

2015/2016

# annual

R E P O R T



LEGAL PRACTICE BOARD  
OF WESTERN AUSTRALIA




## STATEMENT OF COMPLIANCE FOR THE YEAR ENDED 30 JUNE 2016

The Hon Michael Mischin MLA

Attorney General and Minister for Commerce

In accordance with Section 551 of the *Legal Profession Act 2008*, we hereby submit for your information and presentation to Parliament the Annual Report for the Legal Practice Board of Western Australia for the financial year ended 30 June 2016.

The Annual Report has been prepared in accordance with the provisions of the *Financial Management Act 2006*.



John Syminton  
Chair



Graeme Geldart  
Executive Director

9 December 2016

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## REPORT FROM THE CHAIRPERSON

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### Introduction

The year has been one of significant change to the operations and functions of the Legal Practice Board (**Board**).

The changes include the following.

- the Board taking full responsibility and control of its funding following the withdrawal of government funding on all aspects of Board operations;
- an historical change with the repeal of the statutory obligation of the Board to maintain the Law Library at the Supreme Court;
- the introduction of a condition on practising certificates requiring the successful completion of a practice management course before practitioners can practice as a principal of a law practice;
- the commencement of the process to determine the future leased premises for the Board with a view to consolidating the currently separate premises of the Board office and the office of the Legal Profession Complaints Committee (**LPCC**); and
- the implementation of new accounts, payroll and human resource software.

I continue to be impressed by the work of the staff of the Board. The staff of the Board have to deal, in many cases, with difficult and complex issues and staff deal with these issues in a professional, timely and appropriate manner. The efficient discharge of the obligations of the staff of the Board allow consideration of extraneous issues to be undertaken while, at the same time, normal operating issues are undertaken by the Board.

### Practising Certificate Application Fees

This reporting year was the last in which the Board received financial support contributions from government, following advice from the Department of the Attorney General that funding for the Board's accommodation would be withdrawn. From 1 July 2016 the Board is responsible for meeting all of its accommodation and associated costs, as well as all of its usual operational costs.

Despite those significant cost increases, the Board decided not to increase the fee accompanying practising certificate applications, and that fee was maintained at \$1,250 per annum.

Whilst the maintenance of the Law Library at the Supreme Court will no longer be the responsibility of the Board, the obligation to make a statutory financial contribution on behalf of the profession to the maintenance of the new integrated law library at the David Malcolm Justice Centre remains as an obligation of the Board.

For the year ahead this contribution will be \$600,000 which approximately equates to the expenditure made by the Board to the Law Library at the Supreme Court for the reporting year.

Accordingly, there is no expenditure saving for the Board arising from the integration of the Law Library at the Supreme Court with the libraries of the Supreme Court Judges and the Department of the Attorney General (the **Department**).

The Board will carefully monitor its required expenditure to ensure the maintenance of the high level of regulatory oversight that is rightly expected by the public taking into consideration the increased financial burden of both accommodation funding and normal operational cost increases that are experienced each year.

The Board will continue in its endeavours to keep the costs of legal regulation as low as possible whilst maintaining the highest standards possible.

### **The Law Library**

The Board and the Department have continued to work through the reporting year to progress and complete the Law Library integration, with the consolidation of the library resources of the Department with those of the Law Library at the Supreme Court, which was owned by the Board. The integrated library opened as planned on 1 July 2016 in the new Supreme Court facilities at the David Malcolm Justice Centre.

The finalisation of the integration project saw the Board relieved of its non-regulatory role of the management of the Law Library at the Supreme Court and the *Legal Profession Act 2008* has been amended to remove the statutory obligation previously imposed under section 548(1)(c) of that legislation. The *Legal Profession Rules 2009* have also been amended to remove Part 5 that contained provisions relating to the administration of the Law Library at the Supreme Court. The *Legal Profession (Law Library) Regulations 2016* (the **Regulations**) have been introduced and make provision for the financial contribution of \$600,000 to be made by the Board on behalf of the profession to the maintenance of the integrated law library in the initial year of operation commencing 1 July 2017. Consultation with the Department on the contribution to be made by the profession to the integrated library was led by the Law Society, with the involvement of the Bar Association and the Board. The Regulations also make provision for the methodology for review of the financial contribution for future years, with the Board, the Law Society, the Bar Association and Department to be consulted during that process.

As previously advised in my past two reports, the government, whilst still maintaining its position that it wished the integration to progress, withdrew all funding from the library integration project.

The Board agreed to provide capped funding of \$350,000 (payable upon approved invoice) to ensure the progression and finalisation of the integration

project noting that without this contribution the integration project would not have been able to progress and the heavy financial burden upon the Board for the maintenance of the Law Library at the Supreme Court would have to have been continued. Provision for payment of those hard costs has been included in the Board's budget for the year ahead.

The governance of the new integrated law library at the David Malcolm Justice Centre will be undertaken by the Department with the support and assistance from a Law Library Steering Committee upon which the Board has a representative.

I would like to extend my sincere gratitude and thanks to the dedicated staff at the Law Library of the Supreme Court. Despite having the knowledge that their job roles would be redundant upon the finalisation of the library integration the library staff remained in post through the entire integration process, and for this I am truly grateful.

### **Accommodation Funding and Leasing**

As it is apparent that the government intends to maintain its position to no longer continue to meet its historical and long-term commitment to fund the accommodation of the Board premises for the Office of the Board and the LPCC, the Board has become the Lessee of the current premises at Level 5, 533 Hay Street, Perth and Level 2, 55 St Georges Terrace, Perth.

The current leases will expire in mid 2017 and the Board has advanced the process of assessment and consultation on its future accommodation needs. Although that consultation is still progressing it is anticipated that the premises of the Board office and the LPCC will be consolidated and it is expected that there will be resultant economies and efficiencies realised from that consolidation.

### **Legislative Reform**

#### ***The Legal Profession Act 2008***

In 2013-2014 the Board, upon invitation, made submissions to the State Solicitor's Office on recommended statutory amendments to the *Legal Profession Act 2008* in order to improve, streamline and clarify various regulatory processes.

The Board still awaits a draft amendment bill despite having been advised in 2015 that the draft bill has received cabinet approval.

#### ***National Uniform Law***

The *Legal Profession Uniform Law* was introduced into Victoria and New South Wales on 1 July 2015. The intention of the uniform legislation is to provide a structure for uniform regulatory laws in those jurisdictions.

At the request of the Attorney General, the Board agreed to assist the Attorney General in his consideration of the *Uniform Law* by establishing an *Ad Hoc* Committee on Legal Regulation to undertake a comparison of the *Legal Profession Uniform Law* with the *Legal Profession Act 2008*. The Board subsequently provided its analysis to the Attorney General.

At this time the Attorney General has decided not to proceed with the adoption of the *Legal Profession Uniform Law* and the Department will continue to monitor progress on the application of the *Uniform Law* in Victoria and New South Wales.

### **Introduction of the Practice Management Course Condition**

A high proportion of conduct breaches on the part of legal practitioners that are brought to the attention of the Board arise from poor practice management and a lack of understanding and capability on the part of practitioners on how to properly manage a legal practice. These issues range across matters, including failure to communicate effectively with clients, failure to meet statutory obligations (both legal and business), failure to properly conduct trust accounts, and failure to appropriately observe rules relating to the protection of the public and the maintenance of the reputation of the profession.

The Board requested its Professional Development Committee to address these matters which led to the development of a curriculum for a Practice Management Course and the introduction and imposition of a practice management condition on practising certificates. That condition was introduced for practising certificates for the 2016-2017 practice year and requires practitioners who have not previously been a principal of a practice to successfully complete the Practice Management Course before removal of the condition and becoming entitled to be a Principal of a law practice. The Report from the Professional Development Committee provides more detail on the application and administration of the practice management course condition.

### **Implementation of Accounts, Payroll and Human Resource Software.**

The Corporate Support Department of the Board has for some time had difficulty with two separate outdated and non-integrated systems to manage its accounts, payroll and human resource administration.

The Board approved the purchase and implementation of new software known as 'TechOne', which will provide a technologically current and fully Integrated administrative system for accounts, payroll and human resource management. It is anticipated that this will provide considerable efficiencies in that area of the Board's operations.

### **Business of the Board**

The majority of the Board's daily regularity activities are delegated to its operational committees and executive officers and, in my capacity as Chairperson, I am a member of each of the delegated committees (Management, Professional Affairs, Professional Development, Admissions & Registrations) and on the LPCC.

The Full Board met formally on three occasions in the reporting year and conducted 11 electronic meetings.



Among other things it passed resolutions to:

- Decline a proposal from the Law Society to join it in a submission to the Attorney General to provide funding for a review of legal regulation in Western Australia;
- Enter into a Memorandum of Understanding with the State of Western Australia through the Department of the Attorney General on the Integrated Library Project;
- Approve amendments to the *Legal Profession Rules 2009* to:
  - Allow greater discretion to the Admissions & Registration Committee to approve restricted practice and supervised legal practice arrangements; and
  - Facilitate the introduction and administration of the practice management condition;
- Advise on approval on proposed amendments to the *Legal Profession Regulations 2009* in regard to the integrated law library;
- Forward the Board's submission on the comparison analysis of the *Uniform Law* and the *Legal Profession Act 2008*;
- Appoint returning officers for the Board membership elections;
- Confirm membership of the Board of elected members;
- Confirm the appointment of members to the Board's delegated committees and to the LPCC;
- Elect the Chairperson and Deputy Chairperson;
- Confirm the appointments of the Chairperson and Deputy Chairperson of the LPCC; and
- Approve amendments to the Instrument of Delegation.

### **Membership of the Board**

Membership of the Board comprises ex-officio the Attorney General and Solicitor General, 12 elected members, plus those Queens and Senior Counsel who elect to self nominate for membership. There are also two community representatives who serve on the LPCC at the nomination of the Attorney General.

Currently the Board has a total of 44 members which is indicative of the serious obligation and responsibility which senior members of the profession accept in order to maintain a high level of professional standards and to

ensure protection of the public.

The Board greatly values the *pro bono* contribution given by its members and the vast knowledge, experience and expertise that they bring to its considerations. However, due to the very high calibre of its members, the Board invariably loses valued members when they are appointed to the bench, retire or are not re-elected. During the year under review the following appointments were made from amongst the Board membership:

The Honourable Justice Bruno Fiannaca Supreme Court  
The Honourable Justice Katrina Banks-Smith Supreme Court

Sincere congratulations are extended to each of these valued Board members and the Board's loss will be the gain of the state and community in the administration of justice in Western Australia.

Peter van Hattem SC retired from the Board on 30 June 2016 and Andrew Pascoe's term on the Board ended on 6 April 2016.

Current Membership of the Board is as follows:

**Attorney General**

The Hon. Mr M Mischin M.L.C.

**Solicitor General**

Mr PD Quinlan SC

**Elected Members in alphabetical order:**

Mr JGM Fiocco  
Mr SS French  
Ms RT Heath  
Dr JJ Hockley  
Ms VJ Hodgins  
Mr JRB Ley (Chair of the LPCC)  
Ms AM Liscia  
Ms EE Macknay  
Ms SM Schlink  
Mr JG Syminton (Chairperson of the Board)  
Mr RG Wilson  
Mr MPC Yeo

**Queen's Counsel and Senior Counsel in alphabetical order (not in order of seniority):**

Mr MR Berry SC  
Mr JB Blackburn SC  
Mr MD Cuerden SC  
Mr SM Davies SC  
Mr SM Davies SC  
Mr B Dharmananda SC  
Mr SK Dharmananda SC

Mr GR Donaldson SC  
The Hon. Mr PM Dowding SC  
Ms KJ Farley SC  
Mr RS Hooper SC  
Mr MD Howard SC  
Mr T Lampropoulos SC  
Mr J McGrath SC  
Mr GMG McIntyre SC  
Mr RK O'Connor QC  
Mr S Owen-Conway QC  
Mr TF Percy QC  
Mr KM Pettit SC  
Mr MT Ritter SC  
Mr CP Shanahan SC  
Mr MN Solomon SC  
Mr GTW Tannin SC  
Mr James A Thomson SC  
Mr Joshua A Thomson SC  
Mr S Vandongen SC  
Mr JC Vaughan SC  
Mr KR Wilson SC (Deputy Chair of the LPCC)  
Mr PD Yovich SC  
Mr CL Zelestis QC  
Mr MH Zilko SC (Deputy Chairperson of the Board)

### **Acknowledgements**

I would like to extend a special vote of thanks to Peter van Hattem SC, who retired from the Board on 30 June 2016. Peter served as Deputy Chairperson and his sage advice, support and dedicated contribution in all aspects of the Board's activities will be sorely missed. I wish Peter well in his retirement. Thanks are also extended to Matthew Zilko SC who agreed to take the role of Deputy Chairperson following Peter's departure.

Special thanks are also extended to John Ley (Chair of the LPCC), John Fiocco (Convenor of the Professional Affairs Committee), Sabina Schlink (Convenor of the Admissions & Registration Committee), Anna Liscia (Convenor of the Management Committee), Joshua Thomson SC (Convenor of the Professional Development Committee), and Justice Kenneth Martin (Chairperson of the Law Library Advisory Committee) for their leadership and guidance of these committees.

Thank you to the Deputy Convenors and Deputy Chairs for their support and, of course, to all members of the Board who selflessly give of their time to give back to the profession.

Thank you also to the Board staff across all divisions for their dedicated work without which the Board and its committees could not operate with the effectiveness and efficiency with which they do.

### **John Syminton**

Chairperson

## REPORT FROM THE EXECUTIVE DIRECTOR

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The role of the Executive Director is to be responsible for the day to day operations of the Board, and to ensure that:

- The Board's functions are performed, and its decisions and policies are Implemented promptly and efficiently;
- The Board's human resources are supported, supervised and managed in accordance with best practice; and
- The Board's financial resources are protected and managed in accordance with effective financial controls.

The regular statutory operations of the Board include:

- Reservation of legal work (prohibition on unqualified legal practice);
- Admission of local, interstate and foreign lawyers;
- Issuing and renewal of practising certificates;
- Monitoring of continuing professional development (CPD) obligations;
- Assessment of applicants for Quality Assured CPD provision;
- Co-ordination of inter-jurisdictional regulatory matters;
- Monitoring of legal practice structures, including incorporated legal practices and multi-disciplinary partnerships;
- Monitoring of trust accounts;
- The conduct of the complaints and disciplinary process through the Legal Profession Complaints Committee;
- Management and operation of the Law Library at the Supreme Court; and Compliance with relevant public service, government and statutory obligations.

I would again like to note that whilst the Executive Director holds overarching responsibility for the delivery of the obligations and statutory services and operations of the Board, these can only be delivered through operational and staffing structures that facilitate those services. In this regard I once again acknowledge that my work colleagues across the Office of the Board, the Legal Profession Complaints Committee and the Law Library at the Supreme Court, are of the highest calibre, thus making delivery of my responsibilities both manageable and enjoyable.

I would like to make special mention of the staff at the Law Library at the Supreme Court – Ms Catherine Macgill, Ms Lisa Webb, Ms Nicole Davey, Mr Matthew Pittard and Ms Linda Simonis. These dedicated staff members remained loyal to the Board and the Law Library during the most difficult of times whilst the Library Integration Project progressed and the Law Library prepared to hand over its operations to the government. The staff at the Law

Library had dedicated many hours in the development and delivery of the most excellent service that could have been provided to the profession, and I know that it was a sad time for them all when the hand-over was made final on 30 June 2016. I wish them well in their future endeavours.

The Board staff across all divisions, members of the legal profession in Western Australia, and the government itself, are in the fortunate circumstance of having the most senior and skilled legal practitioners as members of the Board and its committees – a resource so valuable that it cannot be quantified.

In addition to the regular management of the human, physical and financial resources of the Board, during the reporting year I oversaw the administration relating to the following matters:


- The final withdrawal of accommodation funding for premises occupied by the Office of the Board and the Legal Profession Complaints Committee;
- The Board taking full responsibility and control of its funding following the full withdrawal of government funding on all aspects of Board operations;
- The finalisation of the Law Library Integration Project and the necessary statutory amendments to remove the Board's obligation to maintain the Law Library at the Supreme Court;
- The introduction of a condition on practising certificates requiring the successful completion of a practice management course before practitioners can practice as a Principal of a law practice;
- The development and implementation of a curriculum for a Practice Management Course and systems for approval of course delivery;
- The commencement of accommodation analysis with a view to consolidating the currently separate premises of the Board office and the office of the Legal Profession Complaints Committee during 2017;
- The implementation of new Accounts, Payroll and Human Resource software; and
- Further expansion of the Board's information technology capacity;

These matters are covered in more detail in the reports of the Chairperson, the Convenor of the Management Committee, the Law Library, and Information Technology, and I will not therefore duplicate that detail.

### **Staffing**

Staffing levels have remained relatively consistent across the divisions of the Board (Office of the Board, Legal Profession Complaints Committee, and the Law Library) with only minor restructures required to maximise service delivery.

A restructure within the areas of Legal Education (Continuing Professional Development & Practice Management) and Records Management saw the



departure of two senior members of the Board staff, Julie Bain and Larry Knowles. I wish both Julie and Larry all the very best for the future and thank them for their dedicated service to the Board during their years of service.

### **The Future**

Extensive strategic and financial planning for the Board's operations will continue in the year ahead and it is proposed that a Structure & Planning Workshop be held to discuss the planning and future direction of the Board operations and administration.

The Board is entering a new era in that it has now become solely responsible for its funding without any financial support from government.

### **Vote of Thanks**

I would like to extend my most sincere thanks for the support and commitment provided to me from John Syminton, the Board's Chairperson, Anna Liscia, the Convenor of the Management Committee, my Deputy Executive Director, Libby Fulham, and to the Law Complaints Officer, Gael Roberts. Their trust, assistance and support has been extremely valuable and greatly appreciated.

Additionally, a sincere thank you for the most valuable leadership during the year under review by the Convenors, and Deputy Convenors, of each of the Board's delegated committees, and from the Chairperson and Deputy Chairperson of the Legal Profession Complaints Committee.

The voluntary contribution to the Board and the LPCC from the most knowledgeable and senior members of the Western Australian legal community often goes unrecognised. Their *pro bono* service provides significant benefit to not only the Board, but to the government, the legal profession at large and, most importantly, to the broader Western Australian community. I thank all Board members for that contribution and dedication.

Of course, sincere thanks are due to the excellent staff of the Board. Across all divisions of the Board we do our utmost to deliver services as a unified team and I appreciate the efforts that all staff members make in that regard.

**Graeme Geldart**  
Executive Director  
Legal Practice Board

## THE LEGAL PRACTICE BOARD

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### **Role**

The Board is constituted under the *Legal Profession Act 2008 (LPA 2008)*. The Board has statutory responsibility for the regulation of the legal profession in Western Australia. The Board issues annual practising certificates to local lawyers and advises the Supreme Court in relation to eligibility and suitability for admission. Through the Legal Profession Complaints Committee the Board is also responsible for professional disciplinary action.

### **Membership**

The Board as constituted under section 536 of the LPA 2008 consists of:

- the Attorney General;
- the Solicitor General, or, if there is no Solicitor General, the State Solicitor;
- each Queen's Counsel, and each Senior Counsel –
  - whose principal place of practice is in this State;
  - who is not a full-time judicial officer; and
  - who has, in writing, nominated himself or herself as a member;and
- 12 legal practitioners of at least 3 years' standing and practice who are elected as members.

### **Queens Counsel**

Prior to the introduction of the LPA 2008 all Queens Counsel whose principal place of practice was this State, were automatically members of the Board. Following the introduction of the LPA 2008 Queens Counsel had to nominate as members of the Board. At 30 June 2016 there were 4 Queens Counsel resident and practising in Western Australia, who had nominated as members of the Board.

### **Senior Counsel**

Prior to the introduction of the LPA 2008 all Senior Counsel whose principal place of practice was this State, were automatically members of the Board. Following the introduction of the LPA 2008 Senior Counsel had to nominate as members of the Board. At 30 June 2016 there were 27 Senior Counsel resident and practising in Western Australia, who had nominated as members of the Board.

During the year under review the following changes to members of the Board were:

On 31 August 2015 Mr B Fiannaca SC was appointed to the Supreme Court and resigned as a member of the Board.

On 10 December 2015 Mr PD Yovich SC nominated as a member of the Board.

On 16 February 2016 Mr JB Blackburn SC nominated as a member of the Board.

On 06 April 2016 Mr PCS van Hattem SC resigned as Deputy Chairperson of the Board. His invaluable contribution to the Board is hereby acknowledged.

On 07 April 2016 Mr MH Zilko SC was appointed Deputy Chairperson of the Board.

On 07 April 2016 Mr SS French has been elected to the Board replacing Mr AJ Pascoe.

On 16 June 2016 Mr Grant Donaldson SC resigned as Solicitor-General for WA to return to the Bar.

At the conclusion of the year under review the Board had a total of 31 Queens Counsel and Senior Counsel as members of the Board.

### **Elected Members**

- 1 July 2015 to April 2016 election

Elected members in office during this period were: Mr JGM Fiocco, Ms RT Heath, Dr JJ Hockley, Ms VJ Hodgins, Mr JRB Ley, Ms AM Liscia, Ms EE Macknay, Mr AJ Pascoe, Ms SM Schlink, Mr JG Syminton, Mr RG Wilson and Mr MPC Yeo.

- April 2016 election to 30 June 2016

Elected members in office during this period were: Mr JGM Fiocco, Mr SS French, Ms RT Heath, Dr JJ Hockley, Ms VJ Hodgins, Mr JRB Ley, Ms AM Liscia, Ms EE Macknay, Ms SM Schlink, Mr JG Syminton, Mr RG Wilson and Mr MPC Yeo.

- Appointment of Chairperson and Deputy Chairperson

Mr JG Syminton remained as Chairperson of the Board effective for the ensuing year.

On 07 April 2016 Mr MH Zilko SC was appointed Deputy Chairperson of the Board for the ensuing year.



## Board Members as at 30 June 2016

Attorney-General	Solicitor-General	Chair	Deputy Chair
The Hon. Mr Michael Mischin MLC	Mr PD Quinlan SC	Mr JM Syminton	Mr MH Zilko SC
Queens Counsel	Senior Counsel	Elected Members	
Mr CL Zelestis QC	Mr KR Wilson SC	Mr JGM Fiocco	
Mr RK O'Connor QC	Mr MH Zilko SC	Mr SS French	
Mr S Owen-Conway QC	The Hon Mr PMC Dowding SC	Ms RT Heath	
Mr TF Percy QC	Mr GMG McIntyre SC	Dr JJ Hockley	
	Mr GTW Tannin SC	Ms VJ Hodgins	
	Mr CP Shanahan SC	Mr JRB Ley	
	Mr MT Ritter SC	Ms AM Liscia	
	Mr T Lampropoulos SC	Ms EE Macknay	
	Mr MD Howard SC	Ms SM Schlink	
	Mr SM Davies SC	Mr JG Syminton	
	Mr SK Dharmananda SC	Mr RG Wilson	
	Mr S Vandongen SC	Mr MPC Yeo	
	Mr PD Quinlan SC		
	Mr JA Thomson SC		
	Mr B Dharmananda SC		
	Mr J McGrath SC		
	Mr RS Hooper SC		
	Mr JA Thomson SC		
	Ms KJ Farley SC		
	Ms KF Banks-Smith SC		
	Mr MN Solomon SC		
	Mr JC Vaughan SC		
	Mr M Cuerden SC		
	Mr M Berry SC		
	Mr K Pettit SC		
	Mr PD Yovich SC		
	Mr JB Blackburn SC		

## ORGANISATIONAL STRUCTURE

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As presently structured, the Board carries out its functions in 2 distinct locations:

The Office of the Board in the Kings Building, 533 Hay Street, Perth;  
The Legal Profession Complaints Committee at 55 St Georges Terrace, Perth.

### Office of the Board

The Office of the Board provides administrative and executive support to the Board and its Committees as well as undertaking other core regulatory functions of the Board as provided for in the Legal Profession Act 2008. The Office of the Board also ensures the Board complies with considerable additional legislation that is applicable to the Board and its organisation as a public regulatory authority. Accordingly, key responsibilities of the Office of the Board 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 admission and registration applications;
- Issue and renewal of annual practising certificates and the administration of other practitioner compliance matters;
- Conducting the Board's annual election; and
- Management of the Board's human, financial and physical resources.

### Legal Profession Complaints Committee

The LPCC is responsible for supervising the conduct of legal practitioners and the practice of law. Pursuant to the LPA 2008, it has investigative and conciliation powers, and also initiates disciplinary proceedings.

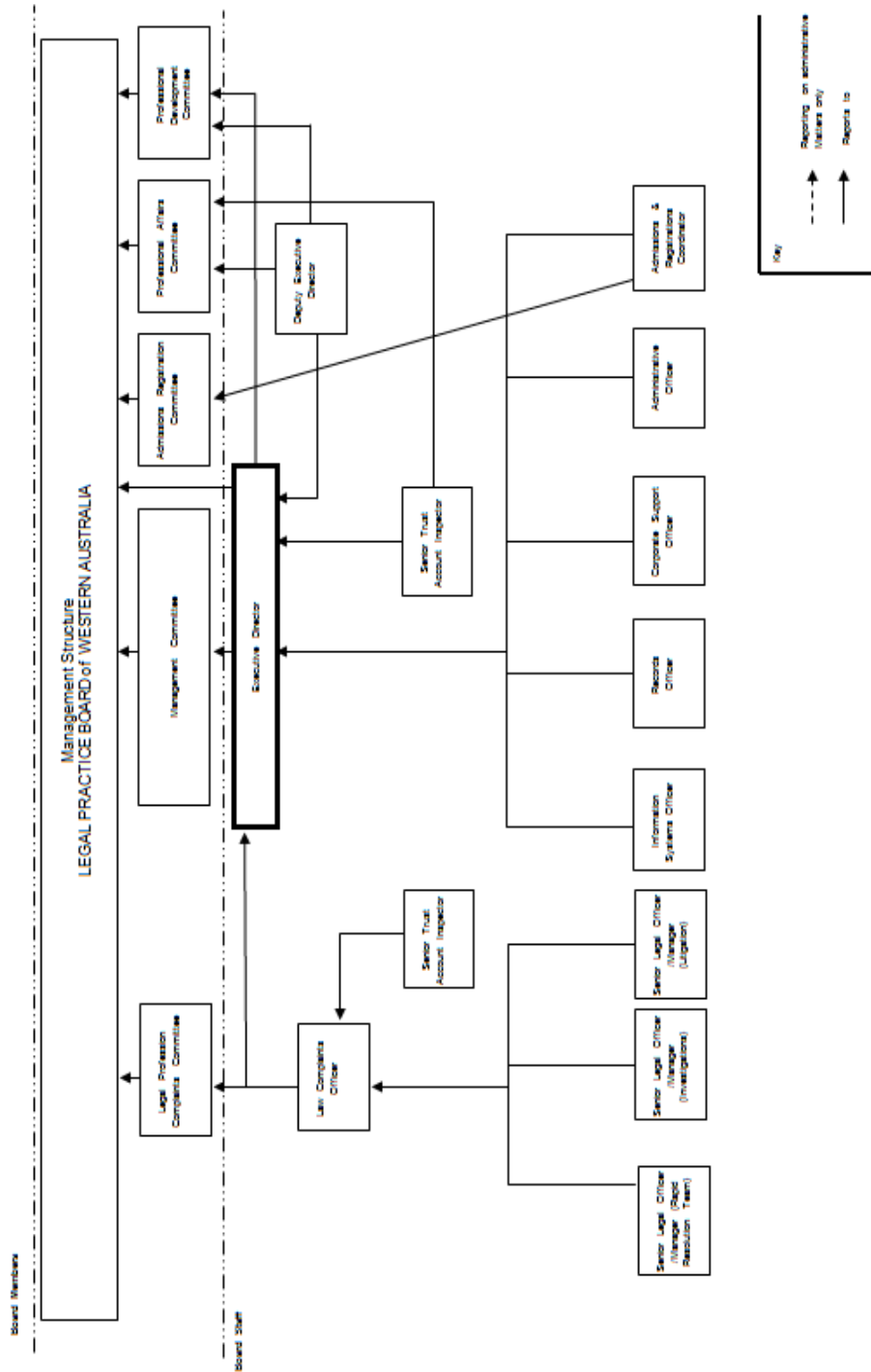
The LPCC is comprised of members of the Board and community representatives. Pursuant to section 571 of the LPA 2008, the LPCC provides a separate annual report in relation to its activities to the Attorney General.

### Staff

As at 30 June 2015, the following numbers of staff were in full-time, part-time or contract employment with the Board:

Division	No of Staff
Office of the Board	22
LPCC	24
Trust Account Inspector	3
Chairperson	1

# ORGANISATIONAL CHART



## MANAGEMENT COMMITTEE

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### **The Role of the Management Committee**

The Management Committee (**Committee**) exercises powers delegated to it by the Board in relation to the management of the Board's human, physical and financial resources.

### **Committee Process**

The Committee usually meets every second month and receives and considers information and reports from the Executive Director, the Deputy Executive Director and the Corporate Support Officer in regard to resourcing and financial issues.

When the need arises to address a pressing issue, either special meetings are called or resolutions are determined by electronic quorum. The Committee's primary focus is on strategic direction of the Board and the implementation, corporate governance and maintenance of appropriate policies, systems and processes. The committee met formally on 7 occasions during the reporting year and held 4 electronic meetings.

### **Funding of the Board**

The Board is primarily self-funded through fees accompanying applications for practising certificates, admission, continuing professional development quality assured status and individual CPD event approval.

The government's phased withdrawal of funding support for the cost of the accommodation of the Office of the Board and the Legal Profession Complaints Committee (**LPCC**) which I identified in my report on the previous reporting period continued. In the current reporting year the government met 50% of the rent only of the premises occupied by the Office of the Board, and 50% of rent for part only of the premises occupied by the LPCC

From the 1 July 2016 no government funding was provided and the Board became wholly responsible for meeting all of its accommodation and associated costs as well as its normal operational expenses.

### **Practising Certificate Fees**

The Committee recommended to the Board that it was not necessary to increase the fee of \$1,250 per annum required to accompany practising certificate applications. The Board accepted that recommendation and maintained the fee for the 2016-2017 practising certificate year. In reaching this decision the committee noted its previous advice to the profession that practising certificate fee increases should only reflect normal cost increases common to the community.

The Committee will closely monitor Board expenditure to ensure the maintenance of the current high level of regulatory oversight that is rightly

expected and will continue in its endeavours to keep the costs of legal regulation as low as possible whilst maintaining the highest standards possible.

### **Accommodation Leases**

The terms of the current leases for the premises occupied by the Office of the Board and by the LPCC will expire in June 2017. The Management Committee has and continues to assess and investigate current rental market conditions and opportunities with the view to obtaining the best possible terms for the Board's future accommodation needs. This process is progressing and it is anticipated that the premises of the Board and the LPCC will be consolidated and it is expected that there will be resultant economies and efficiencies realised from that consolidation.

### **The Law Library**

During the reporting year the Law Library integration was completed, with the consolidation of the library resources of the Department of the Attorney General (the **Department**) and the Supreme Court Judges Libraries, with those of the Board's Law Library at the Supreme Court. The integrated library opened as planned on 1 July 2016 in the new Supreme Court facilities at the David Malcolm Justice Centre.

The Law Library at the Supreme Court was owned by the Board, but the finalisation of the integration project relieved the Board of its management obligations to maintain the Law Library.

The *Legal Profession Act 2008* and Legal Profession Rules 2009 have been amended to remove the Board's statutory obligation to maintain the library. *Legal Profession (Law Library) Regulations 2016* (the **Regulations**) have been introduced and provide for the financial contribution of \$600,000 to be made by the Board on behalf of the profession to the maintenance of the integrated law library in its initial year of operation. The Law Society led discussions with the Department on the contribution to be made by the profession with participation by the Bar Association and the Board. The Regulations also make provision for review of the financial contribution.

The result is that there is in effect no financial benefit to the Board in the removal of the obligation to maintain the Law Library at the Supreme Court. However, the Board remained of the view that it was in the overall benefit of the Board and the profession that the Board not have responsibility for the maintenance of the Law Library, a function that in all other Australian jurisdictions rests either with government or the courts.

Another issue arising from the library integration that impacted the Board's finances was the government's decision to withdraw all funding from the library integration project whilst still maintaining its position that it wished the integration to progress.

The Board agreed to provide capped funding of \$350,000 (payable upon approved invoice) to ensure the progression and finalisation of the integration project. In reaching that decision the Committee noted that without this contribution the integration project would not have been able to progress and the

financial and non-regulatory obligations upon the Board for the maintenance of the law library would have continued. Provision for payment of those hard costs has been included in the Board's budget for the year ahead and will be a one-off obligation.

### **Human Resources**

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

The reporting year saw the number of staff remain stable at 43.6 full time equivalents.

### **Physical Resources**

The Committee has responsibility for the physical resources of the Board, i.e. accommodation, information technology etc. The Committee approved the purchase and implementation of new accounts, payroll and human resource software, known as 'TechOne', which will provide a technologically current and fully integrated administrative system for Accounts, Payroll and Human Resource management. It is anticipated that this will provide considerable efficiencies in that area of the Board's operations. TechOne will replace the separate out-dated and non-integrated systems currently in place.

The Committee continues to work towards the reduction of paper based administration.

### **Acknowledgements**

I would like to acknowledge the support and assistance of my Deputy Convenor, John Syminton, and the dedication of my fellow Committee members for their conscientious preparation for the many complex issues requiring consideration at the Committee's meetings.

Thanks are extended to all of the Board's employees for their efforts during the year, and to the Executive Director, Graeme Geldart, Deputy Executive Director, Libby Fulham, and Corporate Support Officer, Chelle Ellery, for their management of the Board's resources and support to the Committee.

### **Committee Membership**

Ms AM Liscia (Convenor)	Mr PCS van Hattem SC
Mr JG Syminton (Deputy Convenor)	Dr JJ Hockley
Mr SK Dharmananda SC	Ms VJ Hodgins
Mr MT Ritter SC	Mr JRB Ley
Mr Joshua A Thomson SC	Ms SM Schlink
Mr S Vandongen SC	Mr MPC Yeo

**Anna Liscia**  
Convenor

## ADMISSIONS AND REGISTRATION COMMITTEE

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- Convenor:** Ms S Schlink
- Deputy Convenor:** Ms E Macknay
- Resignations:** Mr M Howard SC resigned in October 2015
- New members:** Ms V Hodgins was appointed on 14 January 2016

### **Ongoing members:**

Mr J Syminton (Chairperson); Mr S Davies SC; Mr J Fiocco; Ms R Heath; Dr JJ Hockley; Mr J Ley; Ms A Liscia; Mr J McGrath SC; Mr J Thomson SC; Mr S Vandongen SC; Mr R Wilson SC

### **Role of the Admissions and Registration Committee**

Pursuant to the instrument of delegation from the Full Board, the Admissions and Registration Committee (**Admissions Committee**) is responsible for the majority of the functions and powers of the *Legal Profession Act 2008 (Act)* that regulate:

- the admission of lawyers;
- the registration and practice of foreign lawyers;
- the grant of practising certificates and imposition of conditions, when an applicant has not previously held a local practising certificate, or has not held an Australian practising certificate in the past 5 years;
- and supervised legal practice requirements.

### **Policies under which the Executive Director/Deputy Executive Director can exercise powers and duties under the Board's instrument of delegation**

During the year, the Admissions Committee developed and approved the following policies under which the Executive Director/Deputy Executive Director can exercise powers and duties under the Board's instrument of delegation:

- To consider applications for admission and issue compliance certificates.
- To consider the suitability of a person to be admitted to practice.
- To decide matters relevant to supervised legal practice, such as approval of part-time arrangements, remote supervision arrangements, and reductions in the required period to 12 months in circumstances where a practitioner has more than 2 years recent experience overseas in a common law jurisdiction.

## **Eligibility for admission— Academic qualifications and practical legal training**

### **Approved Academic Qualifications**

The five universities offering approved law degrees in Western Australia are:

The University of Western Australia  
Murdoch University  
The University of Notre Dame  
Edith Cowan University  
Curtin University

A Bachelor of Laws or Juris Doctor degree from one of the above universities will only be accepted as an approved academic qualification for admission to the legal profession in Western Australia, if the granting of the qualification required the successful completion of coursework covering all the prescribed areas of knowledge described in the *Uniform Admission Rules*, as published by the Law Admissions Consultative Committee (**LACC**).

The Admissions Committee continues to recognise as “corresponding academic qualifications”, any Australian law degree that meets admission requirements in the Australian state or territory in which it was obtained, provided all of the prescribed areas of knowledge as set out in the *Uniform Admission Rules*, have been successfully completed.

I extend my thanks to Mr John Hockley and Mr Rob Wilson for reviewing course outlines, and making recommendations to the Admissions Committee as to whether units meet the requirements of the Uniform Admission Rules for the relevant prescribed area of knowledge.

### **Stale qualifications and advanced standing for prior learning**

The Admissions Committee considered a number of qualifications that were completed more than 5 years before the law graduate applied for admission. In considering the academic qualifications, the Admissions Committee had regard to the Common Considerations Relevant to Stale Qualifications described in the LACC’s Uniform Admission Rules. The Admissions Committee also considered whether it was satisfied that law graduates have successfully completed coursework covering all of the 11 prescribed areas of knowledge described in the Uniform Admission Rules. The Admissions Committee took into account the lapse of time since the degree was completed, the employment undertaken by applicants since the degree was completed, and whether there have been significant changes to the relevant areas of law since the degree was completed.

The Admissions Committee also considered academic qualifications where the applicant had been given advanced standing by a law school based on prior learning. In some instances the Admissions Committee was not satisfied that an applicant had acquired the academic knowledge required for one or more of the prescribed areas of knowledge.



Several applicants were required to complete additional academic study to enable them to be eligible to be admitted to practice.

### **Approved Practical Legal Training**

Two practical legal training (PLT) options continue to be available in Western Australia being the WA College of Law PLT course, or 12 months articles of clerkship.

The number of law graduates registering for articles of clerkship remained steady. In the current year 20 law graduates registered articles of clerkship, compared with 19 registrations in the year ended June 2015. Articled clerks must complete the Articles Training Program conducted by the Leo Cussen Institute. The Leo Cussen Institute runs the face-to-face program in Perth once a year. Students must attend the full-time course for a period of 3 weeks, or 4 weeks if they are completing the Administrative Law and Industrial Relations Law practice units in addition to the core course.

The WA College of Law PLT Program remains the only approved PLT course in Western Australia. During the year the College of Law put forward a proposal for a redesigned PLT course to be introduced in all Australian jurisdictions. The Victorian Legal Practitioners Admissions Board proposed that Admissions Boards in the affected Australian jurisdictions might cooperatively review the redesigned course. The Admissions Committee agreed to participate in the review. The Admissions Committee approved the redesigned PLT course for a period of 2 years or until the conclusion and adoption of the recommendations of the cooperative review, whichever is earlier.

The Admissions Committee continues to recognise PLT courses undertaken in other jurisdictions as “corresponding practical legal training” for the purpose of admission in this jurisdiction, if the PLT course has been approved as meeting the PLT requirements for admission in the Australian jurisdiction in which it was completed.

### **Assessment of overseas applicants for admission**

The Admissions Committee assesses overseas qualified law graduates and legal practitioners for admission to the legal profession in Western Australia. In considering applications, the Admissions Committee has regard to the *Uniform Principles for Assessing Qualifications of Overseas Applicants for Admission to the Australian Legal Profession (Uniform Principles)* prepared by the Law Admissions Consultative Committee (LACC).

The Uniform Principles require all overseas applicants to complete Australian Constitutional Law at a Western Australian law school. All overseas applicants are also required to complete practical legal training in Office and Trust Accounting and Ethics and Professional Responsibility at the WA College of Law. Other requirements are considered on a case by case basis.

There was a significant decrease in the number of overseas assessments in

the year under review. There were 65 assessment applications considered, compared to 109 in the previous year. The reason for the decrease is not known, although the economic downturn in Australia and less demand and employment opportunities for lawyers, particularly newly admitted lawyers, may be the reason.

There was a slight decrease in the number of overseas legal practitioners admitted to practice in Western Australia. In the year ended 30 June 2016, only 23 as compared to 31 in the previous year new admittees had previously been admitted overseas.

### **Admission Policies: Law Admission Consultative Committee**

The Law Admissions Consultative Committee (**LACC**) is a consultative committee that makes recommendations to Australian admitting authorities and Admissions Boards, with the aim of achieving uniformity of admission requirements in Australia..

During the past year the Admissions Committee continued to consider and comment on matters raised by the LACC.

### **Suitability for admission and readmission**

#### **Policy**

During the past year, the Admissions Committee reviewed its policy requiring applicants for admission to provide police certificates. The policy was last reviewed in 2012. The revised policy continues to require all admission applicants who have resided in Australia to provide original National Police Certificates. A new requirement has been introduced, requiring all applicants for admission to provide a police report from every overseas jurisdiction in which the applicant has resided for more than 2 years after the age of 18 years.

#### **Applications**

The Admissions Committee considers the suitability for admission of applicants who have disclosed suitability or other matters.

During the year, the Admissions Committee approved a policy under which the Executive Director can approve an applicant as a fit and proper person to be admitted, if the matters disclosed by the applicant can be categorised as being minor in nature.

In the period before the policy was approved, the Admissions Committee considered 32 applications where matters of a minor nature were disclosed. The matters disclosed included traffic offences, failure to report an accident, Centrelink debts, late payment of tax, suspension from high school, academic misconduct investigations, public transport infringements, delays in finalising applications and failure to keep the Board informed of matters relevant to the application.

The Admissions Committee approved a further 47 applications on the papers

where more serious disclosures were made such as:

- Investigations by the Professional Affairs Committee about possible unqualified legal practice and use of prohibited titles
- Centrelink overpayments
- Pending civil court matters
- Liability in a car accident
- Bankruptcy
- Loan defaults
- Unpaid fines
- Disciplinary matters investigated by other professional bodies
- Drug convictions
- Traffic offences, including driving with a blood alcohol content above legal limits
- Disorderly conduct
- Violence restraining orders
- Academic misconduct
- Health issues, including anxiety and depression.

Applicants are sometimes requested to meet with members of the Admissions Committee if there is insufficient detail about the matters disclosed, or if the matters disclosed are serious in nature. In the past twelve months 13 applicants were required to meet with members of the Admissions Committee. Disclosures made by the 13 applicants were:

1. Multiple and recent traffic offences and late payment of associated penalties.
2. Spent conviction for possession of dexamphetamine tablets.
3. Suspension of registration as a migration agent for conduct breaches, careless driving, disorderly behaviour and traffic infringements.
4. Traffic offences involving 3 offences for driving with a blood alcohol content above the legal limit.
5. Academic misconduct, previous employment as an escort and health issues.
6. Investigations by a University relating to alleged assault and causing fear, academic misconduct and a speeding offence.
7. Delay of more than 12 months in providing documents to complete an application for admission, inadequate response to the Board's enquiries as to progress, and mental health issues.
8. Traffic offences from 1993, trespass offence in 1994, cannabis possession offence in 2002 and voluntary disclosure of recreational drug use.
9. Numerous juvenile and adult criminal and traffic offences, stemming in part from a previously unmanaged ADD (Attention Deficit Disorder) condition.
10. Traffic offences and an academic misconduct finding.

11. Driving with a blood alcohol content above legal limits, driving whilst under suspension and academic misconduct
12. Traffic offences and non-payment of fines, mental health issues.
13. Conviction for assault occasioning bodily harm and violence-related charges.

Eleven of the applicants were subsequently found to be fit and proper to be admitted. Two applications remained undecided as at 30 June 2016.

### **Refusals to issue a compliance certificate**

The Admissions Committee refused to issue compliance certificates to 3 applicants for admission.

- The first applicant, who had applied prior to 1 July 2015, disclosed that she had falsified documents when applying for employment.
- The second applicant had lodged a false transcript with the Board. The applicant had not completed a law degree. As well as refusing the application, the Board reported the suspected offence to the WA Police.
- The third applicant had been investigated by the Professional Affairs Committee for possible unqualified practice and falsely representing an entitlement to practice. The applicant also disclosed a discharged bankruptcy, unpaid fines, and health-related matters.

### **Re-admission applications**

The Admissions Committee considered two applications for re-admission from practitioners who have previously been struck of the roll. Both applications were lodged prior to 1 July 2015.

Under s.31(4) of the Act, the Board is taken to have refused to give a compliance certificate if a compliance certificate has not been given to the applicant within 6 months after the application for admission was lodged. In the case of one application for re-admission, the Admissions Committee despite consideration of the application was not in the position to make a decision in relation to the application within 6 months after the application was lodged. The applicant applied for a review of the deemed refusal in the State Administrative Tribunal (SAT). The applicant subsequently withdrew both the application in the SAT and the application for re-admission.

The other applicant had previously been struck off the roll following a conviction for attempting to pervert the course of justice. The Admissions Committee was satisfied that the applicant was a fit and proper person to be re-admitted and issued a compliance certificate and reasons to the Supreme Court. The Supreme Court listed a hearing to consider the application and subsequently re-admitted the applicant.

### **Applications not proceeded with**

Two applicants applied for admission but did not complete their applications.

One applicant lodged a motion paper with the Supreme Court but did not provide the Board with a notice of application and other required documents, despite numerous requests to do so.

The other applicant was asked to explain why she was described by the title of “Dr” on her 2012 transcript and why her occupation on her 2010 marriage certificate was described as “lawyer”. The applicant subsequently advised that she was delaying her admission to travel overseas.

The Board has advised other Australian admitting authorities that there is information known to the Board about both applicants that might be relevant if either applicant applies for admission in another Australian jurisdiction.

### **Applications for an early declaration of suitability to be admitted**

Prospective applicants for admission may apply for an early determination of suitability to be admitted.

One application for an early declaration of suitability was carried over from the previous year. The applicant’s disclosures included a long history of cannabis use, Centrelink overpayments, stealing, dishonesty, loan defaults, and traffic offences. The Admissions Committee refused to give an early declaration of suitability. The applicant was provided with reasons for the decision.

Three further applications were considered during the year. The disclosures related to academic misconduct, juvenile drug convictions, a violence restraining order, anxiety and associated alcohol abuse and traffic convictions.

All three applicants were given an early declaration of suitability.

### **Applications for the grant of a practising certificate**

The Admissions Committee considers applications for the grant of a practising certificate in circumstances where an applicant has disclosed a suitability matter or show cause event in the application. The Admissions Committee also considers applications for the grant of a practising certificate from applicants who had not held an Australian practising certificate for 5 years or more.

### **Conditions imposed on practising certificates**

The Admissions Committee imposed a 12 month restricted practice condition on the grant of a practising certificate to a significant number of lawyers who had been absent from practice for 5 years or more.

A condition requiring the practitioner to complete the coursework component of an approved practical legal training course within 12 months of the issue of a practising certificate was imposed on one lawyer who had not practised for more than 23 years.

One practitioner was required to provide 6 monthly reports from her psychiatrist, evidencing successful management of her bi-polar condition, and another was required to agree to random urinalysis testing to evidence abstinence from illicit drug use.

### **Refusal to grant a practising certificate**

In the year ended 30 June 2015, the Admissions Committee refused to grant a practising certificate to a lawyer who had relocated overseas some years ago. At the time of his

departure, he was subject to unresolved complaints before the Legal Profession Complaints Committee (LPCC) and had advised the LPCC that he did not intend to return to practice in Western Australia.

The lawyer applied for a review of the Admission Committee's decision in the State Administrative Tribunal (**SAT**). That application remained undecided at 30 June 2015. The matters before the LPCC were subsequently resolved, and the SAT invited the Admissions Committee to reconsider the application.

After further investigations, the Admissions Committee resolved that it was satisfied that the Applicant was a fit and proper person to hold a practising certificate. The Admissions Committee foreshadowed conditions that would be imposed on any practising certificate issued to the lawyer. Those conditions would require the practitioner to comply with specific Orders that had been imposed by the SAT that required the practitioner to pay a debt in regular instalments, and not to accept instructions related to or connected with family law proceedings, and only to engage in supervised legal practice for a period of 12 months. A practising certificate has not yet been issued to the lawyer, as the Board has not received notification from Law Mutual of compliance with professional indemnity insurance requirements.

### **Restricted Practice and Supervised Legal Practice**

The Admissions Committee develops policy and considers submissions relevant to restricted practice and supervised legal practice. The Board has delegated authority to the Executive Director of the Legal Practice Board to consider some restricted matters if the applications comply with policies approved by the Admissions Committee. All complex matters are referred to the Admissions Committee.

In the year under review, the Admissions Committee made amendments to the Board's Supervised Legal Practice Guidelines to reflect amendments made to Rule 19 of the *Legal Profession Rules 2009*. Those amendments had the effect of widening the capacities in which restricted legal practice could be completed.

The Admissions Committee also reviewed the circumstances under which remote supervision arrangements are approved. The Admissions Committee noted the availability of work flow programs and other technological advances that make it possible to effectively supervise a restricted practitioner, even though the supervision may involve little face-to-face contact. The Admissions Committee will continue to consider applications on a case-by-case basis. Approval of remote supervision arrangements will be subject to the proviso that the Board may conduct an audit of the supervision arrangements during the restricted practice period, particularly when the supervising practitioner is interstate and it is proposed that face-to-face contact will be minimal.

### **Representation at meetings and conferences**

#### **Law Admissions Consultative Committee (LACC)**

The LACC is a consultative committee that provides recommendations to Australian admitting authorities and Admissions Boards, with the aim of

achieving uniformity of admission requirements in Australia. The LACC meets in Melbourne at least three times per year. Ms Liscia is the Admissions Committee's representative on LACC.

Ms Liscia attended two LACC meetings in Melbourne during the year and I, as the Convenor of the Committee, attended one LACC meeting in Melbourne, as proxy for Ms Liscia.

### **University of Western Australia Advisory Board for the Faculty of Law**

As the Convenor and representative of the Admissions Committee, I have sat on the University of Western Australia Advisory Board for the Faculty of Law since February 2015.

I would like to extend the Committee's thanks to Ms Liscia who represented the Admissions Committee on the University of Western Australia Advisory Board until February 2015.

### **Conference of Regulatory Officers (CORO)**

This annual conference addresses all aspects of regulation of the legal profession, including matters relating to the admission of practitioners, the granting of practising certificates, and restricted practice requirements in Australian jurisdictions and New Zealand. The Admissions & Registrations Coordinator, Ms Deb MacDonald, and the Admissions Officer, Ms Lorna Starling, along with other employees of the Board, attended the CORO conference in Hobart in November 2015.

### **Administrators of Australasian Law Admitting Authorities (AALAA)**

The AALAA meets annually, on the day preceding the CORO conference, to discuss matters of mutual interest and to exchange information about admission policies and practices in the various Australian jurisdictions, and in New Zealand.

The Admissions & Registrations Coordinator, Ms Deb MacDonald, and the Admissions Officer, Ms Lorna Starling, attended the 16<sup>th</sup> Annual Meeting of the AALAA in Hobart in November 2015.

### **Australian Practical Legal Education Committee (APLEC)**

The Coordinator accepted an invitation to attend several sessions of the annual APLEC conference that was held in Perth.

### **Acknowledgements**

In concluding this report, I would like to personally thank all of the members of the Admissions Committee for their contributions during the year. In particular, I would like to thank those members who have reviewed course outlines, reviewed applications, met with applicants for admission, and prepared reports and recommendations to assist the Admissions Committee in its deliberations.

**Sabina Schlink**  
**Convenor**

**Statistics pertaining to matters considered by the Admissions Committee from 1 July 2015 to 30 June 2016**

<b>Qualified</b>	<b>Admitted</b>	<b>Number</b>
Australia	US	1
Australia	Malaysia	1
England & Wales	Not admitted	16
England & Wales	England & Wales	11
England & Wales	England & Wales/Mauritius	1
England & Wales	England & Wales/Malaysia	1
England & Wales	Hong Kong	1
Ireland	Not admitted	1
Ireland	Ireland	1
Scotland	Not admitted	3
Russia	Not admitted	1
Russia	Russia	1
South Africa	Not admitted	1
South Africa	South Africa	6
South Africa	England and Wales	1
Africa - Nigeria	Africa - Nigeria	2
Sri Lanka	Sri Lanka	2
India	Not admitted	3
India	India	1
Pakistan	Pakistan	1
Malaysia	Malaysia	1
Singapore	Singapore	1
Myanmar	Not admitted	1
Fiji	Fiji	1
Canada	Canada	1
United States	United States	2
Brazil	Brazil	1
Columbia	Not admitted	1
<b>Total assessments</b>		<b>65</b>

i.e.

approx. 41% decrease (109 in 2015)

**Articles of Clerkship Registrations**

Registrations – male articled clerks	10
Registrations – female articled clerks	10
<b>Total Registrations</b>	<b>20</b>

(Stable – in 2014/2015 there were 19 registrations)



**Articled clerks were graduates from:**

University of Western Australia	9
Murdoch University	8
University of Notre Dame	2
Edith Cowan University	0
Corresponding Australian Law Schools	0
Overseas qualified	1
<b>Total articled clerks</b>	<b>20</b>

**Admissions**

Admitted pursuant to s26 of the <i>Legal Profession Act 2008</i> (includes 1 readmission)	452
Admitted pursuant to the <i>Mutual Recognition (WA) Act 2001</i> or unknown	6
Admitted pursuant to the <i>Trans-Tasman Mutual Recognition (WA) Act 2008</i>	6
<b>Total Admissions</b>	<b>464</b>

(In 2014/2015, 437 were admitted. – 6% increase)

Of the **452** lawyers admitted pursuant to the *Legal Profession Act 2008*, 182 were male and 270 were female, and they were qualified as follows:

**Academic qualifications:**

Readmission	1
University of Western Australia	165
Murdoch University	141
University of Notre Dame	42
Edith Cowan University	23
Corresponding Australian Law Schools	43
Overseas qualified	37**

\*\*Of the 37 overseas qualified persons admitted, **23** had previously been admitted overseas:

England & Wales	9
England & Wales/Malaysia	1
England & Wales/Malaysia/Singapore	1
England & Wales/US	1
Ireland	1
United States	1
South Africa	5
Malaysia	1
Sri Lanka	1
India	1
China	1
Total Previous Admitted Overseas	23

Articles of clerkship	16
WA College of Law PLT Course	339
Corresponding Aust PLT course - ANU	66
Corresponding Aust PLT course - other	9
Overseas assessed	21
Readmission	1

### Registered Foreign Lawyers

At 1 July 2016 there were 4 registered foreign lawyers.

There were 4 new registrations during the year.  
Two registered foreign lawyers did not renew.

The 6 renewals approved for the 2016/2017 year were:

Germany	3
England and Wales	1
England and Wales & New Jersey	1
Greece	1

## PROFESSIONAL AFFAIRS COMMITTEE

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- Convenor:** Mr JGM Fiocco
- Deputy Convenor:** Mr B Fiannaca SC (to 27 August 2015)  
Mr P van Hattem SC (13 October 2015 to 30 June 2016)
- Members:** Mr MH Zilko SC (currently Deputy Convenor)  
Mr GMG McIntyre SC  
Mr GTW Tannin SC  
Mr PCS van Hattem SC (Deputy Convenor 13 October 2015 to 30 June 2016)  
Mr PD Quinlan SC\*  
Mr RS Hooper SC  
Mr MN Solomon SC  
Mr JC Vaughan SC  
Mr MD Cuerden SC\*  
Mr PD Yovich SC\*  
Mr JG Syminton  
Mr AJ Pascoe\*  
Ms EE Macknay  
Ms AM Liscia\*  
Ms VJ Hodgins  
Mr SS French\*
- \* *Part year*

The Professional Affairs Committee (**PAC**) convened on 25 occasions between 1 July 2015 and 30 June 2016. This included 11 scheduled meetings and 5 special meetings and included the PAC passing electronic resolutions without meeting on 9 occasions.

The PAC exercises delegated decision-making power in relation to:

- the grant and renewal of local practising certificates, subject to conditions in certain circumstances;
- regulation of interstate practitioners practising in Western Australia;
- regulation of local practising certificates, including:
  - monitoring of compliance with conditions imposed on practising certificates; including the variation and revocation of conditions.
  - the amendment, suspension or cancellation of local practising certificates.
  - the regulation of business structures operating legal practices, including incorporated legal practices and the legal practitioner directors who control and manage these legal practices;
  - the regulation of the administration and management of trust

- o external intervention in respect of law practices; and
- o the reservation of legal work and related matters, including the prosecution of persons engaging in unqualified practice and approval of lay associates.

Prior to November 2013 the PAC was also responsible, on behalf of the Legal Practice Board (**Board**), for monitoring compliance with Continuous Professional Development (**CPD**) requirements. At its meeting held on 27 November 2013 the full Board approved the establishment of a Professional Development Committee (**PDC**). The PDC has been established to exercise delegated powers of the Board in the area of professional development (including professional education and CPD). The PAC retains delegated power in relation to compliance with professional development, but it will not be exercising that delegated power unless it is in relation to conditions imposed by the PAC and where there are other matters before the PAC that require it to exercise that delegated power. Further information on the PDC is set out in this section of the report under the headings “*Conditions on Practising Certificates*” and “*Compliance with Continuous Professional Development Requirements*”, and at page 58 of the overall report.

### **Practising Certificates - Suitability Matters**

With respect to its delegated power to issue annual local practising certificates the PAC:

- must not grant a local practising certificate unless it is satisfied that the applicant is a “*fit and proper person*” to hold the certificate (s45(4)(b) of the *Legal Profession Act 2008 (Act)*.
- must not renew a local practising certificate if it is satisfied that the applicant is not a “*fit and proper person*” to continue to hold the certificate(s45(5)(b) of the Act)

The term ‘*fit and proper person*’ is not defined in the Act. However the Act sets out various matters that may be taken into account when considering whether a person is a fit and proper person to hold a local practising certificate, including:

### **Suitability matters (s 8 of the Act)**

Whether a person:

- (a) *is currently of good fame and character;*
- (b) *is or has been an insolvent under administration;*
- (c) *has been convicted of an offence in Australia or a foreign country;*
- (d) *has engaged in unauthorised legal practice in Australia or in a foreign country;*
- (f) *is currently subject to an unresolved complaint or an investigation, charge or order under the Act, any of its predecessor s) or a corresponding law;*
- (g) *is the subject of current disciplinary action, or has been the subject of disciplinary action involving a finding of guilt, in another profession or occupation in Australia or a foreign country;*
- (h) *has had their name removed from a roll of practitioners in Australia (and their name has not since been restored to that roll) or in a foreign country;*
- (i) *has had their right to engage in legal practice suspended or cancelled in Australia or in a foreign country;*
- (j) *has contravened, in Australia or a foreign country, a law about trust money or trust accounts;*
- (k) *has had a supervisor, manager or receiver appointed to their law practice under the Act, any of its predecessor(s) or a corresponding Australian law;*
- (l) *is or has been disqualified from being involved in a law practice under the Act, any of its predecessor(s) or corresponding Australian law;*
- (m) *is currently unable to carry out the inherent requirements of practice as an Australian legal practitioner.*

### **Other matters (s 38(2) of the Act)**

Include whether a person:

- (a) *has obtained an Australian practising certificate because of incorrect or misleading information;*
- (b) *has contravened a condition of an Australian practising certificate held by them;*
- (c) *has contravened the Act, any of its predecessor(s) or a corresponding Australian law;*

- (d) *has contravened an order of the Legal Profession Complaints Committee or the State Administrative Tribunal or Supreme Court (full bench) or relevant appellate body exercising jurisdiction under the Act or any of its predecessors or an order of a corresponding disciplinary body, tribunal or court;*
- (e) (i) *has failed to pay a required contribution or levy to the Guarantee Fund; or*
  - (ii) *has contravened a requirement imposed under this Act about professional indemnity insurance; or*
  - (iii) *has failed to pay other costs, expenses or fines for which the person is liable under this Act or any of its predecessors;*
- and*
- (f) *any other matters relating to the person the Board considers are appropriate.*

Each practising certificate application where a relevant ‘*suitability matter*’ arises is considered and determined on a case-by-case basis by the PAC as to whether the applicant is a “*fit and proper person*” to hold a local practising certificate.

Where a suitability matter in relation to a particular practitioner comes to the attention of the PAC during the currency of that practitioner’s local practising certificate, the PAC will consider whether to cancel or suspend the certificate, whether to impose conditions on the certificate or whether to take no action.

During the 2015-2016 year, 334 separate suitability matters were considered by the PAC. This is an increase from the previous reporting period.

### **Conditions on Practising Certificates**

In some circumstances, the PAC may resolve that a practitioner should be granted or retain a local practising certificate only if certain conditions are attached to the certificate. These conditions can be concerned with matters such as restricting the holder to particular conditions concerning employment or supervision, restrictions on dealing with trust money, a requirement to undergo medical treatment, or a requirement to obtain a mentor.

Where appropriate, the PAC maintains a monitoring role as to the continuing necessity, appropriateness and sufficiency of the conditions imposed to meet public interest objectives.

Between 1 July 2015 and 30 June 2016, conditions were imposed on practitioners’ practising certificates on 40 occasions, and conditions were removed from practitioners’ practising certificates on 19 occasions. These numbers indicate a very slight increase in the numbers from the previous reporting period, which reflect outstanding conditions imposed from previous reporting periods that have not been removed, orders from the State Administrative Tribunal including the

imposition of conditions, and a slight increase in the removal of the '*Barrister only*' condition and '*Volunteer or pro bono only*' condition from practising certificates.

The establishment of the PDC, in conjunction with the revision of the Board's Instrument of Delegation to delegate to the PDC, Executive Director and the Deputy Executive Director, the power to grant exemptions from CPD requirements, vary CPD requirements and to approve single activities by an applicant and a QA provider, has significantly reduced the number of conditions imposed and managed by the PAC relating to CPD requirements.

Further information on CPD and the PDC can be found in the overall report at page 59.

During the reporting period there was an increase in the number of practitioners required to report on the maintenance of their trust account or to not operate or otherwise be involved in a trust account, and there was a minor increase in the imposition of conditions requiring the practitioner to have a mentor approved by the Board.

### **'Barrister only' condition**

Since 1 July 2012 the Board has made available a '*Barrister only*' condition for imposition on a barrister's local practising certificate issued.

The wording of the '*Barrister only*' condition states:

*The holder requests and agrees pursuant to section 47(3)(i) of the Legal Profession Act 2008 that the following conditions be imposed upon this practising certificate, namely:*

*The holder will while engaging in legal practice work solely as an independent barrister, which comprises:*

- (a) appearing as an advocate;*
- (b) preparing to appear as an advocate;*
- (c) negotiating for a client with an opponent to compromise a case;*
- (d) representing a client in a mediation or arbitration or other method of alternative dispute resolution;*
- (e) giving legal advice;*
- (f) preparing or advising on documents to be used by a client or by others in relation to the client's case or other affairs;*
- (g) carrying out work properly incidental to the kinds of work referred to in (a)-(f); and*
- (h) such other work as is from time to time commonly carried out by barristers.*

*The holder must while engaging in legal practice be a sole practitioner, and must not:*

- (a) practise in partnership with any person;*
- (b) practise as the employer of any legal practitioner who acts as a legal practitioner in the course of that employment;*

- (c) *practise as the employee of any person;*
- (d) *be a legal practitioner director of an incorporated legal practice;*
- or
- (e) *be a member of a multi-disciplinary partnership.*

The condition is set out in its entirety in an annexure attached to a barrister's local practising certificate. The following is displayed on the face of the certificate:

*'Barrister only' condition - see details in Annexure A*

Once imposed, the condition remains on a barrister's local practising certificate until the Board removes the condition after accepting the barrister's application to the Board for its removal.

Barristers with the *'Barrister only'* condition imposed on their local practising certificates must still comply with professional indemnity insurance and continuing professional development requirements.

The *'Barrister only'* condition can only be imposed by the Board on a barrister's local practising certificate with the agreement of the holder, pursuant to s 47(3)(i) of the Act. The arrangement is voluntary. However a legal practitioner who does not agree to the *'Barrister only'* condition will not be entitled to use the name, title or description of "barrister" (see: item 7 in reg 5(2) of the *Legal Profession Regulations 2009*).

The PAC is responsible for considering requests for the imposition and removal of the *'Barrister only'* condition on local practising certificates. During the 2015-2016 year, the Board received 20 requests to impose the condition. The PAC imposed the condition on 1 local practising certificate; the remainder were imposed by the Board's Executive Director, or Deputy Executive Director, under delegated authority.

There were 5 applications to have the *'Barrister only'* condition removed during the year, which were accepted by the Board's Executive Director under delegated authority.

### ***'Volunteer or pro bono only' condition***

The Board has since 1 July 2012 made available a nil fee *'Volunteer or pro bono only'* condition for imposition on a local practising certificate.

The wording of the *'Volunteer or pro bono only'* condition states:

*This practising certificate is issued free of fees on condition that the holder is only engaged in the provision of legal services on a not-for-profit basis and does not charge any person nor seek to recover a fee from any person, save that the holder may:*

- 1 *receive remuneration via a costs order in a matter if the holder has accepted a referral to act in that matter under Order 4.14 of*



- the Federal Court of Australia Rules 2011 or under Order 12 of the Federal Circuit Court of Australia Rules 2001;*
- 2 recover from a person any out of pocket disbursements reasonably paid by the holder on behalf of a person.*

The condition is set out in its entirety in an annexure attached to a practitioner's local practising certificate. The following is displayed on the face of the certificate:

*Volunteer or pro bono only condition - see details in Annexure A*

Once imposed, the condition remains on the practitioner's local practising certificate until the Board removes the condition after accepting the practitioner's application to the Board for its removal.

Practitioners with the '*Volunteer or pro bono only*' condition imposed on their certificates must still comply with professional indemnity insurance and continuing professional development requirements.

The '*Volunteer or pro bono only*' condition can only be imposed on a practitioner's local practising certificate with the agreement of the holder, pursuant to s 47(3)(i) of the Act.

The PAC exercises delegated power in considering requests for the imposition and removal of the '*Volunteer or pro bono only*' condition on local practising certificates.

Since 1 July 2015, the PAC has imposed the "*volunteer or pro bono only*" condition on 21 local practising certificates with no requests being refused. There have been 5 applications to have the '*Volunteer or pro bono only*' condition removed, which were accepted by the Board's Executive Director under delegated authority. This represents no significant increase in the number of '*Volunteer or pro bono only*' conditions removed.

However the Admissions and Registration Committee (**ARC**) will also impose the '*Volunteer or pro bono only*' condition on practising certificates if the practitioner has not previously held a local practising certificate or has not held a practising certificate in the previous 5 years.

Further information on the ARC can be found in the overall report at page 23.

## **Disclosure of suitability matters**

The Board has approved disclosure guidelines, available on the Board's website, for the purpose of:

Informing applicants and practitioners that the Board places a duty and onus on each applicant and practitioner to disclose any matter that could influence the Board's decision whether the person is "*currently of good fame and character*" and a "*fit and proper person*"; and

Advising applicants and practitioners that failure to do so, if subsequently discovered, can have serious consequences for an applicant or practitioner as they might be suspended or struck off the roll of practitioners, or have an application for the grant or renewal of a local practising certificate refused, if they have not made full disclosure; and

Providing guidance to the PAC on its considerations of whether the person is “*currently of good fame and character*” and a “*fit and proper person*”, and PAC’s management of process in that regard.

### **Spent Convictions**

The PAC has previously raised concerns that a person was not required to disclose a spent conviction in order to assist the Board assessing whether the person is a “*fit and proper person*” to hold a local practising certificate.

Amendments have now been made to the *Spent Conviction Act 1988* providing that the Legal Practice Board and Legal Profession Complaints Committee are excepted from the provisions of section 22 and Part 3 Division 4 in respect of all spent convictions. Effectively this means that Australian lawyers and applicants for the grant or renewal of a local practising certificate are required to disclose a spent conviction to the Board and that the conviction may be taken into account in considering whether the applicant is a “*fit and proper person*”. Additionally, if practitioners are handed a spent conviction during the practising certificate year they are required to disclose this to the Board under the applicable provisions of sections, 8, 51, 61 or 62 of the Act.

The above effect extends to persons applying to become an Australian-registered foreign lawyer and Australian-registered foreign lawyers (see sections 8, 179 and 180 of the Act).

The Board’s application for a practising certificate has been amended to make the effect of the amendments clear to applicants.

Notification of the amendments have been included on the Board’s website and in the Board’s renewal notice circulated to all practitioners via email.

### **Matters considered by the PAC**

The following table sets out the matters considered by the PAC during the reporting period and the outcome of that consideration, including the consideration of suitability matters, and the imposition and removal of conditions on local practising certificates. The table also includes the ‘*Barrister only*’ and ‘*Volunteer or pro bono only*’ conditions imposed on local practising certificates during the reporting period.

<b>Matter</b>	<b>Outcome</b>	<b>No</b>
Pending disciplinary matter before the Legal Profession Complaints Committee / interstate disciplinary tribunal	Local practising certificate issued notwithstanding the pending complaint (59).  Application for renewal deferred pending further information (12).	78 (including 7 who had failed to disclose the pending complaint)
Disciplinary action in another jurisdiction, with possible illicit substance use	Practising certificate issued with conditions	1
Disciplinary action relating to another profession or occupation that involved a finding of guilt	With explanation and supporting evidence provided, local practising certificate issued	1
Traffic offences, including drink driving	With details provided, local practising certificate issued (25).  Local practising certificate already issued at time of consideration. With details provided and noted, no action taken (2).	27
Convicted of a tax offence	Local practising certificate issued subject to existing conditions requiring practitioner to provide the Board with periodic reports of compliance with BAS obligations.	2

Convicted of an offence	<p>Local practising certificate issued and no further action (23)(15 spent convictions, 21 aged offences).  Local practising certificate already issued. Explanation provided and no further action taken (6) (1 spent conviction, 5 aged offences).  Government lawyer, not a conviction. No further action (1).  Local practising certificate already issued, await outcome of trial to determine if serious offence (1)</p>	31
Charged with a serious offence	<p>Local practising certificate issued with conditions that the practitioner provide periodic reports from psychologist (1).  Local practising certificate already issued, specialist report received, no further action (1).  Local practising certificate already issued, practitioner required to keep Board informed of progress of charges (2).</p>	4
Name removed from foreign roll, eligible to be reinstated on payment of fee.	<p>Local practising certificate issued. Explanation provided and noted, no action taken.</p>	2
Subject of violence restraining order	<p>Local practising certificate issued. Explanation provided and noted, no action taken.</p>	1
Failure to pay counsel fees	<p>Local practising certificate already issued. Still under consideration. Conduct referred to LPCC.</p>	1

Findings of dishonesty	Local practising certificate cancelled, decision set aside by State Administrative Tribunal	1
Contravened a condition on a practising certificate	Local practising certificate issued. Explanation provided and noted, no action taken (1). Notification to WA Bar Association about Supreme Court rule practice and possible breach (1).	2
Contravened a law about trust money or trust accounts	Practising certificate issued (1). Local practising certificate issued with conditions that the practitioner provide periodic trust account reconciliations and report from the law practice's external examiner (5). Local practising certificate already issued, conditions imposed that the practitioner provide periodic trust account reconciliations and report from the law practice's external examiner (1) Undertaking to provide allow external examiner access to records (3) Non-renewal of practising certificate, revisit is re-applies (1) Unresolved (1).	12
Health condition	Local practising certificate issued subject to the conditions requiring periodic reporting from treating or approved practitioner (4). Local practising certificate application withdrawn. Previous serious mental health issues. Failure to provide sufficient information to satisfy the application was a fit and proper person (1) No further action (1).	6



Is or has become bankrupt	<p>Local practising certificate issued subject to the following conditions:  Practitioner not to operate or be involved in a trust account.  Requirement to provide quarterly reports from trustee on compliance with bankruptcy requirements (7).</p> <p>Local practising certificate issued subject to the following conditions:  Practitioner not to operate or be involved in a trust account.  Requirement to provide quarterly reports from trustee on compliance with bankruptcy requirements.</p> <p>Requirement to provide correspondence to and from trustee. (1).</p>	8 (including one referred to LPCC for failure to respond to Board's requests).
Discharged from bankruptcy	No further action, conditions removed.	1
Served with Creditor's Petition	Creditor's Petition dismissed, no further action.	1
Failure to provide proof of professional indemnity insurance	<p>Local practising certificate issued, with explanation provided and compliance with insurance. No further action taken (6).:</p> <p>Local practising certificate refused. Referred conduct to LPCC (1).</p>	7
Employee of insolvent law practice with appointment of a Manager	Former employee of incorporated legal practice in liquidation. Not a principal practitioner. Local practising certificate issued.	17
Undertaking to comply with the Act	Former principal legal practitioners of incorporated legal practice in liquidation. Provided undertaking to comply with obligations under the Legal Profession Conduct Rules 2010. PC renewed.	11

Contravened the Act	<p>Failure to obtain approval to be employed as a lay associate of a law practice. With explanation no further action taken (16).</p> <p>Failure to give notice of commencement of an incorporated legal practice (11) (including 6 matters where the incorporated legal practice wrote to all affected clients, 3 matters where no further action was taken, 2 matter remained unresolved).</p> <p>Failure to give notice of an incorporated legal practice ceasing (4).</p> <p>Failure to give notice of commencement of partner of multi-disciplinary partnership (1).</p> <p>Failure by interstate practitioner to notify commencement of practice in WA (3).</p>	35
Engaged in legal practice unlawfully	<p>Breach of s 12(2). Required to write to affected clients. Local practising certificate issued (1).</p> <p>Breach of s 12(2) in another jurisdiction where action taken. Local practising certificate issued with explanation (2).</p> <p>Breach of s 12(2). Required to write to affected clients, application for practising certificate referred to ARC (1).</p> <p>Breach of restricted practice requirements. Local practising certificate application withdrawn. Matter referred to ARC and LPCC (1).</p>	5

Applicant subject to imposed mentoring conditions	<p>Local practising certificate not yet renewed, subject to conditions that the practitioner meets with an approved mentor who provides periodic reports to the Board, carried over from previous year (1).</p> <p>Local practising certificate issued subject to conditions that the practitioner meets with an approved mentor who provides periodic reports to the Board. Carried over from previous year (4). Initial imposition of condition (1).</p>	6
Applicant subject to orders of the State Administrative Tribunal imposing conditions on practice	<p>Local practising certificate issued subject to conditions in accordance with Tribunal order. Carried over from previous year (2). Initial imposition of condition (4).</p>	6
Subject to orders of the State Administrative Tribunal or the Supreme Court	<p>Noted that practitioner found guilty of professional misconduct and suspended (2) (one on appeal). Noted that practitioner found guilty of professional misconduct with conditions imposed (5)(one being re-heard). Noted that practitioner found guilty of professional misconduct and not to apply for practising certificate for 6 months (1) Noted that practitioner found guilty of professional misconduct and undertaking not to apply for practising certificate (1) Noted that practitioner found guilty of professional misconduct (3). Noted that practitioner found guilty of professional misconduct and unsatisfactory professional conduct (1). Noted that practitioner found guilty of unsatisfactory professional conduct (2).</p>	15



Consideration of ILP Audit	Findings of concern giving rise to consideration of conditions (1).	2
	Conduct under investigation by LPCC (1).	
' <i>Barrister only</i> ' condition	' <i>Barrister only</i> ' condition imposed at the request of the practitioner on the practitioner's practising certificate (20).	25
	' <i>Barrister only</i> ' condition removed at the request of the practitioner from the practitioner's practising certificate (5).	
' <i>Volunteer or pro bono only</i> ' condition	' <i>Volunteer or pro bono only</i> ' condition imposed at the request of the practitioner on the practitioner's practising certificate (21).	26
	' <i>Volunteer or pro bono only</i> ' condition removed at the request of the practitioner, from the practitioner's practising certificate (5).	
<b>Total</b>		<b>334</b>

### **Failure to apply for renewal of a practising certificate within the renewal period of 1 May 2015 to 30 June 2016**

Section 44 of the Act provides that a person who holds a current local practising certificate must make an application to renew that certificate before that certificate expires.

Section 44(4) provides that the Board may exercise its discretion to accept an application for renewal of a certificate lodged after the expiry of that certificate and treat it as if it were received prior to the expiry of the original certificate.

That discretion is limited to the Board being satisfied that the delay was caused by 1) reasons beyond the control of the applicant or; 2) other special circumstances warranting acceptance of the application. the Board's Executive Director and Deputy Executive Director have been delegated power to accept applications for renewal made after 1 July.

During 2015-2016, the Board was referred 118 applications to renew practising certificates lodged with the Board after 30 June 2015. All applications were considered and accepted.

These figures indicate an increase in late applications from the previous reporting period, increasing from 91 to 118. There is no apparent reason for the increase in late applications. The Board has put in place measures to ensure the profession is aware of the requirement to lodge an application to renew a local practising certificate in the prescribed period.

### **Refund of Fees**

Rule 2 of the *Legal Profession Rules 2009 (Rules)* provides that the fee payable for an application for the grant or renewal of a practising certificate is the relevant fee payable in Schedule 1 of the Rules.

Rule 55 provides that if the Board determines that, in a particular case, it is not practicable for a person to comply with any of the rules or that there are other special circumstances, the Board may excuse a person from complying with that rule to the extent and subject to any conditions determined by the Board.

The Executive Director and Deputy Executive Director have the delegated power to excuse a person from complying with the Rules, if the non-compliance is of a trivial or technical nature, and subject to any conditions determined by the Board, pursuant to rule 55 of the Rules. The PAC has delegated power to excuse a person from complying with the Rules, subject to any conditions determined by the Board, pursuant to rule 55 of the Rules.

During 2015-2016, the Board considered 65 applications for the refund of the fee payable for an application for the grant or renewal of a local practising certificate. Fifty-Eight (58) applications were accepted and the applicants excused from complying with the Rules.

Of the 58 applications that were accepted, 14 were approved for a refund of the late fee payable, 11 were approved for the refund of the fee after the application was withdrawn, 26 were approved for the refund of the fee payable after overpaying the prescribed fee, 6 were approved for the refund of the fee payable to the firm after the practitioner left the firm and paying the fee payable through their new firm, 1 was approved for the refund of the Solicitors Guarantee Fund. 7 applications were refused and the applicants were required to comply with the Rules.

These figures indicate no significant difference from the previous reporting period in relation to those refunds being accepted, increasing from 56 to 58. The workload for the Board in this regard is not expected to increase in the next reporting period. The Board is updating its policy on the refund of fees accompanying an application for a local practising certificate.

## Lay Associate applications

Section 15(2)(a) of the Act provides that a law practice must not have a lay associate whom any principal or other legal practitioner associate of the practice knows to be an Australian lawyer unless the lay associate is approved by the Board under s 15(3).

Section 15(3) provides that the Board may, on application by a law practice or the lay associate, approve a lay associate.

The Executive Director and Deputy Executive Director have the delegated power to approve a prospective lay associate application, except in cases where the approval would be conditional. In those instances and where the Executive Director does not approve the application, the application is considered by the PAC.

In June 2015 the Board delegated to the Executive Director and Deputy Executive Director the power to consider a breach of s 15(2) of the Act and decide to take no action if satisfied that the breach was inadvertent and if there have been no breaches of the Act by the law practice or the lay associate.

During the 2015-2016 year, the Board considered 191 applications for prospective approval, approving 185, 13 being made by the PAC, and 2 refusals being made by the PAC and 1 found not to be a lay associate. Inclusive in the approvals considered by the PAC, 16 were where the associate had commenced working for the law practice prior to obtaining approval from the Board. The PAC considers that it does not have the power under the Act to give approval retrospectively. In each of those 16 cases, the PAC considered an explanation from either or both of the law practice and the lay associate, and resolved not to take the apparent breach of s 15 of the Act any further.

These figures indicate a difference in the consideration of lay associate matters from the previous reporting period, increasing from 120 to 191. The increase is attributable to an increase in the number of newly admitted practitioners continuing employment in law practices prior to obtaining a practising certificate.

A policy for the approval of lay associates has been implemented by the Board. The workload for the Board in this regard is not expected to increase in the next reporting period.

## **Business Structures – Incorporated Legal Practices and Multi Disciplinary Practices**

During 2015-2016, the Board was notified of the commencement of 115 Incorporated Legal Practices (**ILPs**) and the Board was notified that 27 ILPs ceased practice. This brings the total number of ILPs in Western Australia to 572. The Board was notified of the commencement of 1 new Multi Disciplinary Practice (**MDPs**) and no MDPs ceased practice. This brings the total number of MDPs in Western Australia to 12.

During the 2015-2016 year, the PAC considered 10 instances of the failure of an ILP to give the Board the required notice of its intention to commence practice before commencing to provide legal services in possible contravention of s 102 of the Act. A corporation that contravenes s 102 is not entitled to recover any amount for any legal services provided during the period of time it was in default and is also liable to be fined.

Of the 10 matters considered:

- The PAC considered 6 ILPs may have breached their obligations under s 102 of the Act, and they were required to write to each affected client to inform those clients of the position and advise them of their right to request a refund of fees pursuant to s 102 of the Act, and then to advise the Board in writing that this had been done;
- The PAC considered that 1 ILP had already notified clients and no further action was taken;
- The PAC considered that 1 ILP had not engaged in legal services in this jurisdiction and no further action was taken;
- The PAC considered that 1 ILP had provided substantive compliance with their obligations under s 102 of the Act, and took the matter no further.
- One matter remain unresolved.

The PAC also considered 4 instances of an ILP's failure to give the Board the required notice of its ceasing to provide legal services in possible contravention of s 104 of the Act. A corporation that contravenes s 104 is liable to a fine. In all cases, the PAC noted explanations from the corporations as to the circumstances of their apparent breach of the Act.

The PAC also continues its consideration of one (1) instance of an ILP becoming insolvent. In this instance, the liquidator refused to accept liability for the storage of the files of the law practice. The PAC considered the former principal practitioners of the law practice to be responsible for the client files of the law practice in their capacity as a practitioner with designated responsibility for the carriage of the client matter. This matter remains unresolved, however the practitioners have accepted their responsibility as the practitioner with designated responsibility and the practicalities of carrying out that responsibility is ongoing. That responsibility remains unquantifiable as the Board has been unable to access the files in question.

The PAC also considered 1 instance where a director, and name holder, of an ILP was not an Australian legal practitioner holding an unrestricted practising certificate. The PAC have held the view that where a person who is not an Australian legal practitioner holding an unrestricted practising certificate uses their name in the name of the ILP, the name of the ILP may be misleading and that might be the grounds for an allegation of professional misconduct.

The PAC accepted undertakings provided advising of the ILP's methods of ensuring the public and clients are aware a director of the ILP was not an Australian legal practitioner holding an unrestricted practising certificate.

During the 2014-2015 year, the PAC considered 1 instance of a legal practitioner in an existing MDP failing to give the Board the required notice of intention to commence practice before commencing to provide legal services in possible contravention of s 133 of the Act. A legal practitioner who contravenes s 133 is liable to be fined. In this instance, the Board noted the explanation from the MDP and the legal practitioner as to the circumstances of the apparent breach of the Act.

The number of ILPs is increasing and it is expected that there will be a steady increase in the number of matters where the law practice has failed to give the Board the required notice of its commencement or ceasing to provide legal services in Western Australia. The Board has included a question in the application form for a practising certificate relating to ILPs to assist in early identification of non-complying ILPs.

There may be increased work load in relation to managing insolvent ILPs.

## **Trust Account Investigations**

The PAC has responsibility for ensuring that practitioners are complying with the requirements prescribed for the administration and management of trust accounts.

Section 237 of the Act requires a law practice to have an external examination of its trust records each financial year.

Section 239 of the Act requires a law practice to have a final external examination of its trust records within 60 days of closing a trust account.

In June 2015 the Board delegated to the Executive Director and Deputy Executive Director the power to consider a breach of sections 237 and 239 the Act and decide to take no action if satisfied that the law practice has not held or received trust money exceeding \$1,000 during the relevant period, and if there are no other matters of concern in relation to the law practice or the principal(s) of the law practice. Where the Executive Director or Deputy Executive Director does not consider the breach, the breach is considered by the PAC.

During the 2015-2016 period six (6) matters were considered where the law practice sought the Board to exercise its discretion to grant an exemption in relation to an omission to have an external examination in the current financial year. On four (4) occasions the Board exercised its discretion to not take any action in relation to omissions to have a final external examination.

On one (1) occasion the Board considered a practitioner's failure to obtain a final EER and failure to clear funds in accordance with the Act and referred the practitioner's conduct to the LPCC.

On one (1) occasion the Board exercised its discretion to revoke the designation of an external examiner.

Information on Trust Account Investigations can be found in this report at page 64.

## External Intervention

Part 14 of the Act empowers the Board (or, in this instance its delegate the PAC), when it becomes aware of specific circumstances, to appoint a supervisor of trust money of a law practice, to appoint manager for a law practice or to apply to the State Administrative Tribunal for an order appointing a receiver for a law practice. In making its determination, the PAC considers, amongst other things, the interests of the clients of the practice in relation to trust money or trust property.

The table below shows the number of external interventions undertaken in 2015-2016.

Part of Act	Type of External Intervention	Opening Balance	Commenced	Closed	Closing Balance
Part 14 – Division 3	Supervisor of trust money	1	0	0	1
Part 14 – Division 4	Manager	10	1	0	10
Part 14 – Division 5	Receiver	0	0	0	0

When appropriate, the PAC also provided informal assistance to practitioners to help them manage or wind up their practices without the need for formal intervention.

The number of external intervention matters has not significantly increased from the last reporting period.

As referred to under “*Business Structures*”, the Board has appointed joint and several managers to an insolvent ILP in liquidation. The liquidators have denied liability for the cost of storage of client files.

## Unqualified Legal Practice

The PAC is responsible for investigating complaints regarding, and if required instituting proceedings against, unqualified persons who perform legal work for reward or who hold themselves out as legal practitioners.

It is an ongoing concern to the PAC that the community is exposed to the risks of unqualified people offering so called ‘*legal services*’. A member of the public utilising those services can have no confidence that the person providing the services has any minimum level of legal training or competence or the protection of professional indemnity insurance.

Unqualified people are not subject to the statutory and professional obligations that are imposed upon legal practitioners for the purpose of safeguarding the interests of clients, and who have dealings with other legal practitioners, and

the administration of justice.

If a member of the public is dissatisfied with the legal services provided by an unqualified person or that person's conduct towards them, there is no recourse to the Legal Profession Complaints Committee nor, in the case of loss or damage being suffered, is there recourse to the mandatory statutory professional indemnity scheme.

During 2015-2016, the Board was notified, or became aware, of 32 new matters regarding possible unqualified legal practice.

This is to be contrasted with the 7 new matters during the previous reporting period. The instances of unqualified legal practice have increased for reasons unknown to the Board. It is expected though that there will continue to be an increase in the number of unqualified legal practice matters in the future and this will create additional work for the Board.

The Board is developing guidelines with regard to the prosecution of unqualified legal practice that will assist in the investigation and consideration of these matters.

Of the new matters considered;

- 14 matters involved an Australian lawyer. Of those matters:
  - 2 matters involved the practitioner's conduct in another jurisdiction where action for the unqualified practice was taken. After obtaining an explanation, the person's practising certificate was issued.
  - 1 matter involved an inadvertent failure to obtain a practising certificate after moving from another jurisdiction. The matter was resolved after requiring the Australian lawyer to write to the affected clients informing them the person did not hold a practising certificate and of their rights to request a refund of fees paid.
  - 1 matter involved in-house counsel performing legal work while not holding a practising certificate. The conduct was referred to the ARC and
  - 1 matter involved inadvertent breach by completing applications affecting a client's legal rights. The matter was resolved after
  - obtaining an explanation and undertaking from the Australian lawyer.
  - 1 matter involved a reference on a website to the Australian lawyer being a legal representative. The matter was resolved after the website was corrected and an explanation provided.
  - 3 matters were resolved after obtaining an explanation of the use of a title.
  - 5 matters involved law graduates inadvertently engaging in legal practice. The matters were resolved after obtaining an
  - explanation.



- 8 matters were resolved after the unqualified persons provided explanations for the conduct complained of. Of those matters:
  - 1 matter related to a community advocate and the Board did not consider there was any breach of the Act.
  - 1 matter was resolved after an overseas qualified lawyer amended his website.
  - 1 matter was resolved after the lay person removed the offending material from their website.
  - 1 matter involved a financial planner removing the offending material from their website.
  - 1 matter was resolved after the lay person provided an undertaking.
  - 1 matter involved a person who is struck off the roll of practitioners. The Board determined there was insufficient evidence to make out a breach of the Act.
  - 2 matters involved overseas qualified lawyers use of a title.
- 2 matters related to persons who the Board was unable to locate and those matters remain unresolved.
- 8 matters were referred to counsel for advice. Of those matters:
  - 1 matter it was not in the public interest to take a prosecution.
  - 2 matters there was sufficient evidence to consider taking an injunction under the Act.
  - 1 matter there was insufficient evidence to take a prosecution (the conduct of the Australian lawyer was referred to the LPCC).
  - 2 matters advice is being awaited as to allowable conduct under the *Construction Contracts Act 2004* and the *Strata Titles Act 1985*.
  - 2 matters the Board has taken a prosecution. One prosecution has been completed and is currently the subject of an appeal. One prosecution has been listed for hearing in February 2017.

1 matter has been carried over from the previous reporting period where the convicted offenders lodged an appeal which was dismissed; lodged an appeal to the Court of Appeal, which was dismissed; lodged an application for special leave, which was dismissed; and have currently lodged a fresh single judge appeal, which is listed for hearing in January 2017.

The PAC does not believe the public interest always requires it to bring prosecution proceedings whenever it is satisfied there are reasonable prospects of success. The PAC recognises that there are in some instances other more cost-effective ways to protect the interests of the public and the reputation of the profession as opposed to prosecuting through the court System, and in those cases exercises its discretion accordingly.

**John Fiocco**  
Convenor

## PROFESSIONAL DEVELOPMENT COMMITTEE

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### Professional Development Committee 2015-2016

Convenor Mr Joshua Thomson SC  
Deputy Convenors Mr Andrew Pascoe (until 6 April 2016)  
Ms Rebecca Heath (from 7 April 2016)

Members Ms Katrina Banks-Smith SC (resigned)  
Mr Martin Cuerden SC  
Ms Karen Farley SC  
Mr Christopher Shanahan SC  
Mr John Vaughan SC  
Mr John Syminton  
Mr Melvin Yeo

### The Role of the Professional Development Committee

The Professional Development Committee (**the Committee**) exercises powers delegated to it by the Legal Practice Board (**the Board**) in relation to continuing legal education. The role of the Committee is to determine and review policy in regard to continuing legal education including continuing professional development and post admission education. The committee also monitors compliance with continuing professional development obligations and imposes conditions on the practising certificates of practitioners where required in regard to continuing legal education compliance matters.

### Committee Process

The Committee met formally on 5 occasions, and held 5 electronic meetings during the reporting year.

### Practice Management Scheme

In 2014-2015 the Board directed the introduction of a mandatory Practice Management Course (**PMC**) for all practitioners wishing to undertake practice in the capacity of a principal of a law practice as defined in section 6(3) of the *Legal Profession Act 2008*. During the reporting year the Committee's primary task was to develop and implement the PMC and the mechanisms whereby the provisions to undertake the PMC could be regulated.

It was decided that the PMC would be introduced through the imposition of a condition on the local practicing certificates of all practitioners who were not practicing as a principal of a law practice as at the date of introduction of the scheme, that being the 1 July 2016. The condition requires the successful completion of the PMC before the practitioner can practice as a principal of a law practice. Practitioners may seek a revocation or variation of the condition by application, and must give notice to the Board on the required form of their intention to commence practice as a principal of a law firm.

In consultation with stakeholders and regulators in other Australian jurisdictions, the Committee developed a curriculum for the PMC and sought expressions of interest from service providers for the delivery of the course.

The Committee received a single application from the College of Law of Western Australia and resolved to accept the College's proposal for delivery. The College of Law initially proposes to conduct three PMCs per year comprised of a pre-reading program and a three day face-to-face training program, with the first program to commence in July 2016.

The Committee also facilitated the enactment of enabling legislation for the imposition of the PMC condition through amendments to the *Legal Profession Rules 2009*.

The Committee has also published several articles in the Law Society's "Brief" magazine to inform the profession on the Board's progress on the introduction of the PMC and the PMC condition on practicing certificates.

#### **CPD and CPD Audit for CPD Year 1 April 2014 - 31 March 2015**

The Committee continued to monitor the mandatory continuing professional development (CPD) scheme requiring practitioners to complete 10 CPD points across 4 competency areas.

For the CPD year 1 April 2014 to 31 March 2015, 502 (approximately 10%) of certificated practitioners were selected at random and requested to complete the CPD audit form and return to the office of the Board.

Of the 502 practitioners selected for audit, all made initial contact with the Board, and 27 had not renewed their practising certificates. Seven practitioners were found to have been non compliant with their CPD requirements for the 2014-2015 continuing professional development year. All of those non-compliant practitioners sought and were granted a variation to their continuing professional development condition and were required to make up outstanding points in the 2015-2016 CPD year. These practitioners were followed up at the end of the 2016 CPD year and four practitioners, who had not met their requirement to make up the outstanding points, were referred to the committee for further consideration.

#### **Practice Certificate Renewals and CPD Compliance**

Of the practising certificate renewal applications received for the year commencing 1 July 2016, 53 practitioners advised that they had not met their CPD compliance. This is a slight increase on the figures from the previous reporting year (in which 44 practitioners indicated that they had not met their CPD compliance).

Of the 53 practitioners the following applied:

- 18 were practising overseas and subsequently applied for an exemption under Rule 17 of the *Legal Profession Rules 2009*;
- 3 were admitted post 1 April 2016 or had not held a practising certificate for the CPD period;

- had answered “No” by mistake and on review were found to have complied; and
- 23 answered “No” and declared that they had not met their CPD compliance;
- 2 applications were not proceeded with; and
- 1 disclosure of non-compliance with CPD condition was found to be a suitability matter.

• There were 84 applications for variation processed in the 2015-2016 financial year. This is a decrease on the 100 applications in the 2014-2015 financial year.

### **Conditions Imposed for non-compliance of CPD Condition**

The Committee, the Executive Director and the Deputy Executive Director have the delegated power to impose conditions on the practising certificates of practitioners where it is decided that it is appropriate to do so.

As a result of the follow up of the 24 practitioners with additional CPD conditions imposed for the previous CPD year, 7 were non renewals for the year under review, with the rest all compliant with the additional CPD conditions.

Additional CPD conditions were imposed on their practising certificates in the following terms:

That the practitioner complete a minimum number of CPD points for the following CPD year (as stipulated) and that for the following CPD year practitioners are to provide periodical reports to the Board on progress together with evidence of the completion of appropriate CPD activities.

Of the 23 practitioners who, on application for renewal of their practising certificate, declared that they had failed to comply with the CPD obligations, conditions were imposed on their practising certificates in similar terms to the above.

During the reporting year the Committee also granted an exemption from the requirement to meet the CPD compliance condition on the practising certificate of 2 senior practitioners, as follows:

- 1 special exemption was granted under Rule 17(2) of the *Legal Profession Rules 2009* to a senior practitioner who have given more than 40 years service to the profession and who was considered by the profession to be expert in their field of practice; and
- 1 further exemption was granted under Rule 17 (3)(f) of the *Legal Profession Rules 2009* to a practitioner with more than 40 years of practice and who agreed to a condition being imposed on their practising certificate that they work as an “Employee Only”.

The committee did not consider any matters relating to a practitioner’s fitness to practice in the reporting year.

## Approval of QA Providers and Activities

Currently the Board has 129 approved Quality Assured (QA) providers with 47 QA providers being approved or reapproved in the reporting year.

Applications to become a QA provider were received from a variety of organisations including, tertiary institutions, professional specialist bodies, discussion groups and law firms.

During the reporting year the committee had no cause to withdraw the QA provider status of any approved QA provider.

The committee received a large number of requests for approval of continuing professional development activities delivered by organisations that choose to have their activities approved on activity sessional basis. The 131 approved for the year in review was 29 fewer than the previous year.

The committee also continues to regularly receive applications from practitioners who have attended CPD activities that have not been approved by the Board or delivered by a QA provider. The slight increase in these applications reflects practitioner attendance at specialist activities that relate to their specialist areas of practice but do not attract sufficient attendance to warrant providers seeking formal committee approval.

Applications for variations or exemptions to CPD obligations have fallen in the year under review.

Table of Breakdown of CPD Applications for Past 5 Years

Application type (1 July - 30 June)	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
QA Providers	9	14	13	15	47 approvals
Individual activities by Non QA Provider	93	118	148	160	131
Single activities by an individual practitioner	142	143	146	152	188
Applications for variation/exemptions	57	83	113	100	84

## Acknowledgements

I would like to extend my sincere thanks for the contribution and support provided by the Deputy Convenors of the committee, Mr Andrew Pascoe and Ms Rebecca Heath, to my fellow committee members, and to the support staff at the Board.

Joshua Thomson SC  
Convenor

## Information Systems and Technology Initiatives

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2015-2016 was a year of significant change to the Board's various technology and business systems, changes necessary for the continual support of the delivery of the Board's services to a high standard.

### Issues and Achievements for 2015-2016

Evaluated and implemented new anti-virus and antispam solution.

This has resulted in a reduction of the number of spam receive and viruses infiltrating the Board's network systems

Upgraded Internet lines improving internet speeds, reliability and significant improvement to the handling of traffic to the Board's website during peak periods.

Completed rollout of Windows based thin clients.

Upgraded SQL databases in preparation for the upgrading of core business systems.

Upgraded iMIS (core business practitioners database) allowing further development for better process and task automation

Selection of and commencement of the implementation of a new integrated human resource, payroll finance and asset management system.

TechOne was the chosen solution. Considerable amount of work was undertaken to clean, prepare and migrate data from old separate systems into the new system. As at 30 June 2016, human resources and Payroll components went live with Finance and Asset components in the process of migration and preparation to go live.

Upgraded Electronic Document Records Management System (EDRMS) now allowing for enhanced workflow capabilities.

Separated the Law Library from the Board's network system and onto their own private network in preparation for the division's closure. While separating the Law Library it was essential for their continued operations and delivery of services to practitioners until 30 June 2016.

## IT Staff Development

<b>Course/Seminar/Conference Attended</b>	<b>Attendees</b>
Policy Writing	Information Systems Officer Application Support Officer
Objective Specialist Business Administrator	Application Support Officer
NiUG iMIS Conference	Information Systems Officer Application Support Officer
Objective Collaborate Conference	IT Support Officer Application Support Officer

### Issues and Objectives for 2016-2017

- Go-live completion of TechnologyOne implementation and comprehensive training for all staff.
- Selection and implementation of an appropriate solution for a
- Complaints Management System.
- Enhance the Board's website to provide improved services including:
  - Online registration of events
  - Online trust account self reporting tool
  - Online submission of Admissions Application
- Evaluate, select and implement an alternative email communication solution to improve means of communication with the legal profession.
- Planning and managing IT infrastructure installation and relocation to new premises.

Analisa Zainal  
Information Systems Officer

## REPORT FROM THE SENIOR TRUST INSPECTOR

### Solicitors' Trust Accounts

The Legal Practice Board (Board) has two full time trust account inspectors.

### Educative Trust Accounts: Seminars

Six trust account seminars were conducted in Perth over three days on "Trust Traps; Tips; Inspections/Examinations and Practice Management 2016/2017". 386 persons attended including practitioners, office support staff and external examiners. The trust account inspectors also conducted seminars in Bunbury and Broome, where it is estimated some 65 people attended.

### Reporting of Trust Irregularities

The reporting of irregularities to the Board is a requirement of s.227 of the LPA. The number of reported irregularities continues to increase as practitioners become increasingly aware of their reporting obligation following the continued education of the profession.

<b>Quarter Ended</b>	<b>30/9/2008</b>	<b>31/12/2008</b>	<b>31/3/2009</b>	<b>30/6/2009</b>
Reported	N/A	4	7	10
<b>Quarter Ended</b>	<b>30/9/2009</b>	<b>31/12/2009</b>	<b>31/3/2010</b>	<b>30/6/2010</b>
Reported	40	44	38	56
<b>Quarter Ended</b>	<b>30/9/2010</b>	<b>31/12/2010</b>	<b>31/3/2011</b>	<b>30/6/2011</b>
Reported	45	54	66	182
<b>Quarter Ended</b>	<b>30/9/2011</b>	<b>31/12/2011</b>	<b>31/3/2012</b>	<b>30/6/2012</b>
Reported	175	135	198	247
<b>Quarter Ended</b>	<b>30/9/2012</b>	<b>31/12/2012</b>	<b>31/3/2013</b>	<b>30/6/2013</b>
Reported	208	160	199	277
<b>Quarter Ended</b>	<b>30/9/2013</b>	<b>31/12/2013</b>	<b>31/3/2014</b>	<b>30/6/2014</b>
Reported	239	218	221	278
<b>Quarter Ended</b>	<b>30/9/2014</b>	<b>31/12/2014</b>	<b>31/3/2015</b>	<b>30/6/2015</b>
Reported	217	239	236	349
<b>Quarter Ended</b>	<b>30/9/2015</b>	<b>31/12/2015</b>	<b>31/3/2016</b>	<b>30/6/2016</b>
Reported	321	255	384	449



For the 2015/16 financial year the reported irregularities grew by 35% on 2014/15 to 1409 irregularities reported. It is the view of the Trust Inspectors of the Board, the growth is a result of an increased awareness by the profession of its reporting obligation.

During the year 322 or 46% of law practices reported irregularities. There remain many law practices that over more than 10 years of operation, have not reported an irregularity in respect of the maintenance of trust records.

Figures for irregularities do not include irregularities identified and reported as part of the annual external examination, or audit, process.

Roughly categorised the errors comprised:

- 47%- Trust funds deposited, in error, to the general account by either the client or the law practice and the overpayment of invoices;
- 19%- Overdrawn trust ledgers due to transposition errors, bank errors and drawing against uncleared funds.
- 7%- related to bank errors, generally fees being charged to trust but also lost deposits, delays in processing deposits and processing to the incorrect account.

#### External Examiners Reports (EER)

As at 30 June 2016, 653 law practices maintained one or more trust accounts in WA.,

A further 40 law practices operating in Western Australia maintained their trust account in another State.

	2016	2015	2014	2013	2012	2011	2010	2009
Law Practices with Trust Accounts	693	671	636	637	595	620	617	492
EERs Lodged and Approved	633	637	586	585	586	575	557	465
Waivers Granted	10	12	13	15	10	20	9	4
EERs Outstanding	29	22	28	37	27	25	51	23
EERs Qualified & Trivial	139	116	111	121	77	89	149	53
EERs Qualified & Trivial %	22%	19%	19%	20%	13%	16%	27%	11%

A law practice that maintains a trust account is required to have its trust records externally examined at least once a year by an external examiner (**auditor**). The external examiner is required to lodge an external examiner's report (**Report**) with the Board by 31 May each year. From 2010 the Board has requested that a Declaration and Trust Money Statement (**Declaration**) be lodged with each Report. The Declaration is designed to seek answers to specific areas of concern in relation to trust accounts and has generally been well accepted by law practices and practitioners.

It is the opinion of the Board's trust inspectors that contact with the auditors following a review of the Report and Declaration by Board based trust inspectors, along with auditor attendance at Board trust seminars, has resulted in an increase in auditor qualifications in the Reports lodged. Many of the qualifications relate to contraventions that would normally be identified during routine field inspections of trust records.

Of the Reports reviewed, 139 were qualified. The majority of qualifications relate to the manner in which trust records were maintained. No fraud or defalcations were reported and only a minority of the reported contraventions indicate material and systemic contraventions.

There are approximately 29 law practices that have not lodged a Report and these include closed practices, practices where a manager or supervisor has been appointed and others where the principals are in default often due to strike off action or suspension of their practising certificates.

### Inspections

Formal field inspections are being conducted on a targeted basis. Targeting is based upon intelligence received, the analysis of the Reports and Declarations received by the Board and Reports or Declarations not received by the Board.

Year	Commenced	Finalised	Pending	
2007/2008	16	16	0	Board & Complaints
2008/2009	50	35	15	Board & Complaints
2009/2010	8	9	6	Board Only
2010/2011	8	10	4	Board Only
2011/2012	19	21	2	Board Only
2012/2013	17	16	4	Board Only
2013/2014	17	17	4	Board Only
2014/2015	17	21	0	Board Only
2015/2016	26	27	0	Board Only

NB: since the 2009/2010 year the Legal Profession Complaint Committee has reported independently of the Board.

## REPORT FROM THE RECORDS OFFICER

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The records of the Legal Practice Board (Board) are managed within the framework of the *State Records Act 2000*, and the *Principles and Standards 2002* produced by the State Records Commission.

The Board utilises the Objective Electronic Document Records Management System (EDRMS) to facilitate the management of all Board records.

In December 2015 the Objective EDRMS was upgraded from version 8.1 to 8.3. This provided an optimized search facility as well as enhancements to the workflow module.

### **Records Management Staffing**

The Records Management section is staffed by a dedicated and experienced staff member. This ensures efficient management of the Board's corporate information, through its compliance with the State Records Act 2000, and internal management processes.

The Board employed a contract staff member for six months, Gabrielle Fairall, to complete a disposal and archiving project for the Board.

In May of 2016 a staffing review of the records management team was undertaken. A decision was made to combine the two existing records management roles of Records Coordinator and Records Officer. In effect, there is now a single Records Officer role. With this change, the Board lost the services of the Records Coordinator, Larry Knowles.

### **Review of Business Classification Scheme**


A review of the Business Classification Scheme used by the Office of the Board was undertaken during the 2015- 2016 year.

A review of the Business Classification Scheme used by the Legal Profession Complaints Committee was commenced in May 2016 and is expected to be completed before December 2016.

The audit of the Business Classification Scheme revealed a number of areas for improvement and the changes resulted in a more logical and efficient arrangement of the records of the Board.

### **Retention and Disposal of Records**

The Board has undertaken a large scale review of the records currently stored at the offsite storage facility. These records were reviewed against the Board's disposition instruments and resulted in many records being



disposed of. This has produced a reduced number of records in offsite storage and therefore a reduction in costs to the Board.

### **Record keeping Training, Seminars & Conferences**

Efficient Record keeping is an important asset to any organization.

The Board supports records management training as essential and ongoing for all staff.

All new staff undertake induction, within which records management and EDRMS training is included, as part of their introduction to employment with the Board.

Apart from basic induction records management training, the records team also conduct record keeping awareness sessions, to keep staff informed of their record keeping responsibilities.

The Records team attended the 2015 Objective Collaborate Conference, with the theme being 'Learn, Leverage and Lead'.

#### **Jodie Bowen**

Records Officer

## LAW LIBRARY AT THE SUPREME COURT

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The Law Library at the Supreme Court (the **Library**) was established in 1898. Under the provisions of the *Legal Profession Act 2008* ownership of the Library was vested in the Legal Practice Board of Western Australia (the **Board**).

The Library held one of the major legal research collections of the State of Western Australia and provided an effective reference and research service for the legal community of Western Australia.

However, in recent years the cost of maintaining and managing the Library became an expense that the Board felt it could no longer justify in its primary role as the regulator for the legal profession in Western Australia. Over the past two years the Board has reduced its expenditure on the Library and actively progressed the Law Library Integration Project, whereby the Board transferred ownership of the Library to the State under the stewardship of the Department of the Attorney General (the **Department**).

On 1 July 2016 the Board's previous statutory obligation to maintain the Library ended, with amendments to the *Legal Profession Act 2008* removing the obligation previously imposed under section 548(1)(c) of that legislation. The *Legal Profession Rules 2009* were also amended to remove Part 5 that contained provisions relating to the administration of the Library.

Whilst the maintenance of the Law Library at the Supreme Court will no longer be the responsibility of the Board, the obligation to make the statutory financial contribution on behalf of the profession to the maintenance of the new integrated law library at the David Malcolm Justice Centre still lies with the Board. For the year ahead this contribution will be \$600,000 which approximately equates to the expenditure made by the Board to the Law Library at the Supreme Court for the reporting year. Accordingly, there is no expenditure saving for the Board arising from the integration of the Library with the libraries of the Supreme Court Judges and the Department.

The *Legal Profession (Law Library) Regulations 2016* (the **Regulations**) have been introduced and make provision for the financial contribution of \$600,000 to be made by the Board on behalf of the profession in the initial year of operation commencing 1 July 2016. Consultation with the Department on the contribution to be made by the profession to the integrated library was led by the Law Society, with the involvement of the Bar Association and the Board. The Regulations also make provision for the methodology for review of the financial contribution for future years, with the Board, the Law Society, the Bar Association and Department to be consulted during that process.

The Board will be represented on the newly formed Law Library Advisory Committee which will be responsible for the governance of the integrated law library at the David Malcolm Justice Centre.

### **Library Services**

Subscriptions to both the standard and online PLEAS databases which provide access to the judgments of the Western Australian courts remained stable during 2014-15 and have been transferred to the Department as part of the Law Library Integration Project.

The increase in the provision of government services via free internet sites (State Law Publisher and Parliament in particular) continued to affect the use of hard copy resources as did the lack of updated material, especially that which was previously provided in loose leaf services. There was a continued rise in the use of electronic databases from within the Library.

During the reporting year the Library continued to have a unique role in the provision of that information which is not digitized, especially the treatise area. A constant 43% of users who visit the Library do not request assistance; they browse the collection, study and copy or print from the resources. Over 50% of total reference queries answered came from users in person. The Board will watch with interest the service levels delivered at the integrated library.

Document deliveries to practitioners remained steady, as did the number of inter-library loans to participating libraries.

The number of registered visitors (self-represented litigants, students and others) who attended the library fell significantly and at the time of reporting the access to library services for self represented litigants has not been resolved by the Department.

During the reporting year tours and information sessions continued to be conducted for articled clerks, legal support staff in private firms and government agencies, and for the new associates working with the Supreme Court and Court of Appeal judges. These phased down as the integration date approached.

### **Library Resources**

Subscriptions to the major law reports series and commentary online were reviewed and analysed during the integration project to eliminate unnecessary duplication of resources.

### **Community Involvement**

Practitioners from the public and private sector continued to attend CPD sessions in the use of Lexis Nexis and Westlaw AU. Practitioners qualified for one CPD point for legal skills and practice through attending the hour long sessions.

### **Staff**

The dedicated staff at the Library, despite having the knowledge that their job roles would be redundant upon the finalisation of the library integration, remained in post through the entire integration process, and for this the Board was truly grateful.

The Board held a morning tea for the staff and extended its vote of thanks for their dedication to their roles, and wished them well for the future.

### **Future**

The Library closed its doors to practitioners on 30 June 2016. Practitioners now have access to the integrated library in the new David Malcolm Justice Centre.

### **Graeme Geldart**

Executive Director

## DISCLOSURES AND OTHER LEGAL REQUIREMENTS

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Compliance with Public Sector Standards and Ethical Codes – As per the Public Sector Management Act (**PSM**) (1994) s 31 (2)

The Legal Practice Board of Western Australia (**the Board**) has fully complied with the PSM (1994) s 31 (2) as it relates to the operations of the Board. The Board continues to be fully compliant with regard to the public sector standards, the Code of Ethics and the Public Sector Commission's (**the Commission**) Code of Conduct.

The Board is committed to maintain a high standard of accountability, integrity and transparency in all of its functions and activities in line with the public sector standards. As part of this the Board is continuing its program of regular review and updating all the Board's policies relating to both its internal and external functions, including but not limited to human resources and work force management . The Board has a commitment to continue to maintain and review its own code of conduct for both Board members and Board staff in line with the Commission's Instruction No 8.

In accordance with the PSMA 1994 s 31 (2) the Board provides the following information regarding compliance during the period under review.

Public Sector Standards:

- Nil breach claims;
- Information on standards is provided at recruitment and the Code of Ethics is included in the Offer of Employment contract;
- All employees receive an induction manual on employment with the Board. The code of Ethics is included in the Board's employee induction manual. The employee's induction manual sets out the Board's policies and
- conditions of employment and all employees are required to sign a document stating they have read the manual;
- Training is provided to persons on recruitment panels to ensure compliance with the relevant standards; and
- The Board's policies are consistent with ethical principles and are subject to regular review and update.

As per the Commission's Instruction No 8 the Board's Code of Conduct policy for both staff and Board members address's the following seven areas:

- Personal behavior;
- Communications and official information;
- Fraudulent or corrupt behavior;
- Use of public resources;
- Recordkeeping and use of information;
- Conflicts of interest and gifts and benefits; and
- Reporting suspected breaches of the code.



The Board is committed to continually seeking to review and update its current practices through avenues such as ; the auditing and review of its functions, performance management, ongoing training and seeking feedback from all stakeholders.

### **Occupational Safety, Health, Injury Management and Wellness**

In accordance with the Commission's Circular 2009-11 Code of Practice: Occupational Safety and Health (**OS&H**) in the Western Australia Public Sector, the Board is committed to promoting a safe healthy and congenial workplace. To this end the Board has the following policies and initiatives in place:

- A comprehensive OS&H policy document which outlines the Board's procedures for dealing with OS&H matters. The Board has an appointed OS&H Officer who is compliant with Worksafe standards and responds to any OS&H issues that may arise. The Board provides information on OS&H matters to all new staff on induction.
- The Board has an appointed Injury Management Coordinator.
  - For the period under review there were no reported cases of OS&H injury.
- The Board has 2 appointed staff contact officers and 1 appointed grievance officer.
  - During the year under review 1 staff grievance was received and this was dealt with in accordance with the Board's grievance policy.
- Periodical reviews of the ergonomic conditions within the office are conducted with a view to improving the working conditions for all staff.
- Where possible the Board seeks to accommodate flexible working arrangements for staff.
- Access is available for all staff to counselling services through its nominated service provider Relationships Australia.
- A wellness program is in place that it is continuing to grow. Currently the Board provides fresh fruit weekly for the benefit of the staff and also regularly organises a visiting massage therapist for the benefit of the staff. The Board will continue to develop this program with the input of the staff.
- Various social activities for the staff take place, including each year holding a morning tea to raise funds for the Cancer Council. In

addition to this, the Board staff also contribute items each year to the Salvation Army's Christmas Appeal.

- All endeavors are made to be environmentally conscious and encourage recycling; for example all superseded electronic equipment is sent to an appropriate recycling facility.

It is a committed operational objective of the Board to continue to maintain the Board as a safe, healthy, welcoming and community aware work environment for all Board staff.

### **Freedom of Information**

In accordance with the Freedom of Information Act 1992 the Board has a dually appointed Freedom of Information Officer.

- No freedom of information applications were received and dealt with in the year under review.

### **Corruption Prevention**

The Board has acknowledged the risk of corruption when managing organisational risk. As part of the induction of new staff, they are made aware of the policies, practices and procedures of the Board in dealing with private and confidential information collected and held by the Board.

During meetings of the Board and its Committees, the policy of the disclosure of conflicting interests, and the related self-disqualification from deliberating a matter because of a potential rise of conflicting interests, is strongly upheld.

### **Public Interest Disclosure**

In accordance with the Public Interest Disclosure Act 2013 the Board has a duly appointed Public disclosure officer and policies and procedures in place for making a public disclosure.

- No requests were received during the period under review.

### **Substantive Equality**

The Board is committed to providing equal employment opportunities to all of its employees. It encourages diversity and has devised policy statements with a view to encouraging and supporting staff development and employment opportunities. Policy statements are provided to all new staff as part of their induction.

As previously stated the Board has a policy of providing flexible working conditions where appropriate. It should also be noted that the Board's premises have facilities for wheelchair access to assist both staff and clients should it be required.

The Board recognizes that the legal profession is a diverse profession and as such the Board continually strives to perform its regulatory duties in a fair and equitable manner.

**LEGAL PRACTICE BOARD  
OF WESTERN AUSTRALIA**

**Special Purpose Financial Report  
For the financial year ended 30 June 2016**

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**SPECIAL PURPOSE FINANCIAL REPORT**  
**FOR THE FINANCIAL YEAR ENDED 30 JUNE 2016**

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**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**STATEMENT BY EXECUTIVE DIRECTOR**

**For the year ended 30 June 2016**

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 the reports tailored so as to satisfy specially all of their information needs. Accordingly, this 'special purpose financial report' has been prepared to satisfy the Board's reporting requirements under Section 549, 550 and 551 of the Legal Profession Act 2008.

The Board declares that:

- (a) In the Board's 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; and
- (b) In the Board's opinion, the attached financial statements and notes thereto are in accordance with the Legal Profession Act 2008, including compliance with accounting standards and giving a true and fair view of the financial position and performance of the entity.



Mr Graeme Geldart  
Executive Director

Date: 15 December 2016  
Perth WA

## **INDEPENDENT AUDITOR'S REPORT TO THE BOARD OF THE LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

### **Report on the Financial Report**

We have audited the accompanying financial report on pages 2 and 5 to 22, being a special purpose financial report of the Legal Practice Board of Western Australia which comprises the statement of financial position as at 30 June 2016, the statement of profit or loss and other comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information, and statement by the Executive Director.

#### *The Board's Responsibility for the Financial Report*

The Board of the Legal Practice Board of Western Australia are responsible for the preparation and fair presentation of the financial report, and have determined that the basis of preparation described in Note 1, is appropriate to meet the requirements of section 549, 550 and 551 of the Legal Professional Act 2008 and is appropriate to meet the needs of the Board. The Board's responsibility also includes such internal control as management determine is necessary to enable the preparation and fair presentation of a financial report that is free from material misstatement, whether due to fraud or error.

#### *Auditor's Responsibility*

Our responsibility is to express an opinion on the financial report based on our audit. We have conducted our audit in accordance with Australian Auditing Standards. Those standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### **CHARTERED ACCOUNTANTS & ADVISORS**

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South Perth WA 6151

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South Perth WA 6951

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[williambuck.com](http://williambuck.com)

**INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF THE LEGAL PRACTICE  
BOARD OF WESTERN AUSTRALIA (CONT)**

*Auditor's Opinion*

In our opinion, the financial report on pages 2 and 5 to 22 presents fairly, in all material respects, the financial position of the Legal Practice Board of Western Australia as at 30 June 2016, and its financial performance and its cash flows for the year then ended in accordance with the financial reporting requirements of section 549, 550 and 551 of the Legal Professional Act 2008.

*Basis of Accounting*

Without modifying our opinion, we draw attention to Note 1 to the financial report, which describes the basis of accounting. The financial report has been prepared to assist the Legal Practice Board of Western Australia to meet the requirements of section 549, 550 and 551 of the Legal Professional Act 2008. As a result, the financial report may not be suitable for another purpose.

*William Buck*

William Buck Audit (WA) Pty Ltd  
ABN 67 125 012 124

  
Conley Manifis  
Director

Dated this 15th day of December, 2016



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LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2016

	Note	2016 \$	2015 \$
<b>CURRENT ASSETS</b>			
Cash and Cash Equivalents	3	11,335,588	10,112,445
Trade and Other Receivables	4	576,028	170,497
Other Current Assets	5	16,244	10,619
<b>TOTAL CURRENT ASSETS</b>		<u>11,927,860</u>	<u>10,293,561</u>
<b>NON-CURRENT ASSETS</b>			
Plant and Equipment	6	273,254	413,427
Software Systems	7	369,035	156,278
<b>TOTAL NON-CURRENT ASSETS</b>		<u>642,289</u>	<u>569,705</u>
<b>TOTAL ASSETS</b>		<u>12,570,150</u>	<u>10,863,266</u>
<b>CURRENT LIABILITIES</b>			
Trade and Other Payables	8	567,020	309,342
Provisions	9	691,304	888,404
Income in Advance	10	6,627,161	6,084,393
<b>TOTAL CURRENT LIABILITIES</b>		<u>7,885,485</u>	<u>7,282,139</u>
<b>NON-CURRENT LIABILITIES</b>			
Provisions	11	358,603	78,217
<b>TOTAL NON-CURRENT LIABILITIES</b>		<u>358,603</u>	<u>78,217</u>
<b>TOTAL LIABILITIES</b>		<u>8,244,088</u>	<u>7,360,356</u>
<b>NET ASSETS</b>		<u>4,326,062</u>	<u>3,502,910</u>
<b>EQUITY</b>			
Retained Earnings	12	4,326,062	3,502,910
<b>TOTAL EQUITY</b>		<u>4,326,062</u>	<u>3,502,910</u>

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**STATEMENT OF PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME  
FOR THE YEAR ENDED 30 JUNE 2016**

<b>REVENUE</b>	<b>Note</b>	<b>2016</b>	<b>2015</b>
		<b>\$</b>	<b>\$</b>
Office of the Board	13	8,313,767	6,508,098
Legal Profession Complaints Committee	15	361,015	504,948
Trust Account Inspector	14	746,365	632,251
Supreme Court Law Library	16	354,950	356,249
Income from State Government	17	1,017,419	1,246,304
<b>TOTAL REVENUE</b>		<b>10,793,516</b>	<b>9,247,850</b>
<b>EXPENDITURE</b>			
Office of the Board	13	4,101,282	3,061,228
Legal Profession Complaints Committee	15	3,515,346	3,253,370
Trust Account Inspector	14	534,496	626,221
Supreme Court Law Library	16	801,821	921,865
Expenditure from State Government	17	1,017,419	1,246,304
<b>TOTAL EXPENDITURE</b>		<b>9,970,364</b>	<b>9,108,988</b>
<b>Profit for the year from continuing operations</b>		<b>823,152</b>	<b>138,862</b>

**STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 30 JUNE 2016**

		<b>2016</b>	<b>2015</b>
		<b>\$</b>	<b>\$</b>
<b>Operating Receipts</b>	<b>Note</b>		
Receipts from Customers		9,919,556	8,842,461
Interest received		234,918	171,811
<b>Operating Payments</b>			
Payments to Employees & Suppliers		(8,661,782)	(7,240,698)
<b>Net cash provided by operating activities</b>	<b>19(b)</b>	<b>1,492,692</b>	<b>1,773,574</b>
<b>Cash Flows from Investing Activities</b>			
<b>Investing Payments</b>			
Payment for property, plant & equipment		(269,550)	(147,279)
<b>Net cash used in investing activities</b>		<b>(269,550)</b>	<b>(147,279)</b>
Net increase in cash and cash equivalents		1,223,142	1,626,295
Cash and cash equivalents at the beginning of period		10,112,446	8,486,150
<b>CASH AND CASH EQUIVALENTS AT THE END OF PERIOD</b>	<b>19(a)</b>	<b>11,335,588</b>	<b>10,112,445</b>

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LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

STATEMENT OF CHANGES IN EQUITY  
FOR THE YEAR ENDED 30 JUNE 2016

	Retained Earnings
	\$
<b>Balance as at 1 July 2014</b>	<b>3,364,048</b>
Profit for the Year	138,862
Total comprehensive income	<u>138,862</u>
<b>Balance as at 30 June 2015</b>	<b><u>3,502,910</u></b>
<b>Balance as at 1 July 2015</b>	<b>3,502,910</b>
Profit for the Year	823,152
Total comprehensive income	<u>823,152</u>
<b>Balance as at 30 June 2016</b>	<b><u><u>4,326,062</u></u></b>

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2016**

**1. Significant Accounting Policies**

Financial Reporting Framework

The Legal Practice Board 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 the report tailored so as to satisfy specifically all of their information needs. Accordingly, these special purpose financial statements have been prepared to satisfy the Board's accountability requirements under Section 549, 550 and 551 of the Legal Profession Act 2008.

Statement of Compliance

The financial statements have been prepared on the basis of recognition and measurement specified by all Accounting Standards and Interpretations, and the disclosure requirements of Accounting Standards AASB 101 'Presentation of Financial Statements', AASB 107 'Cash Flow Statements', AASB 108 'Accounting Policies, Changes in Accounting Estimates and Errors and AASB 1054 'Australian Additional Disclosure'.

Accounting standards applicable to 'not-for-profit' entities have been applied.

Basis of Preparation

The financial statements have been prepared on the basis of historical cost, except for certain non-current assets and financial instruments that are measured at revalued amounts or fair values, as explained in the accounting policies below. Historical cost is generally based on the fair values of the consideration given in exchange for assets. All amounts are presented in Australian dollars, unless otherwise noted. For the purpose of preparing the financial statements, the entity is a for profit entity.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date, regardless of whether that price is directly observable or estimated using another valuation technique.

Critical Accounting Judgements and Key Sources of Estimation Uncertainty

In the application of A-IFRS management is required to make judgments, estimates and assumptions about carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstance, the results of which form the basis of making the judgments. Actual results may differ from these estimates. The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period or in the period of the revision and future periods if the revision affects both current and future periods.

Judgments made by management in the application of Accounting Standards that have significant effects on the financial statements and estimates with a significant risk of material adjustments in the next year are disclosed, where applicable, in the relevant notes to the financial statements.

Accounting policies are selected and applied in a manner which ensures that the resulting financial information satisfies the concepts of relevance and reliability, thereby ensuring that the substance of the underlying transactions or other events is reported.

The accounting policies set out below have been applied in preparing the financial statements for the year ended 30 June 2016; the comparative information presented in these financial statements for the year ended 30 June 2015.

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2016**

**1. Significant Accounting Policies (cont'd)**

**a) Depreciation**

All assets are carried at cost less provision for depreciation.

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

Office of the Board	10 – 25%
Law Library	10 – 25%
Legal Profession Complaints Committee	10 – 25%
Trust Account Inspector	10 – 25%
Software	10 – 25%

The estimated useful lives, residual values and depreciation method are reviewed at the end of each reporting period, with the effect of any changes in estimate accounted for on a prospective basis.

Library publications have a carrying value of \$100,000 being their deemed cost. All purchases incurred for library publications or replacement publications, are expended in the purchase period rather than capitalised. In the opinion of the Board, the estimated insurance value of library books is approximately \$5,000,000. As residual value of Law Library books exceeds net costs, the depreciation on the Law Library books is nil.

**b) Employee Benefits**

A liability is recognised for benefits accruing to employees in respect of wages and salaries, annual leave and long service leave when it is probable that settlement will be required and they are capable of being measured reliably.

Liabilities recognised in respect of employee benefits are measured at their nominal values using the remuneration rate expected to apply at the time of settlement. Liabilities recognised in respect of long term employee benefits are measured as the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

**Defined Contribution Plans**

Contributions to defined contribution superannuation plans are expensed when employees have rendered service entitling them to the contributions.

**c) Property, Plant and Equipment**

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

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at each reporting date.

An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount.

Gains and losses arising on disposals or retirement of an item of property, plant and equipment is determined as the difference between sales proceeds and the carrying amount of the asset. It is recognised in profit or loss.

**d) Intangible Assets**

Intangible assets with finite lives that are acquired separately are carried at cost less accumulated amortisation and accumulated impairment losses. Amortisation is recognised on a straight-line basis over their useful lives. The estimated useful life and amortisation method are reviewed at the end of each reporting period, with the effect of any changes in estimate being accounted for on a prospective basis. Intangible assets with indefinite useful lives that are acquired separately are carried at cost less accumulated impairment losses.

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2016**

**1. Significant Accounting Policies (cont'd)**

**e) Income Tax**

The entity is exempt from income tax under Chapter 2 Division 50 s.50-25 of the Income Tax Assessment Act 1997.

**f) Revenue Recognition**

Interest Revenue

Interest revenue is recognised on a time proportionate basis that takes into account the effective yield on the financial asset.

Government Grants

Government grants are assistance by the government in the form of transfer of resources to the Legal Practice Board where there are no conditions specifically relating to the operating activities of the Legal Practice Board other than the requirements imposed on the Board under the Legal Profession Act 2008.

Government grants are recognised in profit or loss on a systematic basis over the periods in which the entity recognises as expenses the related costs for which the grants are intended to compensate.

Government grants that are receivable as compensation for expenses or losses already incurred, or for the purpose of giving immediate financial support to the entity with no future related costs are recognised in profit or loss in the period in which it becomes receivable.

Certifications

Revenue from the issuance of certifications is recognised proportionately over the period to which the certification relates.

Rendering of Services

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

**g) Goods and Services Tax**

Revenues, expenses and assets are recognised net of the amount of goods and services tax (GST), except where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO). In these circumstances, the GST is recognised as part of the cost of acquisition of an asset or as part of an item of expense.

Receivables and payables are stated with the amount of GST included.

The net amount of GST recoverable from, or payable to, the ATO is included as a current asset or liability in the statement of financial position.

Cash flows are included in the statement of cash flows on a gross basis. The GST components of cash flows arising from investing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows.

**h) Impairment of assets**

At each reporting date the entity reviews the carrying amount of its assets to determine whether there is any indication that those assets have suffered an impairment loss. If any such indication exists, the recoverable amount of the asset is estimated in order to determine the extent of the impairment loss (if any). Recoverable amount is the higher of fair value less costs to sell and value in use. If the recoverable amount of an asset is estimated to be less than its carrying amount, the carrying amount of the asset is reduced to its recoverable amount and an impairment loss is recognised immediately in profit or loss.

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2016**

**1. Significant Accounting Policies (cont'd)**

**i) Cash and Cash Equivalents**

Cash and cash equivalents comprise cash on hand; cash in banks and investments in term deposits.

**j) Provisions**

Provisions are recognised when the entity has a present obligation as a result of a past event and it is probable that the entity will be required to settle the obligation, and a reliable estimate can be made of the amount of the obligation.

The amount recognised as a provision is the best estimate of the consideration required to settle the present obligation at end of reporting period, taking into account the risks and uncertainties surrounding the obligation. When a provision is measured using the cash flows estimated to settle the present obligation, its carrying amount is the present value of those cash flows.

When some or all of the economic benefits required to settle a provision are expected to be recovered from a third party, the receivable is recognised as an asset if it is virtually certain that reimbursement will be received and the amount of the receivable can be measured reliably.

**k) Financial Assets**

**Trade and Other Receivables**

Trade and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. Loans and receivables initially measured at fair value and subsequently measured at amortised cost using the effective interest method, less any impairment. Interest income is recognised by applying the effective interest rate, except for short-term receivables when the recognition of interest would be immaterial.

**l) Trade and Other Payables**

Trade and other payables are recognised when the entity becomes obliged to make future payments resulting from the purchase of goods and services. Trade and other payables are initially recognised at fair value, net of transaction costs and subsequently recorded at amortised cost.

**m) Resources received Free of Charge or for Nominal Cost**

Resources received free of charge or for nominal cost that can be reliably measured are recognised as income and as assets or expenses as appropriate at fair value.

**n) Application of new and revised Accounting Standards**

**Standards and Interpretations adopted with no effect on financial statements**

There are no new or revised Standards and Interpretations have been adopted in the current period. Other Standards and Interpretations that were adopted in these financial statements have no effect on amounts reported.

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDING 30 JUNE 2016**

		2016 \$	2015 \$
<b>2</b>	<b>Auditors Remuneration</b>		
	<i>Audit of the financial report:</i>		
	William Buck Audit (WA) Pty Ltd	17,280	-
	Deloitte Touche Tomatsu	-	23,000
<b>3</b>	<b>Cash and Cash Equivalents</b>		
	Cash at Bank	4,760,339	6,468,136
	Cash on Hand	1,279	1,300
	Term Deposits	6,573,970	3,643,009
		11,335,588	10,112,445
<b>4</b>	<b>Trade and Other Receivables</b>		
	Trade Receivables	473,302	309,376
	Less Allowance for Doubtful Debts	(177,660)	(172,500)
	Prepayments	280,386	33,621
		576,028	170,497
	Refer to Note 1(k)		
<b>5</b>	<b>Other Current Assets</b>		
	Accrued Income	16,244	10,619



LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDING 30 JUNE 2016

6 Plant and Equipment	Office of the Board	Law Library	Legal Profession Complaints Committee	Trust Account Inspectors	Library Books	Totals
	\$	\$	\$	\$	\$	\$
<b>Cost</b>						
Balance at 1 July 2015	1,280,235	165,935	556,003	7,684	100,000	2,109,857
Additions	12,621	-	4,653	-	-	17,274
Transfers to Software systems	(219,759)	(12,441)	(22,038)	-	-	(254,238)
Disposals	(138,439)	(123,556)	(56,869)	(1,183)	-	(320,047)
Balance at 30 June 2016	934,658	29,938	481,749	6,501	100,000	1,552,846
<b>Accumulated Depreciation</b>						
Balance at 1 July 2015	(1,149,188)	(152,657)	(388,336)	(6,249)	-	(1,696,430)
Depreciation on assets transferred	145,163	5,144	16,020	-	-	166,326
Depreciation charge for the year	(26,416)	(3,594)	(38,702)	(822)	-	(69,534)
Depreciation on Disposals	138,439	123,556	56,868	1,183	-	320,046
Balance at 30 June 2016	(892,002)	(27,552)	(354,150)	(5,888)	-	(1,279,592)
<b>Net Book Value</b>						
As at 1 July 2015	131,047	13,278	167,667	1,435	100,000	413,427
As at 30 June 2016	42,656	2,386	127,599	613	100,000	273,254

All plant and equipment are office equipment with the exception of the Law Library books.

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDING 30 JUNE 2016

7	Software Systems	Office of the Board \$	Law Library \$	Legal Profession Complaints Committee \$	Totals \$
	<b>Cost</b>				
	Balance at 1 July 2015	747,533	-	-	747,533
	Additions	252,276	-	-	252,276
	Transfers from Plant & Equipment	219,759	12,441	22,038	254,238
	Balance at 30 June 2016	1,219,568	12,441	22,038	1,254,047
	<b>Accumulated Amortisation</b>				
	Balance at 1 July 2015	(591,275)	-	-	(591,275)
	Amortisation on assets transferred	(145,163)	(5,144)	(16,020)	(166,326)
	Amortisation charge for the year	(122,624)	(3,110)	(1,677)	(127,411)
	Balance at 30 June 2016	(859,062)	(8,254)	(17,697)	(885,012)
	<b>Net Book Value</b>				
	As at 1 July 2015	156,258	-	-	156,258
	As at 30 June 2016	360,506	4,187	4,342	369,035

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDING 30 JUNE 2016**

		2016	2015
		\$	\$
<b>8</b>	<b>Trade and Other Payables</b>		
	Trade Payables	333,313	80,626
	Other Payables	114,946	84,093
	Accruals	118,762	144,623
		<u>567,020</u>	<u>309,342</u>
<b>9</b>	<b>Current Provisions</b>		
	Provision for Annual Leave	462,948	437,218
	Provision for Long Service Leave	228,356	451,186
		<u>691,304</u>	<u>888,404</u>
<b>10</b>	<b>Income in Advance</b>		
	Continuing Professional Development Fees in Advance	105,281	98,840
	Photocopying in Advance	16,518	19,662
	Practice Certificates in Advance	6,473,943	5,855,025
	Solicitors Guarantee Fund	31,420	31,380
		<u>6,627,161</u>	<u>6,004,907</u>
<b>11</b>	<b>Non - Current Provisions</b>		
	Provision for Long Service Leave	<u>358,603</u>	<u>78,217</u>
<b>12</b>	<b>Retained Earnings</b>		
	Balance at Beginning of the year	3,502,910	3,364,048
	Net Profit for the year	823,152	138,862
	Balance at End of Year	<u>4,326,062</u>	<u>3,502,910</u>

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDING 30 JUNE 2016**

<b>13 Office of the Board</b>	<b>2016</b>	<b>2015</b>
	<b>\$</b>	<b>\$</b>
<b>Income</b>		
Assessment of Qualifications	22,801	35,000
Admissions	179,880	162,840
Articles Registration Fees	3,800	4,200
Bank Interest	234,918	166,875
Continuing Professional Development	112,373	240,419
Evidentiary Certificates	23,430	19,200
Fines and Costs	5,927	-
Foreign Lawyers	11,250	1,000
External Examiner Reimbursement	410,375	107,564
Practice Certificates	7,243,722	5,703,359
Miscellaneous Income	983	3,332
Rent – Hay Street Reimbursement	64,308	64,308
	<u>8,313,767</u>	<u>6,508,097</u>
<b>Expenditure</b>		
Accommodation	280,546	11,108
Electricity	9,189	9,448
Cleaning	26,095	5,373
Advertising	21,113	23,553
Audit and Accounting Fees	17,280	23,000
Bank Charges	56,876	56,596
Bad Debts	183,605	(9,442)
Computer Expenses	193,086	109,400
Conference	29,197	29,398
Depreciation & Amortisation	148,782	132,967
Facsimile & Phone	19,630	515
Fringe Benefits Tax	903	4,565
Insurance	4,042	3,414
Legal Costs – LPB	432,832	410,895
Miscellaneous Costs	41,437	13,637
Parking	16,683	16,184
Payroll Tax	128,470	92,658
Postage and Petties	32,651	29,090
Professional Memberships	5,598	7,571
Printing and Stationery	18,635	16,051
Reference Materials	1,068	1,565
Relocation Costs	8,100	-
Salaries	2,140,692	1,837,534
Service and Maintenance	3,998	5,223
Storage	6,551	10,945
Superannuation Contributions	185,561	168,819
Mobile Phone	16,685	14,802
Training	12,155	15,306
Transcripts	178	616
Travel & Accommodation	17,777	13,253
Workers' Compensation	4,756	7,184
Records Management	34,026	-
Seminars	3,086	-
	<u>4,101,282</u>	<u>3,061,228</u>

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDING 30 JUNE 2016**

<b>14 Trust Account Inspector</b>	<b>2016</b>	<b>2015</b>
	<b>\$</b>	<b>\$</b>
<b>Income</b>		
TAI Reimbursements	558,330	461,007
General Admin Costs	171,630	156,028
Seminar Fees	16,405	15,216
	<u>746,365</u>	<u>632,251</u>
 <b>Expenditure</b>		
Conference Attendance	3,761	9,744
CPA Membership	2,065	2,419
Depreciation	822	1,937
Fringe Benefits Tax	1,996	1,461
Insurance	234	550
Mileage	2,125	1,583
Parking	8,438	8,262
Payroll Tax	30,079	29,193
Printing & Stationery	580	697
Salary	433,226	513,772
Seminars	4,717	4,538
Superannuation Contributions	41,195	46,558
Telephone	2,104	1,871
Training	1,264	1,101
Travel and Accommodation	748	212
Workers' Compensation	1,140	2,323
	<u>534,496</u>	<u>626,221</u>

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDING 30 JUNE 2016**

<b>15 Legal Profession Complaints Committee</b>	<b>2016</b>	<b>2015</b>
<b>Income</b>	<b>\$</b>	<b>\$</b>
Costs Recovered	181,070	233,688
Fines	95,400	184,338
Fines – Summary Jurisdiction	2,750	750
Miscellaneous Income	30	4,406
Rental Reimbursement – St George Tce	81,766	81,766
	<u>361,015</u>	<u>504,948</u>
 <b>Expenditure</b>		
Accommodation	424,152	106,110
Advertising	5,183	1,455
Computer Expenses	-	530
Conference Attendance	4,918	18,006
Depreciation	40,379	84,457
Electricity	12,939	-
Fringe Benefits Tax	2,954	1,287
Insurance	1,065	1,232
Legal Costs	210,343	191,324
Parking	11,128	9,115
Payroll Tax	132,311	122,395
Postage and Petties	19,360	20,999
Printing and Stationery	21,260	16,148
Mobile Phone	11,323	10,268
Professional Fees & Memberships	28,392	30,655
Reference Materials	8,177	6,450
Salaries	2,306,805	2,362,441
Service and Maintenance	5,097	6,032
Storage	11,233	11,056
Superannuation Contributions	213,795	229,978
Telephone	27,308	-
Training	7,301	6,882
Transcripts	802	1,672
Workers' Compensation	6,237	9,716
Miscellaneous Expenses	2,882	5,162
	<u>3,515,346</u>	<u>3,253,370</u>

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDING 30 JUNE 2016**

<b>16 Law Library</b>	<b>2016</b>	<b>2015</b>
	<b>\$</b>	<b>\$</b>
<b>Income</b>		
Library Photocopier and other income	27,563	30,363
PLEAS	77,386	75,886
Annual Grant	250,000	250,000
	<b>354,950</b>	<b>356,249</b>
 <b>Expenditure</b>		
Serials	226,031	221,585
Monographs	189	7,057
Electronic Publications	199,860	201,392
Online/Library Services	708	863
Bank Charges	417	563
Cleaning and Binding	711	4,833
Computer & Consultancy	19,572	27,355
Conferences and Meetings	-	681
Depreciation	6,704	30,469
Fringe Benefits Tax	213	392
Institutional & Professional Memberships	-	455
Insurance	5,847	11,314
Office Expenses	3,143	-
Payroll Tax	14,733	15,454
Postage and Petties	165	2,085
Printing and Stationery	396	439
Salaries	294,351	353,753
Staff Professional Memberships	-	641
Superannuation Contributions	24,346	28,923
Training	332	1,436
Workers' Compensation	743	1,311
Miscellaneous Expenses (Scanning Project)	680	4,830
Photocopier Costs	408	3,772
PLEAS - Costs	2,271	2,262
	<b>801,821</b>	<b>921,865</b>

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDING 30 JUNE 2016**

**17 Income from State Government**

<b>Resources received free of charge</b>	<b>2016</b>	<b>2015</b>
	\$	\$

Determined on the basis of the following estimates provided by the Department of the Attorney General:

<b>Office space rental</b>	1,017,419	1,246,304
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Where assets or services have been received free of charge or for nominal consideration, the Legal Practice Board recognises revenues equivalent to the fair value of the assets and/ or the fair value of those services that can be reliably determined and which would have been purchased if not donated, and those fair values shall be recognised as assets or expenses, as applicable.

**18 Employee Benefits**

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

Provision for employee benefits:	<b>2016</b>	<b>2015</b>
	\$	\$
Current (note 9)	691,304	888,404
Non-current (note 11)	358,603	78,217
	1,049,907	966,621

**19 Notes to the cash flow statement**

**19(a) Reconciliation of cash and cash equivalents**

For the purposes of the statement of cash flows, cash and cash equivalents includes cash on hand and in banks and investments in money market instruments, net of outstanding bank overdrafts.

Cash and cash equivalents at the end of the financial year as shown in the statement of cash flows is reconciled to the related items in the statement of financial position as follows:

Cash and cash equivalents	11,335,588	10,112,445
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**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDING 30 JUNE 2016**

**19(b) Reconciliation of profit for the period to net cash flows from operating activities**

	<b>2016</b>	<b>2015</b>
	<b>\$</b>	<b>\$</b>
Profit for the year	823,152	138,862
Depreciation and amortisation of non-current assets	196,966	250,160
 <b>Changes in net assets and liabilities:</b>		
<i>(Increase)/decrease in assets:</i>		
Current receivables	(164,391)	107,760
Other current assets	(246,766)	64,295
 <i>Increase/(decrease) in liabilities:</i>		
Current payables	257,677	(64,886)
Income in advance	542,768	840,671
Employee benefit provisions	83,286	436,712
Net cash from operating activities	1,492,692	1,773,574

**20 Subsequent events**

No subsequent events have occurred since that would impact on the accounts.

**21 Additional Company Information**

The Legal Practice Board of Western Australia is a statutory authority.

*Registered Office and Principal Place of Business*

5th Floor  
Kings Building  
533 Hay Street  
PERTH WA 6000  
Tel: (08) 6211 3600

**22 Commitments for Expenditure**

	<b>2016</b>	<b>2015</b>
	<b>\$</b>	<b>\$</b>
<i>Operating Lease Commitments</i>		
Not longer than 1 year	773,037	773,037
Longer than 1 year and not longer than 5 years		773,037
Longer than 5 years		
	773,037	1,546,074

The Legal Practice Board's leases commitments all have an expiry date of 30 June 2017.

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDING 30 JUNE 2016**

**23 Contingent liabilities**

There are certain cases under appeal. Depending on the outcome of the cases there may be some orders for costs. As the outcome is not yet determined the amounts cannot be reliably estimated so there is no adjustment to the accounts at the statement of financial position date.

**24 Related party transactions**

During the financial year ended 30 June 2016, the following transactions occurred between the Legal Practice Board and Board members:

- Board Member K .F. Bank-Smith SC provided legal services amounting to \$13,950;
- Board Member P. D. Quinlan SC provided legal services amounting to \$12,000;
- Board Member J. Vaughan SC provided legal services amounting to \$54,064;
- Board Member P Yovich SC provided legal services amounting to \$6,090.



