeping systems are being extensively reviewed across the whole organisation. Considerable work has been carried out during the 2004/2005 year in analysing the Board's recordkeeping needs and in addressing undertakings stipulated in the Board's Recordkeeping Plan.

During the year under review:

Backup procedures

An audit of backup procedures for the Board's electronic records was conducted, and a best practice document was drafted and circulated to all divisions for testing.

Records management software

An initial investigation of records management software was undertaken, including consultancy sessions with software providers and staff from the Board's various divisions. Whilst the benefits of implementing records management software were recognised, it was determined the Board must first resolve fundamental recordkeeping needs before proceeding to such a significant purchase.

Records storage conditions

Procedures were undertaken to confirm appropriate storage conditions for Board records, including a circular to all Board divisions requiring that reviews of storage conditions be conducted periodically.

Policies and procedures manual

Work commenced on an organisation-wide manual of records management policies and procedures, inclusive of a vital records program. The first draft is due for completion by 31 December 2005.

Revision of outsourcing contracts

The Board's Management Committee considered the matter of outsourcing and recordkeeping requirements pursuant to *SRC Standard 6 – Outsourcing*. A review of outsourced services and contracts has commenced.

Staff training

Copies of the 'cleared' Recordkeeping Plan were distributed to all divisions of the Board.

Board staff also participated in the following activities:

- The Local Government Records Management Group (LGRMG) Biennial Conference
- Content management systems: websites and intranets (seminar)
- Consultancy sessions with records management software providers.

Staff training will be a priority in the upcoming year as the Board continues to progress the undertakings of its Recordkeeping Plan.

SECTION 17, LEGAL PRACTICE ACT 2003

As amended by the *State Administrative Tribunal Act 2004*, section 17 of the *Legal Practice Act 2003*, effective as of 1 January 2005, requires that certain information should be provided to the Board at its request and upon receipt of that data, extrapolations as to the workload and operation of the Board for the following year, are to be included in the Board's Annual Report.

Accordingly, as far as has been possible, the following is provided in accordance with the requirements of section 17 (amended) of the Act.

(1a) The annual report is to include details of -

(a) The number, nature, and outcome of -

(i) Inquiries undertaken by the Board:

In the year under review 1 inquiry was undertaken by the Board:

The inquiry was in relation to the fit and proper character of an applicant for articles of clerkship. The applicant was found to be of fit and proper character and was consequently permitted to register for articles of clerkship.

(ii) Matters that have been brought before the State Administrative Tribunal under this Act:

In the year under review, 61 matters were referred to the State Administrative Tribunal (the SAT):

- 1 matter involved the review of a decision made by the Admissions and Registrations Committee, referred to the SAT by the practitioner in question. The matter related to the imposition of a restricted practice condition.
- Matters of the Legal Practitioners Disciplinary Tribunal which were unheard, part heard or with a decision pending as at 1 January 2005 were transferred to the SAT when the Tribunal commenced on 1 January 2005. Matters related to unprofessional conduct, professional misconduct or illegal conduct of legal practitioners.

(b) The number and nature of matters referred to in paragraph (a) that are outstanding:

- Resolution of the matter involving review of a decision of the Admissions and Registration Committee referred to in point (ii) above remains outstanding.
- 58 of the Legal Practitioners Disciplinary Tribunal matters transferred to SAT remain outstanding.
- 19 matters referred to the SAT by the LPCC remain outstanding.

Enquiries undertaken by the Legal Practitioners Complaints Committee (the LPCC) and matters referred by the LPCC to the State Administrative Tribunal are included in the Annual Report of the Legal Practitioners Complaints Committee.

PROFILE OF THE CURRENT WA LEGAL PROFESSION

NEW BUSINESS STRUCTURES – PART 6, LEGAL PRACTICE ACT 2003

During the year under review, registrations and queries pertaining to this area of regulation were referred to quarterly meetings of the Board as well as the Professional Affairs Committee.

Statistics: New Business Structures

In the year under review:

- Pursuant to section 50(1) of the Act, 48 incorporated legal practices provided notice to the Board of an intention to commence practice;
- 50 incorporated legal practices commenced practice.

TABLE 1: COMPOSITION OF THE WA LEGAL PROFESSION AS AT 30 JUNE 2005

	Resident Females	Non Resident Females	Resident Males	Non Resident Males	TOTAL
Barristers	21	-	148	18	187
Commonwealth Government	21	1	19	-	41
Consultants	25	-	57	2	84
Corporate	79	3	129	11	222
Employees	742	11	666	40	1459
Locum	1	-	2	-	3
Not Practising (certificated)	126	84	122	208	540
Partners	81	2	508	20	611
Sole Practitioners	92	1	407	8	508
Miscellaneous	-	-	1	-	1
Judiciary ^	2	-	6	-	8
Deceased ^	-	-	6	1	7
Struck Off ^	-	-	2	-	2
State Government *	36	-	19	-	56
Practice Certificates ISSUED	1226	102	2092	308	3729
S.36 Practitioners					
** State Solicitor	59	-	45	-	104
** Director of Public Prosecutions (State)	38	-	41	-	79
** Other Departments	93	-	54	-	148
TOTAL Practitioners **	1380	102	2213	308	4004

^ Held practice certificate during 2004-2005 however by 30 June 2005 were appointed judiciary / deceased / struck off

* State Government employees who held a practice certificate during 2004-2005

** State Government employees taken to be certificated pursuant to Section 36 of the Legal Practice Act 2003

Table 1 shows the composition of practice certificate holders for the 2004/2005 year, plus the number of practitioners taken to be certificated pursuant to section 36 of the *Legal Practice Act 2003*.

TABLE 2: NUMBER OF PRACTICE CERTIFICATES ISSUED IN PAST 10 YEARS

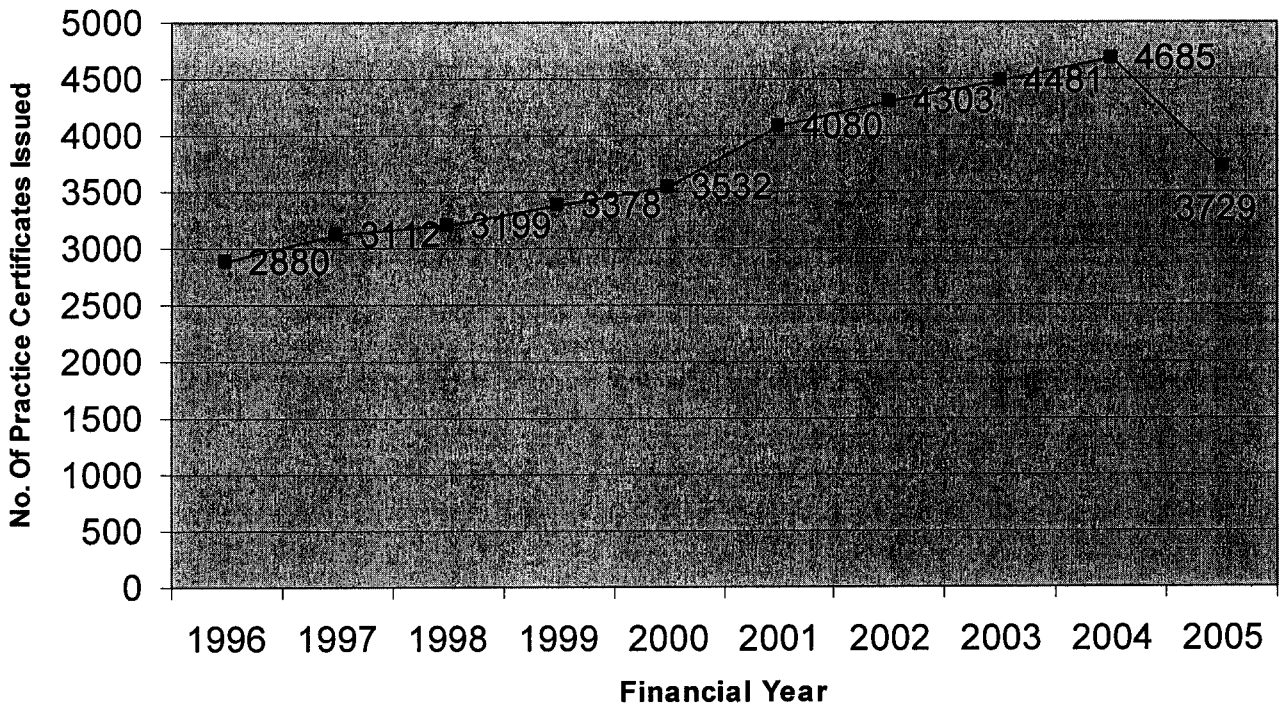


Table 2 shows annual totals of practice certificates issued over the past 10 years.

The number of practice certificates issued in 2004/2005 decreased considerably compared to the steady annual increase of previous years. This decrease is primarily due to new provisions within the *Legal Practice Act 2003* allowing interstate based practitioners to practice in Western Australia using their home jurisdiction practice certificates – the national practice certificate scheme.

A consequence therefore of the national practice certificate scheme, is that the number of non-resident practice certificate holders (shown in Table 1) have decreased significantly compared to previous years.

ADMISSIONS AND REGISTRATIONS COMMITTEE

Convenor: Mr KJ Martin QC until May 2005; then Mr MT Ritter SC
Deputy Convenor: Mr MT Ritter SC until May 2005.

The Admissions and Registration Committee deals with such areas as articles of clerkship, admissions and restricted practice, and subsequent to the proclamation of the *Legal Practice Act 2003*, newly introduced provisions for the regulation of interstate practitioners and foreign lawyers. Details of these regulatory areas are published on the Board's website, at www.lpbwa.org.au

ARTICLES OF CLERKSHIP

The principal post-graduate pre-admission practical training in this jurisdiction is articles of clerkship. Most graduates are articulated for a period of twelve-months and during that period must attend and satisfactorily complete the Articles Training Program (ATP) course. The clerk's principal must be a practitioner of at least two years standing, practising on his or her own account in this State, and approved by the Board to take an articulated clerk.

Apart from graduates of local law degrees, graduates of interstate or overseas law degrees seeking first time admission are also required to complete a term of articles of clerkship. In some cases, practitioners admitted in overseas jurisdictions may also be subject to this requirement, depending on their professional experience.

FIVE YEAR ARTICLES OF CLERKSHIP

Pursuant to section 15(2)(b) of the *Legal Practitioners Act 1893*, an alternative route to admission was available to applicants without a law degree by completing a five year term of articles of clerkship. Five year articulated clerks were required to pass examinations ('not for degree') in law subjects prescribed by the Board, at the University of Western Australia, Murdoch University, or the University of Notre Dame. They also needed to complete the Articles Training Program.

This provision was withdrawn when the *Legal Practitioners Act 1893* was repealed and the *Legal Practice Act 2003* proclaimed on 1 January 2004. Accordingly, this route to admission remains open to those five year articulated clerks registered prior to 1 January 2004, but there is no longer provision for new applications of this kind.

There are currently fourteen (14) articulated clerks who are undergoing five year articles.

ADMISSION OF LEGAL PRACTITIONERS

The Board acts as the agent of the Supreme Court for the purpose of lodgment and processing of applications for admission.

Section 27 of the *Legal Practice Act 2003* sets out the circumstances in which persons may be admitted as practitioners of the Supreme Court of Western Australia. The *Mutual Recognition (WA) Act 2001* furthermore provides for the admission of practitioners from other Australian jurisdictions. Accordingly, applicants for admission can be divided into the following streams:

Admissions pursuant to s27(2)(a) of the *Legal Practice Act 2003*. This includes law graduates from the University of Western Australia, Murdoch University, and the University of Notre Dame, and graduates from other jurisdictions, both interstate and overseas, who have completed any further study requirements prescribed by the Board. To be eligible for admission, graduates will have completed a 12 month term of Articles of Clerkship, or in certain circumstances a 6 month term, plus the Articles Training Program.

Admissions pursuant to the *Mutual Recognition (WA) Act 2001*. Practitioners admitted in another Australian jurisdiction are eligible for admission in this State on the basis of their admission interstate. Terms and conditions of practice which are applicable to the applicant in the first jurisdiction also apply in this jurisdiction.

Following proclamation of the *Legal Practice Act 2003* on 1 January 2004, interstate practitioners are able to practice in this jurisdiction on the basis of their home jurisdiction practice certificate, without needing to seek admission in this State pursuant to the *Mutual Recognition (WA) Act 2001*. This new provision applies to practitioners whose principal place of practice remains interstate. (Please see 'Interstate Practitioners' immediately below).

Admissions pursuant to s27(2)(b) of the *Legal Practice Act 2003*. This section pertains to practitioners qualified and admitted in another jurisdiction, whether interstate or overseas, who have met any requirements imposed by the Board, including further study and, in some cases, a term of articles of clerkship.

Statistics pertaining to matters considered by the Admissions and Registrations Committee from 1 July 2004 to 30 June 2005

Articles of Clerkship

193 new registrations of articles of clerkship were made.

Of this total, 116 were female and 77 were male, and were graduates as follows:

- 97 from the University of Western Australia
- 62 from Murdoch University
- 30 from Notre Dame University

- 2 were from interstate tertiary institutions
- 2 were from overseas institutions

Admissions

193 graduates were admitted to practice after completion of Articles of Clerkship in Western Australia.

Of this total, 104 were female and 89 were male, and were graduates as follows:

- 174 from West Australian tertiary institutions (105 from the University of Western Australia, 45 from Murdoch University and 24 from Notre Dame University)
- 4 from interstate tertiary institutions
- 12 from overseas institutions
- 3 admissions took place pursuant to completion of 5 year articles
- 139 new mutual recognition applications were lodged
- 124 practitioners were admitted pursuant to the *Mutual Recognition Act 2001*
- 8 practitioners from overseas jurisdictions were admitted to practice in Western Australia. Of these practitioners; 3 were previously admitted in Singapore, 1 in Kenya, 1 in Malaysia, 1 in India, 1 in Canada and 1 in Nigeria

Assessments

- 4 applications were made for the assessment of an interstate law degree
- 15 applications were made for the assessment of an overseas law degree by applicants who had not been admitted. These applications came from various countries as follows:
 - 10 from the United Kingdom
 - 2 from Egypt
 - 2 from India
 - 1 from New Zealand

- 37 applications were made for the assessment of practitioners admitted overseas. These applicants came from various countries as follows:
 - 3 from Canada
 - 4 from Singapore
 - 4 from Malaysia
 - 2 from New Zealand
 - 7 from the United Kingdom
 - 2 from India
 - 2 from the United States
 - 5 from South Africa
 - 1 from Brazil
 - 1 from Ireland
 - 1 from Poland

- 1 practitioner was admitted in both the United Kingdom and Queensland (conditional)¹
- 1 practitioner was admitted in both Singapore and Queensland (conditional)
- 2 practitioners were admitted in both the United Kingdom and Singapore
- 1 practitioner was admitted in both Denmark and the United States

Foreign Lawyers

There have been no foreign lawyers registered with the Board in the year under review.

PROFESSIONAL AFFAIRS COMMITTEE

Convenor: Mr MW Odes QC
Deputy Convenor: Mr WS Martin QC

The Professional Affairs Committee deals with areas relating to the issue of practice certificates (including annual renewal and uncertificated practitioners), bankrupt practitioners, trust accounts, business structures and practices, professional conduct matters and unqualified and prohibited practice.

UNQUALIFIED AND PROHIBITED PRACTICE

Unqualified legal practice

The Board is responsible for investigating and instituting proceedings against unqualified persons who perform legal work for reward or who hold themselves out as admitted legal practitioners. These matters are considered by the Professional Affairs Committee and referred to the Board's solicitors for investigation and possible prosecution.

Since 1996, the Board has considered and investigated over 60 major complaints and breaches against section 77 of the *Legal Practitioners Act 1893* and then Part 9 of the *Legal Practice Act 2003*. A significant number of these matters involve several complaints against the one person requiring separate investigations.

Additionally, a number of these instances are recidivist and may run for many years. The Board regularly obtains successful prosecutions but it is an ongoing concern that the community is being disadvantaged by persons offering so called 'legal services' without the appropriate professional training and with no financial protection against claims of negligence and/ or unprofessional conduct.

To assist the general public, the Board encourages people to check with the Board to determine whether or not a person is an admitted legal practitioner in this State.

¹ Practice certificates subject to a condition/s within their jurisdiction.

Uncertificated legal practitioners

The Professional Affairs Committee considers the late renewal of annual practice certificates and instances of practitioners apparently engaging in legal practice whilst un-certificated. Practitioners are invited to provide submissions as to the circumstances of their late renewals and/ or possible un-certificated legal practice. The Committee will then use its discretion in determining whether a matter should be referred to the Legal Practitioners Complaints Committee.

These matters place a continuing drain on the Board's resources and thereby represent a cost to the whole profession. The Board is particularly concerned at the apparent lack of awareness or the failure to give due regard to an individual practitioner's professional obligations under the Act.

During 2004/2005 a total of 160 practitioners were referred to the Professional Affairs Committee for apparently engaging in the practice of law whilst uncertificated. Of these 102 were a consequence of the late renewal of a practitioner's practice certificate and occurred during the period of July and August. A percentage of these late applications were from practitioners either taking a break from the law and/or outside the jurisdiction and neglecting to either renew on time or inform the Board of their change in circumstances. However the Board is required to follow up every instance until the situation for each practitioner is determined and regrettably this all too frequently can take several months.

A further 58 practitioners were referred during the remainder of the period under review.

Analysing the circumstances as set out in the submissions provided by practitioners who were referred to Professional Affairs it seems uncertificated legal practice most commonly arises out of the following three situations:

- Practitioners applying for a practice certificate after they had commenced employment;
- Practitioners leaving employment where they were taken to be certificated by virtue of section 36 of the Act for new employment and not obtaining a practice certificate; and
- Practitioners not applying for a practice certificate immediately following admission as a legal practitioner of the Supreme Court of Western Australia.

Renewal of practice certificates

For the annual renewal of practice certificates, correctly completed applications and payment must be lodged with the Board by 30 June in order that practice certificates are issued with effect from 1 July. Applications received after 30 June (the expiry date of the preceding year's practice certificate) take effect on the date upon which a complete and correct application is lodged with the Board, or if extenuating or exceptional circumstances exist, on such earlier date as is determined by the Board.

The Board continues to be concerned at:

- the high number of incorrectly completed renewal forms;
- the number of late renewals.

Late renewal of practice certificates – some statistics

With regard to the practice certificate renewal period:

- 18 practice certificate renewal forms were lodged up to one week late
- 43 practice certificate renewal forms were lodged between one week and one month late
- 41 practice certificate renewal forms were lodged over one month late

BANKRUPT PRACTITIONERS

When the Board receives notice that a practitioner has entered into bankruptcy or a Part X Arrangement, the matter is referred to the Professional Affairs Committee. The Committee considers whether pursuant to section 40 of the *Legal Practice Act 2003*, conditions may be placed on the practitioner's practice certificate.

Conditions may include:

- The practitioner practice only as an employed practitioner
- Provision of six monthly financial statements
- Provision of a six monthly report from the trustee in bankruptcy
- Consent by the Board to continue in practice prior to renewal of annual practice certificate (consideration is pursuant to section 40 of the Act)

During the period under review a total of 16 practitioners were on the bankruptcy list:

- 4 were registered during the financial year
- 12 were registered prior to the financial year

As of 30 June 2005, 4 practitioners were discharged leaving a total of 12 practitioners on the bankrupt list.

Of these:

- 5 practitioners are practising
- 7 practitioners are not practising

BUSINESS NAMES – CESSATION OF DIRECT REGULATION

After significant consideration, including correspondence with the Law Society of WA, the Board has resolved that it will not make rules in relation to the regulation of business names.

POLICY STATEMENTS BY THE PROFESSIONAL AFFAIRS COMMITTEE

The following 2 policy statements have been issued by the Professional Affairs Committee:

Admitted practitioner reverting to the status of clerk

“POLICY REGARDING ADMITTED PRACTITIONER REVERTING TO THE STATUS OF CLERK

The *Legal Practice Act 2003* (the Act) requires all practitioners engaged in legal practice to hold a current practice certificate: see s35 of the Act. The only exceptions are those found in s36. The term “engage in the practice of law” is defined by s4 of the Act. Sections 123 and 129 make it an offence to practise law, or to employ someone to practise law, without a practice certificate. Exceptions to s123 are provided by s124(2) of the Act. In most cases, a person employed under s124(2)(b)(i) will not be a legal practitioner. However, the Legal Practice Board (the Board) understands that there may be occasions when a person qualified and admitted as a legal practitioner chooses to work under the exception provided by s124(2)(b)(i).

It is the policy of the Board that practitioners admitted in Western Australia who are employed in a law office in WA to undertake legal work, will be presumed in the absence of evidence to the contrary to be engaged in the practice of law as defined in s4 of the Act. This presumption will arise irrespective of any title or job description that they might be given.

There will be evidence to the contrary if a practitioner is able to demonstrate to the satisfaction of the Board that the work that he or she is undertaking falls within the exception provided by s124(2)(b)(i) of the Act. In general that work must be of a nature that does not call upon legal training and experience to the extent reasonably and usually expected of a legal practitioner. To satisfy the terms of the Act, the work must at all times be supervised by an admitted and certificated practitioner. Amongst the factors to which the Board will have regard in determining whether s124(2)(b)(i) applies are –

- (a) the rate at which the person who claims the benefit of that paragraph is remunerated; and
- (b) any rate at which that person’s time is charged to any third party.

It is the responsibility of a person who claims to fall within the exemption found in section 124(2)(b)(i) of the Act, and therefore not to require a practice certificate, to satisfy the Board to that effect.

Unless s124(2) applies, a legal practitioner who does not have a practice certificate and who engages in the practice of law may commit an offence under s123 of the Act. Contravention of any provision of the Act amounts to unsatisfactory conduct within the meaning of s3 of the Act and may additionally be dealt with as a contempt of the Supreme Court.

**Legal Practice Board of WA
2005”**

Accountant's Certificates

"POLICY REGARDING PROVISION OF AN ACCOUNTANT'S CERTIFICATE (FORM20) PURSUANT TO SECTION 147(2) or (3) OF THE LEGAL PRACTICE ACT 2003 (AS OF 2005)

Inactive or exhausted accounts

Sections 142(2) and (3) of the Legal Practice Act 2003, where applicable, require the provision of an accountant's certificate at the time of an application for a practice certificate. The accountant's certificate is to relate to the trust account of the legal practitioner or of the incorporated legal practice, as appropriate. Section 142(4) gives the Board the discretion to withhold a practice certificate where an accountant's certificate is not provided.

For many years, the Board has received submissions to the effect that, for the whole of the relevant period, a trust account has been wholly inactive or has shown a nil balance or both.

The Board has resolved that, where it is satisfied by the provision of:

- (i) copies of bank statements for the trust account for the whole of the relevant period; and
- (ii) a statutory declaration from the legal practitioner or the legal practitioner director, as appropriate,

That for the whole of the relevant period:

- (i) the trust account has been inactive; or
- (ii) the trust account has shown a nil balance; or
- (iii) the trust account has both been inactive and shown a nil balance

The Board will not withhold a practice certificate only because of a failure to comply with s 142(2) or (3).

In this policy, "the whole of the relevant period" means the year -

- (i) beginning on 1 April in the year before; and
- (ii) ending on 31 March in the year in which

the application for a practice certificate is made.

The application of this policy does not fetter the discretion of the Board to decline to withhold a practice certificate for any other good reason established to the satisfaction of the Board.

In particular, where the trust account activity or balance has been

- (i) minimal throughout the whole of the relevant period; or
- (ii) nil during most of the relevant period

the Board retains a discretion whether to decline to withhold a practice certificate. In cases where a legal practitioner or a legal practitioner director seeks to enliven the discretion on this basis, the Board will require the documentary information identified in (i) and (ii) above."

**Legal Practice Board of WA
2005"**

MANAGEMENT COMMITTEE

Convenor: Mr TH Sharp
Deputy Convenor: Mr RE Cock QC

The Management Committee has delegated to it all the powers and duties of the Board under sections 12(2), 13 and 14 of the *Legal Practice Act 2003*, namely the management of human and physical resources, finance and records.

COMMITTEE PRIORITIES FOR THE YEAR UNDER REVIEW

Financial Management

A key role of the Management Committee is the financial management of the Board. This role is conducted in close alliance with the other major administrative and legislative responsibilities undertaken by the Management Committee.

Accommodation

The Board is grateful to the Attorney General in supporting an application for increased office space for both Central Administration and the Legal Practitioners Complaints Committee. The Board acknowledges the further support of the State Government in providing additional financial resources for the accommodation.

Appointment of additional Trust Account Inspectors

The Board presently employs one Trust Account Inspector. However with an increasing workload as well as the planned expansion of the Trust Account program, the Board intends to employ 2 further Trust Account Inspectors during 2006.

The additional positions will be also funded by the Legal Contribution Trust.

Human Resources

The Management Committee determines policy in relation to the appointment and management of Board staff.

In responding to new legislative responsibilities as well as a profession which continues to grow the Board requires additional human resources. However expansion of staff is being undertaken in an environment of maximum use of IT and other solutions to ensure maximum efficiency and effectiveness in the operation of the Board.

Recordkeeping Plan

The Management Committee continues to oversee the development and implementation of the Board's Recordkeeping Plan (RKP) as well as the Board's compliance with the requirements of the *State Records Act 2000*. The Management Committee recognises that the Board's RKP is closely linked to the development and implementation of updated IT systems as well as issues of organisational structure and is thus a major undertaking for the Board with significant financial implications.

Amendment of the Act and the Rules

A role undertaken by the Management Committee is determination of fees and any charges and the subsequent recommendation to Parliamentary Counsel for amendment to or introduction of the relevant rule.

In the year under review the Management Committee has reviewed fees in relation to practice certificates as well as draft fees for continuing legal education.

In addition, during the year the Committee has continued to review the *Legal Practice Act 2003* and record suggested amendments to the legislation proposed by other Committees of the Board.

Strategic Review

During 2004, the Board, by its Secretary and General Manager, commenced the process of reviewing the Board's operations and introducing various administrative changes to ensure that the Board met its statutory obligations, not only under its governing legislation, but also under other legislation that impacts, to various degrees, upon the Board's operations.

This process is ongoing and to some extent will be dependent upon the outcome of the Board's strategic planning.

The Management Committee decided in mid 2004 that it was timely to undertake a strategic review of the Board, including all its divisions and operations, to determine whether the Board was properly prepared to deal with the various changes that it was seeking to make and that were to some extent being imposed upon it and also, to assess and agree, as a Board, upon its role and how that role was to be fulfilled. This process is presently ongoing.

The Law Library

The Management Committee, guided by the recommendations of the Law Library Committee, administers the Law Library in the Supreme Court and the branch library in the Central Law Courts.

During early 2005 the Department of Justice commenced a review through the Law Library Concept Plan to establish "*A recommended strategy for the continued participation of the Department of Justice with the Law Library based on analysis of the most appropriate way to meet the needs of the current users of the Law Library.*"

The Board was represented on the Steering Committee for the Concept Plan by Mr Grant Donaldson SC and the Secretary and General Manager.

Information Technology

Reviewing and updating the Board's IT systems has been an ongoing project for the year under review, as noted earlier in the report. Where relevant the Management Committee oversees the management of the project, particularly as this intersects with the management of the Board's financial and human resources and its organisational structure.

LEGAL EDUCATION COMMITTEE

Convenor: Ms G Archer to May 2005; then Ms C Thompson
Deputy Convenor: Mr G Donaldson SC to May 2005; Ms C Thompson to May 2005;
Mr J Syminton from May 2005

The Legal Education Committee (LEC) is responsible for administering a scheme of Continuing Legal Education (CLE) for Western Australian legal practitioners.

It is anticipated that the scheme, when introduced, will be mandatory.

DRAFT POLICY

During the year under review, LEC meetings largely entailed the development and review of the Board's draft Policy on Mandatory CLE. The draft Policy proposes a mandatory scheme whereby practitioners accrue a minimum of 12 CLE points during the CLE year (1 April to 31 March). Practitioners are to accrue points for approved CLE activities under three mandatory 'Competency Areas' as follows:

- LEGAL SKILLS AND PRACTICE: including risk management, trust accounting, time management and business skills, occupational health and safety, equal opportunity, unlawful discrimination, practical legal skills including advocacy, drafting etc;
- PRACTICE AREAS: substantive law
- VALUES: ethics and professional responsibility.

Completion of CLE requirements is to be a condition for the renewal of annual practice certificates.

An accreditation system for approving CLE activities and providers is also proposed. Applications for accreditation are to be submitted for the consideration of the LEC, addressing requirements as set out in the draft Policy.

The draft Policy was circulated to stakeholders, who were invited to make submissions on the proposed scheme. Numerous submissions were considered by the LEC at meetings throughout the year under review. The decision to introduce a mandatory scheme was well received by stakeholders, although some issues and queries were raised including:

- Requests for clarification of various aspects of the draft Policy
- Queries regarding the relevance of specific activities and providers
- Concern that the proposed scheme is overly prescriptive
- Concern at the considerable differences between the proposed scheme for Western Australia and CLE schemes in other Australian jurisdictions, and the administrative implications this poses for national law firms
- Concern that it will be difficult for country practitioners in remote regional areas to have access to a sufficient number and range of approved activities

The LEC continued to review its draft Policy during the year under review and circulated a revised draft in July 2005.

DRAFT RULES

During the year under review, the LEC also worked to develop draft Rules and forms for applications for accreditation, required for the implementation of the CLE scheme. LEC members liaised with Parliamentary Counsel, who issued a number of drafts for the consideration of the LEC.

In drafting the Rules, debate emerged as to whether the Board has the legislative powers to impose a blanket condition on all practice certificates. It was also asserted it had never been the Government's intention that mandatory CLE should be applicable to state government solicitors who pursuant to section 36 of the Act are 'taken to be certificated practitioners' and accordingly are not required to take out annual practice certificates. The LEC had consistently been of the understanding that a blanket condition could be imposed on all practice certificates, and that the scheme would be also applicable to section 36 practitioners.

As a consequence the Board has concluded that it is presently unable to progress the implementation of MCLE because of reservations regarding the powers of the Board pursuant to the Legal Practice Act. These reservations have been expressed to the Board by the State Solicitor.

The Board is not prepared to introduce MCLE in these circumstances and has referred the matter to the Solicitor-General with a request that the Act be amended to address the reservations expressed by the State Solicitor.

The Board has not as yet been informed as to the Government's intentions in this regard. Whilst awaiting an indication of the Government's intention, implementation of the proposed scheme has been postponed.

REPORT FROM THE LAW LIBRARIAN

The Law Libraries continued to support the work of the courts, the judiciary and the wider legal profession in Western Australia during the 2004/2005 financial year.

The main areas of concern for the Law Library Committee have been:

- The future planning of the Law Library in the light of the Department of Justice project of redeveloping the Central Business District courts over the next ten years; and
- The consideration of the impact of technological advances in legal research on library collection development and library services.

KEY ACHIEVEMENTS

Programs and Services:

- Improved the physical environment of the libraries. Signage was improved in the Branch library and flat screen monitors installed in both libraries to maximise the space at work stations.
- Training in information literacy continues. The library inducted twelve groups of Articled Clerks in the use of the library facilities, provided group training on database searching, and instructed the new court Associates. One-to-one training in the use of the electronic products is part of the daily service.
- The continued support and administration of PLEAS (Practitioner Legal Electronic Access Service) on behalf of the Legal Practice Board. This service provides an electronic unreported judgment subscription service to the legal profession in Western Australia.
- Demand for Inter-library loans and off-site document delivery continues to increase, especially from country and suburban practitioners.
- Promotion of library services to the legal community. In August the Law Library Committee hosted a function which gave law librarians in Perth the opportunity to meet with Committee members and gain an awareness of the library services available to the legal community. The Chief Justice, the Hon. David Malcolm A.C., addressed the gathering. During the year librarians from Murdoch University and the Northern Territory Supreme Court library also paid a visit to the library.
- Survey of users, and the material they use, in the libraries. The survey indicated that sole practitioners and small firms made most use of the libraries, followed by the judiciary.
- Participation with the Department of Justice in the development of a concept plan for court libraries. Major stakeholders in the Law Library were consulted and submissions were made to the Concept Plan Steering Committee.

Community Services:

- Participation in the court traineeship programs. Three trainees spent periods of time in the library during the year.
- Participation in the Court Summer Clerk program. Two groups received library orientation sessions.
- Participation in the universities Practicum Placement programs. The library hosted a student from Curtin University and a Master's student from Charles Sturt University.
- Assistance to researchers. The librarians assisted the Women Lawyers of Western Australia in researching the life of Edyth Haynes and displayed the material in the library.
- The library maintains a presence within the network of law libraries in Australia and Western Australia. Librarians are members of the Australian Law Librarian's Group and the library holdings are maintained on the Joint Union List for law libraries in Western Australia.

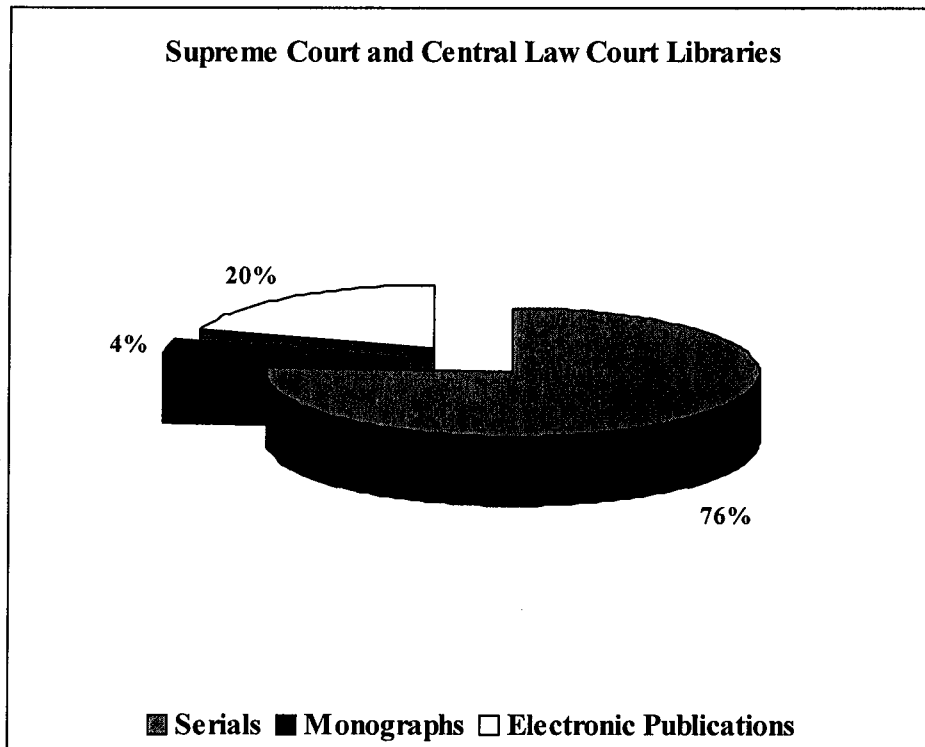
Collection Management:

- Extended the range of online legal research material available in the libraries.
- Arranged the restoration of stock, mostly American law reports that were damaged by a water leak in the basement stack area.
- Maintained the binding program. This is most important for the maintenance and preservation of the collection. During the past financial year 629 volumes were bound and 35 repaired.

New Acquisitions – Supreme Court Law Library and Central Law Courts Branch Library from 1 July 2004 – 30 June 2005.

	Supreme Court	Central Law Court	Total
Serials	\$347,409.00	\$101,430.00	\$448,839.00
Monographs	\$ 23,069.00	\$ 2,554.00	\$ 25,623.00
Electronic publications	\$115,245.00	\$2,372.00	\$117,617.00
	\$485,723.00	\$106,356.00	\$592,079.00

Expenditure of the Collections budget 2004- 2005



Professional Development:

- Staff members have attended a series of training sessions presented by publishers on new online products.
- Librarians have participated in professional training and workshops presented by the Australian Law Librarian's Group.
- The Cataloguer attended the biannual Online Conference in Sydney. This provided excellent exposure to the technology that is currently revolutionising legal research.
- The Librarian attended the Law Librarian's symposium in Canberra during September. The AIJA Court Librarian's meeting was held in conjunction with this. Issues of mutual concern such as consortia buying and court library access were discussed. It was also a good opportunity to see the High Court.

The past year has been an interesting and rewarding one in the Law Libraries. It is gratifying to note that, as evidenced by the responses to the library survey, the Law Library continues to be highly regarded as a contributor to the legal processes in Western Australia.



Alice Anderson
Supreme Court Librarian
November 2005

REPORT FROM THE DIRECTOR OF THE ARTICLES TRAINING PROGRAM (THE ATP)

BACKGROUND AND PURPOSE

Post-graduate pre-admission practical legal training in Western Australia is articles of clerkship. Most graduates are articulated for a period of twelve-months and during that twelve-month period the clerk must attend and satisfactorily complete the ATP course.

The ATP is a five-week course intended to enhance practical legal training for articulated clerks and complement the articles experience. The ATP is housed in rental premises in Mt Lawley.

COURSE DESIGN AND CONTENT

The Course is divided into two parts. Part A runs for two weeks. Topics covered are Ethics and Professional Responsibility, Advice & Negotiation, Legal Writing and Drafting, Work Practice Management and Trust and Office Accounting. Part B runs for three weeks and covers the following topics: Litigation, Property, Revenue & Taxation, Business and Wills & Estates.

The course content and practical exercises focus specifically on Western Australian law and practice. Most of the teaching staff are practising Barristers and Solicitors who are able to impart practical knowledge and experience of legal practice to the clerks.

Each part of the course was presented six times in the year covered by this Report. Each day of the course runs between 8.45am and 4.30pm and attendance each day is compulsory.

During the twelve months under review there has been a continuation of adjustments to the course to better cover the areas required by National Competency Standards for entry level lawyers published jointly by the National Law Admissions Consultative Committee and the Australasian Professional Legal Education Council (APLEC). The adjustments have included:

- Revision of the Property course to require clerks to carry out simulated property transactions.
- Increased emphasis on negotiation skills and efficient resolution of disputes.
- Increased emphasis on reflective learning practices and self evaluation techniques.
- Revision of the Legal Writing and Drafting course to include a component of peer assessment and review.
- The design and content of the Course is subject to continuous development and improvement

STAFF

Ms Deborah Milton B Juris LL.B has continued in the position of Director. In December 2004 the Board appointed Ms Natalie Kent and Ms Franca Sala Tenna jointly to the position of Deputy Director. They were appointed on a job share basis each working 15 hours a week.

Ms Kent has significant commercial law experience. As well as her legal qualifications Ms Sala Tenna has teaching qualifications and significant teaching experience.

Ms Kent has been on leave following the birth of a child in July. Ms Sala Tenna commenced a 6 month period of maternity leave in November 2005. We are fortunate that the Board has appointed Ms Lisa Abbott to act in the position for at least 6 months to cover the absence of the Deputy Directors.

The Course Administrator is Ms Linda Norrish and Mrs Amanda Ferrante assists her. In addition to the four permanent teaching staff, the ATP relies heavily on 20-25 legal practitioners who serve as sessional instructors throughout the year.

THE CLERKS

During the period under review, around 220 clerks participated in an A course and a similar number in a B course.

LINKS WITH THE PROFESSION AND WIDER COMMUNITY

In addition to the practitioner instructors who teach at the ATP, the ATP maintained and increased its links with the profession during the period. Ms Milton has served on the clear writing committee of the Law Society. Ms Milton attended the APLEC annual conference in Hobart in November 2004 and has continued as a member of the APLEC executive committee during the year under review. Ms Milton is a Deputy Chair of the Building Disputes Tribunal and is a member of the board of an independent primary school. During the 2005 calendar year Ms Milton tutored in the Commercial Practice unit at the University of Western Australia. Through this appointment Ms Milton has forged links between the UWA law school and the ATP which will assist in the increased understanding and appreciation of the material covered by clerks in their final year at law school. In this way it is hoped that there will be less duplication of material covered in the University courses at the ATP.

During the year we have increased the number of external organisations invited to introduce themselves to the clerks during the course.

A selection of representatives of the following organisations are invited to speak to the clerks during the A course.

- Amnesty International
- Australian Corporate Lawyers Association
- Australian Lawyers Alliance
- Australian Mining and Petroleum Lawyers Association
- Criminal Lawyers Association
- Family Law Practitioners Association
- Lawyers Engaging in Alternative Dispute Resolution
- National Environmental Law Association
- Society of Labor Lawyers
- Women Lawyers WA Inc

In addition to the oral presentations we maintain a file of relevant information on each organisation which is available to the clerks.

ISSUES FOR THE FUTURE

During the year work has continued on the development of a revamped course. This work has arisen as a result of a review by the LPB of the ATP which was concluded in 2004.

In addition, the ATP anticipates that changes to the course structure and length as a result of the Board's review of Practical Legal Training in WA will be possibly implemented in either 2006 or 2007.

Deborah Milton
Director, ATP
December 2005

REPORT FROM THE SENIOR TRUST ACCOUNT INSPECTOR

CURRENT SITUATION

The Board continues to employ only one trust account inspector who is funded by the Legal Contribution Trust.

NEW LEGISLATION/REGULATIONS

This year has been a hectic one with the Legal Practice Board Regulations 2005 being introduced. With this came the requirement for auditors in this year (March 2005) to use the new Form 20 "Accountant's Certificate" resulting in a change to their current reporting, which has caused a huge learning curve as the forms have not been changed since 1995.

NATIONAL MODEL BILL

During the year, greater emphasis has been placed on the implementation of the National Model Bill 2004.

The consultation and review of various sections dealing with trust issues have been undertaken and will continue to with all parties.

It is important to establish a uniform approach amongst all states in our move towards training, interpretation and design of forms in the trust issues to appropriately achieve a national legislation.

INSPECTIONS 2005

Inspections undertaken for the Board and the Legal Practitioners Complaints Committee have highlighted various issues. These are:

- The need to correctly undertake the trust bank account reconciliation
- Greater details in their recording of transactions, especially on client trust ledgers
- Recording of funds being banked directly to their general practice branch accounts

It is my intention to address these issues in a brief article prior to next year's audits.


SEMINARS: 2004 TO 2006

The seminar to legal practitioners was scheduled on 17 November 2004 with 76 attendees.

It is intended that next year an additional seminar be instigated aiming at bookkeepers dealing with the actual day-to-day requirements of managing a trust bank account.

STAFF REQUIRMENTS

Two new trust account inspectors will be employed in the New Year to further enhance the established investigation programme instigated in 1995.


Anna Buckley MBA CPA
Senior Trust Account Inspector
December 2005

FREEDOM OF INFORMATION STATEMENT

FREEDOM OF INFORMATION ACT 1992 (FOI ACT)

The Legal Practice Board of Western Australia Information Statement

1. This Information Statement is prepared and published pursuant to the requirements of Part 5 of the Freedom of Information Act (FOI) and relates to the Legal Practice Board (the Board).
2. The structure of the Board is set out in the *Legal Practice Act 2003* section 7(1). A copy of Section 7 is attached.
3. The functions of the Board including, in particular, its decision making functions, do not directly affect members of the public. The functions of the Board affect legal practitioners. The Board has statutory responsibility for the admission and supervision and, through the Legal Practitioners Complaints Committee and the State Administrative Tribunal, for the discipline of all legal practitioners in the State. The Board regulates the issue of annual practice certificates and owns and operates the Law Library in the Supreme Court and its branch library in the Central Law Courts

The Board provides a practical legal training course through the Articles Training Program, for the training of articled clerks.
4. No arrangements exist to enable members of the public to participate in the formulation of the Board's policy or in the performance of its functions, other than by virtue of the fact that representatives of the community are members of the Legal Practitioners Complaints Committee, such being appointed by the Attorney General.
5. The types of documents usually held by the Board comprise the following:
 - (a) files relating to the registration of articles for articled clerks;
 - (b) files containing documents, correspondence and memoranda relating to the admission of practitioners, the issue and regulation of practice certificates and legal practice;
 - (c) enquiries from overseas and interstate practitioners relating to admission in Western Australia;
 - (d) files relating to the investigation of unqualified and prohibited practice;
 - (e) documents relating to meetings of the Board, such as agendas, minutes, memoranda and the like;
 - (f) documents relating to the management of the Board's assets and facilities, including documents relating to staff, premises, information technology, etc; and
 - (g) notes dealing with the Board's procedures relating to application for admission, application for and issue of practice certificates, and the audit of practitioners trust accounts for auditors.
6. There is no written law other than the FOI Act whereunder any of these documents are able to be inspected.
7. There is no law or practice whereunder any of these documents can be purchased. Copies of the notes referred to in 5(g) above may be obtained from the Board free of charge.
8. Copies of the notes referred to in 5(g) are available at the offices of the Board situated at 5th Floor, 533 Hay Street, Perth to any person who calls at that office or who otherwise contacts the Board with an enquiry concerning the functions of the Board.
9. Mary-Anne Paton of 5th Floor, 533 Hay Street, Perth, is the officer to whom initial enquiries as to access to documents can be made.

10. Access applications under the FOI Act may be made to the Board in person at the above address, or by letter to the same address, or by telephone on 08 9325 1311, or by facsimile on 08 9325 2743.
11. The Board has no procedures for amending under Part 3 of the FOI Act personal information in its documents. Any application for an amendment would be dealt with in accordance with Part 3.
12. The Board has no internal manual as defined in Section 95 of the FOI Act. None of its functions affect or are likely to affect rights, privileges or other benefits or obligations, penalties or other detriments to which members of the public are or may become entitled, eligible, liable or subject.

THE LEGAL PRACTICE ACT, SECTION 7

Legal Practice Act 2003
Part 2-The Legal Practice Board

7 Members of the Board

7. Members of the Board

(1) The Board consists of —

- (a) the Attorney General;
- (b) the Solicitor General, or, if there is no Solicitor General, the State Solicitor;
- (c) each Queen's Counsel, and each Senior Counsel, whose principal place of practice is in this State and who is not a full-time judicial officer; and
- (d) 12 legal practitioners of at least 3 years' standing and practice in this State who are elected as members.

(2) Subject to the rules, an elected member of the Board holds office for a term of 2 years from the date of becoming a member and is eligible for re-election.

(3) Schedule 1 has effect with respect to the constitution and procedure of the Board.

Note: This is not an authorised version. The only authorised version is the hardcopy (printed) version published under authority of the Government Printer, available from the State Law Publisher, 10 William St Perth W.A. 6000

**LEGAL PRACTICE BOARD
OF WESTERN AUSTRALIA**

**Special Purpose Financial Report
For the financial year ended 30 June 2005**

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

SPECIAL PURPOSE FINANCIAL REPORT
FOR THE FINANCIAL YEAR ENDED 30 JUNE 2005

	<u>Page Number</u>
Statement by Secretary	1
Auditors' Report	2
Statement of Financial Position	3
Statement of Financial Performance	4
Notes to the Financial Statements	5-16

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

STATEMENT BY SECRETARY

For the year ended 30 June 2005

As detailed in Note 1 to the financial statements, the Legal Practice Board of Western Australia is not a reporting entity because in the opinion of the Board there are unlikely to exist users of the financial report who are unable to command the preparation of reports tailored so as to satisfy specifically all of their information needs. Accordingly, this "special purpose financial report" has been prepared to satisfy the Board's reporting requirements under Sections 14, 15 and 17 of the Legal Practice Act 2003.

The Board declares that:

- a) The attached financial statements and notes thereto comply with accounting standards;
- b) The attached financial statements and notes thereto give a true and fair view of the financial position and performance of the entity;
- c) In the Boards' opinion, the attached financial statements and notes thereto are in accordance with the Legal Practice Act 2003; and
- d) In the Boards' opinion, there are reasonable grounds to believe that the entity will be able to pay its debts as and when they become due and payable.



M-A C PATON
Secretary and General Manager

Date: 15 December 2005
Perth WA

Independent audit report to the Members of Legal Practice Board Of Western Australia

Scope

We have audited the attached financial report, being a special purpose financial report, of Legal Practice Board of Western Australia for the financial year ended 30 June 2005 as set out on page 1 and 3 to 16. The board is responsible for the financial report and has determined that the accounting policies used and described in Note 1 to the financial statements are appropriate to meet the Board's financial reporting requirements under Sections 14, 15 and 17 of the Legal Practice Act 2003 and are appropriate to meet the needs of the members. We have conducted an independent audit of the financial report in order to express an opinion on it to the members of Legal Practice Board of Western Australia. No opinion is expressed as to whether the accounting policies used, and described in Note 1, are appropriate to the needs of the members.

The financial report has been prepared for distribution to members for the purpose of fulfilling the board's financial reporting requirements under Sections 14, 15 and 17 of the Legal Practice Act 2003. We disclaim any assumption of responsibility for any reliance on this audit report or on the financial report to which it relates to any person other than the members, or for any purpose other than that for which it was prepared.

Our audit has been conducted in accordance with Australian Auditing Standards. Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report and the evaluation of significant accounting estimates. These procedures have been undertaken to form an opinion whether, in all material respects, the financial report is presented fairly in accordance with the accounting policies described in Note 1 to the financial statements. These policies do not require the application of all Accounting Standards and other mandatory professional reporting requirements in Australia.

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In our opinion, the financial report presents fairly in accordance with the accounting policies described in Note 1 to the financial statements the financial position of Legal Practice Board of Western Australia as at 30 June 2005 and the results of its operations and its cash flows for the year then ended.

Deloitte Touche Tohmatsu

DELOITTE TOUCHE TOHMATSU

Peter McIver

Peter McIver

Partner

Chartered Accountants

Perth, 15 December 2005

Member of
Deloitte Touche Tohmatsu

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA
STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2005

	Note	<u>2005</u>	<u>2004</u>
CURRENT ASSETS			
Cash	2	4,849,351	4,309,092
Receivables	3	143,885	99,795
Other	4	89,148	142,914
		<hr/>	<hr/>
TOTAL CURRENT ASSETS		5,082,384	4,551,801
		<hr/>	<hr/>
NON-CURRENT ASSETS			
Plant and Equipment	5	371,923	358,741
		<hr/>	<hr/>
TOTAL NON-CURRENT ASSETS		371,923	358,741
		<hr/>	<hr/>
TOTAL ASSETS		5,454,307	4,910,542
		<hr/>	<hr/>
CURRENT LIABILITIES			
Payables	6	317,687	302,676
Provisions	7	281,806	236,901
Other	8	3,056,179	1,926,958
		<hr/>	<hr/>
TOTAL CURRENT LIABILITIES		3,655,672	2,466,535
		<hr/>	<hr/>
NON-CURRENT LIABILITIES			
Provisions	9	31,202	32,985
		<hr/>	<hr/>
TOTAL NON-CURRENT LIABILITIES		31,202	32,985
		<hr/>	<hr/>
TOTAL LIABILITIES		3,686,874	2,499,520
		<hr/>	<hr/>
NET ASSETS		1,767,433	2,411,022
		<hr/>	<hr/>
ACCUMULATED FUNDS	10	1,767,433	2,411,022
		<hr/>	<hr/>

Notes to the financial Statements are included on Pages 5 to 16

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA
STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30 JUNE 2005

	Note	<u>2005</u>	<u>2004</u>
INCOME			
Legal Practice Board	11	2,770,919	2,645,231
Articles Training Program	12	421,506	401,841
Trust Account Inspector	13	104,556	115,664
Legal Practitioners Complaints Committee	14	50,379	146,189
Library	15	177,958	188,649
TOTAL INCOME		<u>3,525,318</u>	<u>3,497,574</u>
EXPENDITURE			
Legal Practice Board	11	954,616	701,206
Articles Training Program	12	704,348	691,980
Trust Account Inspector	13	103,834	108,790
Legal Practitioners Complaints Committee	14	1,410,965	1,281,154
Library	15	995,144	903,342
TOTAL EXPENDITURE		<u>4,168,907</u>	<u>3,686,472</u>
Net Loss	10	<u>-643,589</u>	<u>-188,898</u>

Notes to the financial Statements are included on Pages 5 to 16

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2005

1. SUMMARY OF ACCOUNTING POLICIES

General System of Accounting Underlying the Financial Statements

The entity is not a reporting entity because there are unlikely to exist users of the accounts who are dependent on general-purpose financial reports of the entity for information. These accounts are therefore a "Special Purpose Financial Report".

This special purpose financial report has been prepared to satisfy the Board's accountability requirements under Section 14, 15 and 17 of the Legal Practice Act 2003.

The accounts have been prepared on an accrual basis in accordance with Section 7A(2) of the Financial Provisions of the Regulatory Bodies Act, and the basis of accounting and disclosure requirements of Accounting Standards AASB 1001 'Accounting Policies', AASB 1018 'Statement of Financial Performance', AASB 1034 'Financial Report Presentation and Disclosures' and AASB 1040 'Statement of Financial Position'.

The historical cost convention has been adopted.

Accounting Policies which have been significant in the Preparation and Presentation of the Accounts

a) Depreciation

All assets are carried at cost less provision for depreciation.

Depreciation is provided on all plant and equipment except Law Library Books.

Depreciation is calculated on a straight-line basis so as to write off the net cost of each asset during its expected useful life at the following rates:

Legal Practice Board	15 – 27%
Library	15 – 27%
Legal Practitioners Complaints Committee	15 – 27%
Trust Account Inspector	15 – 27%
Articles Training Program	15 – 27%

All purchases incurred for library publications or replacement publications, are expended in the purchase period rather than capitalized.

In the opinion of the Board, the estimated insurance value of library books is approximately \$5,000,000.00.

b) Employee Entitlements

The provision for annual leave and long service leave is calculated at current rates of pay plus an allowance for superannuation and workers compensation premiums.

Long service leave is calculated as follows:

For those employed prior to 31/12/87, full entitlement arises after 7 years service.

For those employed after 31/12/87, full entitlement arises after 10 years service.

Contributions are made to an employee superannuation fund and are charged as expenses when incurred.

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2005

1. SUMMARY OF ACCOUNTING POLICIES (Cont'd)

c) Plant and Equipment

All plant and equipment received as donations are brought to account at fair market value in the financial report as revenue and assets of the Board where applicable.

d) Income Tax

The entity is exempt from income tax under s.23(d) of the Income Tax Assessment Act (1936).

e) Revenue Recognition

Disposal of Assets

Revenue from the disposal of assets is recognized when the entity has passed control of the goods or other assets to the buyer.

Rendering of Services

Revenue to provide services is recognized in the period to which the services relate.

f) Goods and Services Tax

Revenues, expenses and assets are recognized net of the amount of goods and services tax (GST), except:

Where the amount of GST incurred is not recoverable from the taxation authority, it is recognized as part of the cost of acquisition of an asset or as part of an item of expense;

Or

For receivables and payables which are recognized inclusive of GST.

The net amount of GST recoverable from, or payable to, the taxation authority is included as part of the receivables or payables.

g) Recoverable Amount of Non-Current Assets

Non-current assets are written down to recoverable amount where the carrying value of any non-current asset exceeds recoverable amount. In determining the recoverable amount of non-current assets, the expected net cash flows have not been discounted to their present value.

h) Adoption of Australian Equivalents to International Financial Reporting Standard

In accordance with the Financial Reporting Council's strategic directive, the Legal Practice Board will be required to prepare financial statements that comply with Australian equivalents to International Financial Reporting Standards ("A-IFRS") for annual reporting periods beginning on or after 1 January 2005. Accordingly, the Legal Practice Board first financial report prepared under A-IFRS will be the year ended 30 June 2006.

At the date of this report, the Board has not yet finalised a high level assessment of the impact of A-IFRS on the entity and consequently has not yet determined how they are going to manage the transition to A-IFRS. However management are monitoring the developments in A-IFRS and the potential impact it will have on the Scheme and will be implementing a program to prepare the entity to be A-IFRS compliant shortly. For these reasons it is not yet possible to reliably measure the impact of the transition to IFRS on the Board's financial position and reported results.

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2005

	<u>2005</u>	<u>2004</u>
2		
Cash		
Cash at Bank	1,203,150	1,173,777
Cash on Hand	1,315	1,315
Term Deposits	3,644,886	3,134,000
	<hr/>	<hr/>
	4,849,351	4,309,092
	<hr/>	<hr/>
3		
Current Receivables		
Trade Receivables	216,035	190,355
Less Allowance for Doubtful Debts	72,150	90,560
	<hr/>	<hr/>
	143,885	99,795
	<hr/>	<hr/>
4		
Other Current Assets		
Accrued Interest	78,629	84,978
Prepayments	10,519	57,936
	<hr/>	<hr/>
	89,148	142,914
	<hr/>	<hr/>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2005

5 Plant and Equipment

	LPB	Library	LPCC	TAI	ATP	Library Books	Total
Gross Carrying Amount							
Balance at 30 June 2004	137,339	219,995	147,405	17,768	245,033	100,000	867,540
Additions	38,781	38,351	19,988	-	9,169	-	106,289
Disposals	-	-20,034	-3,256	-	-1,975	-	-25,265
Transfers	-	-1,564	-	-	408	-	-1,156
Revaluations	1,980	650	311		3,105	-	6,046
Balance at 30 June 2005	178,100	237,398	164,448	17,768	255,740	100,000	953,454
Accumulated Depreciation/ Amortisation							
Balance at 30 June 2004	-91,929	-140,345	-57,832	-1,346	-217,347	-	-508,799
Current Dep'n	-19,372	-36,965	-26,914	-1,279	-8,809	-	-93,339
Disposals	-	14,635	3,042	-	1,774	-	19,451
Transfers	-	1,156	-	-	-	-	1,156
Balance at 30 June 2005	-111,301	-161,519	-81,704	-2,625	-224,382	-	-581,586
Net Book Value							
As at 30 June 2004	45,410	79,650	89,573	16,422	27,686	100,000	358,741
As at 30 June 2005	66,799	75,879	82,744	15,143	31,358	100,000	371,923

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2005

	<u>2005</u>	<u>2004</u>
6 Current Payables		
Trade Payables and Accruals	317,687	302,676
	<hr/>	<hr/>
7 Current Provisions		
Provision for Annual Leave	194,386	165,116
Provision for Long Service Leave	87,420	71,785
	<hr/>	<hr/>
	281,806	236,901
	<hr/>	<hr/>
8 Other Current Liabilities		
Publication Sales in Advance	6,000	5,800
Course Fees in Advance	5,300	10,500
Photocopying in Advance	25,133	24,198
PLEAS-Subscriptions in Advance	81,300	84,400
Practice Certificates in Advance	2,926,596	1,538,880
Solicitors Guarantee Fund	11,850	13,180
Annual Grant in Advance	-	250,000
	<hr/>	<hr/>
	3,056,179	1,926,958
	<hr/>	<hr/>
9 Non-Current Provisions		
Provision for Long Service Leave	31,202	32,985
	<hr/>	<hr/>
	31,202	32,985
	<hr/>	<hr/>
10 Accumulated Funds		
Balance at Beginning of the year	2,411,022	2,599,920
Net Loss	-643,589	-188,898
	<hr/>	<hr/>
Balance at End of Year	1,767,433	2,411,022
	<hr/>	<hr/>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2005

11	<u>LEGAL PRACTICE BOARD</u>	<u>2005</u>	<u>2004</u>
	Income		
	Assessment of Qualifications	13,863	227
	Admissions	164,000	118,900
	Advertising - Admissions	11,820	11,430
	Annual Grant	250,000	250,000
	Articles Registration Fees	39,400	28,700
	Bank Interest	181,643	168,386
	Board Photocopier	-	4
	Fines - LPDT	6,000	3,500
	Foreign Lawyers	600	-
	Practice Certificates	2,102,300	2,063,256
	Miscellaneous Income	1,293	828
		<hr/>	<hr/>
		2,770,919	2,645,231
	Expenditure		
	Advertising	14,347	14,726
	Audit and Accounting Fees	13,900	12,000
	Bank Charges	7,734	5,905
	Computer Expenses	5,864	8,031
	Web Page Development	709	765
	Conference Attendance	6,923	3,859
	Depreciation	19,372	15,943
	Facsimile	1,051	460
	Fringe Benefits Tax	659	-
	HR Consultant	4,820	3,254
	Insurance	1,184	1,158
	Legal Costs - LPB	130,976	54,196
	Legal Costs - LPDT	1,384	1,377
	Miscellaneous Costs	7,190	6,622
	Payroll Tax	24,589	15,930
	Postage and Petties	26,040	21,831
	Printing and Stationery	23,087	32,294
	Allowance for Doubtful Debts	-7,910	4,400
	Reference Materials	4,432	4,019
	Salaries	600,588	442,069
	Service and Maintenance	5,585	5,493
	Storage	2,768	2,021
	Superannuation Contributions	51,495	35,877
	Telephone	-	278
	Training	3,913	6,040
	Transcripts	423	-
	Travel & Accommodation	1,047	-
	Workers' Compensation	2,446	2,658
		<hr/>	<hr/>
		954,616	701,206
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LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2005

12	<u>Articles Training Program</u>	<u>2005</u>	<u>2004</u>
	Income		
	Course Fees	421,480	401,600
	Examinations	-	45
	Miscellaneous Income	26	196
		<hr/>	<hr/>
		421,506	401,841
		<hr/>	<hr/>
	Expenditure		
	Accommodation	115,282	113,778
	Advertising	2,251	-
	Cleaning and Gardening	16,574	12,947
	Conference Attendance	2,134	2,683
	Computer Expenses	5,521	2,586
	Depreciation	8,666	17,438
	Electricity	15,700	17,036
	Fringe Benefits Tax	787	-
	Insurance	707	685
	Loss on Sale of Non-Current Assets	201	-
	Miscellaneous Expenses	2,580	9,613
	Payroll Tax	17,573	16,106
	Postage and Petties	5,143	5,737
	Printing & Stationery	18,063	18,788
	Professional Memberships	1,720	1,363
	Reference Materials	5,502	4,407
	Salaries	430,201	418,769
	Service and Maintenance	7,646	6,378
	Student Amenities	2,355	2,630
	Superannuation Contributions	27,952	28,953
	Teaching Materials	10,877	3,970
	Telephone and Facsimile	4,817	4,880
	Training	439	140
	Workers' Compensation	1,657	3,093
		<hr/>	<hr/>
		704,348	691,980
		<hr/>	<hr/>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2005

13	Trust Account Inspector	<u>2005</u>	<u>2004</u>
	Income		
	Seminar Fees	2,639	2,311
	TAI Reimbursements	101,917	113,353
		<hr/>	<hr/>
		104,556	115,664
		<hr/>	<hr/>
	Expenditure		
	Conference Attendance	1,571	1,405
	CPA Membership	977	503
	Depreciation	1,279	1,049
	Fringe Benefits Tax	1,264	1,350
	Insurance	71	146
	Mileage	1,918	2,717
	Parking	3,162	3,603
	Payroll Tax	4,999	5,090
	Printing & Stationery	113	-
	Room Hire	573	345
	Salary	74,515	73,581
	Superannuation Contributions	6,706	6,638
	Telephone Reimbursement	371	427
	Training	639	4,968
	Travel and Accommodation	5,360	5,544
	Workers' Compensation	-58	1,241
	Miscellaneous Expenses	374	183
		<hr/>	<hr/>
		103,834	108,790
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LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2005

14	Legal Practitioners Complaints Committee	<u>2005</u>	<u>2004</u>
	Income		
	Costs Recovered	47,911	144,045
	Fines - Summary Jurisdiction	2,250	2,050
	Miscellaneous Income	54	94
	Gain on Sale of Non-current Assets	164	-
		<hr/>	<hr/>
		50,379	146,189
		<hr/>	<hr/>
	Expenditure		
	Advertising	6,686	9,623
	Bad Debts Written Off	-	53,000
	Computer Expenses	4,514	3,001
	Conference Attendance	5,233	3,418
	Depreciation	26,914	21,979
	Fringe Benefits Tax	995	-
	Insurance	183	141
	Investigation Costs	257,479	238,081
	Loss on Sale of Non-Current Assets	214	121
	Payroll Tax	39,403	28,225
	Postage and Petties	15,395	16,271
	Printing and Stationery	18,943	14,462
	Allowance for Doubtful Debts	-10,500	45,599
	Professional Fees & Memberships	9,241	5,648
	Reference Materials	6,460	5,161
	Salaries	927,121	752,100
	Service and Maintenance	5,772	5,052
	Storage	3,703	2,929
	Superannuation Contributions	81,461	65,337
	Training	6,085	4,631
	Transcripts	140	-
	Workers' Compensation	4,036	4,101
	Miscellaneous Expenses	1,488	2,274
		<hr/>	<hr/>
		1,410,965	1,281,154
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LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2005

15	Supreme Court Library	<u>2005</u>	<u>2004</u>
	Income		
	Library Photocopier and other income	99,083	105,177
	PLEAS	78,875	83,472
		<hr/>	<hr/>
		177,958	188,649
		<hr/>	<hr/>
	Expenditure		
	Serials	450,258	411,886
	Monographs	25,623	18,322
	Electronic Publications	117,617	76,753
	Online/Library Services	363	665
	Bank Charges	718	876
	Cleaning and Binding	23,895	26,924
	Computer Expenses	22,490	24,545
	Conferences and Meetings	3,750	1,682
	Depreciation	37,107	33,647
	Fringe Benefits Tax	456	-
	Institutional & Professional Memberships	595	934
	Insurance	9,363	8,989
	Internet Services	-	2,738
	Loss on Sale of Non-Current Assets	4,999	386
	Minor Assets/ Office Equipment	772	2,636
	Payroll Tax	10,227	9,687
	Postage and Petties	2,040	2,604
	Printing and Stationery	1,654	1,664
	Promotions	530	-
	Salaries	240,490	233,983
	Service and Maintenance	1,125	1,530
	Staff Professional Memberships	327	80
	Superannuation Contributions	20,535	20,456
	Training	1,281	1,344
	Workers' Compensation	719	1,240
	Miscellaneous Expenses	2,255	573
	Photocopier Costs	13,793	11,884
	PLEAS - Costs	2,162	7,314
		<hr/>	<hr/>
		995,144	903,342
		<hr/>	<hr/>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2005

16 Employee Benefits

The aggregate employee benefit liability recognised and included in the financial statements is as follows:

Provision for employee benefits:	<u>2005</u>	<u>2004</u>
	\$	\$
Current (note 7)	281,806	236,901
Non-current (note 9)	31,202	32,985
	<u>313,008</u>	<u>269,886</u>
	<u>No.</u>	<u>No.</u>
Number of employees at end of financial year	<u>40</u>	<u>31</u>

17 Subsequent events

The Board is seeking further advice on implications from previous payroll tax advice. A claim has been made against the Board in the State Administrative Tribunal in the sum of \$63,000.00. The matter has been heard and the Tribunal's decision is pending. The Board does not consider the claim to have merit. The lease at the Articles Training Program has been renewed for a period of two years. The estimated cost of the lease for two years is \$202,500.00. These subsequent events do not require adjustments to the accounts at balance sheet date and have not been included under contingent liabilities.

18 Additional Company Information

The Legal Practice Board is a statutory authority.

Registered Office

5th Floor
Kings Building
533 Hay Street
PERTH WA 6000
Tel: (08) 9325 1311

Principal Place of Business

5th Floor
Kings Building
533 Hay Street
PERTH WA 6000
Tel: (08) 9325 1311

19 Commitments for Expenditure

	<u>2005</u>	<u>2004</u>
	\$	\$
Operating Lease Commitments		
Not longer than 1 year	50,646	-
Longer than 1 year and not longer than 5 years	-	147,000
Longer than 5 years	-	-
	<u>50,646</u>	<u>147,000</u>

20 Contingent liabilities

There are no contingent liabilities at balance sheet date. Notwithstanding this, the Board has a possible exposure to cost from any possible legal action.