

LEGAL PRACTICE BOARD

1 July 2007 - 30 June 2008

OF WESTERN AUSTRALIA

**ANNUAL REPORT**

## CONTENTS

---

1. Report from the Chairperson
2. Report from the Executive Director
3. The Legal Practice Board
  - 3.1 Role
  - 3.2 Membership
  - 3.3 Committees
  - 3.4 Organisational Structure
4. Profile of the Current WA Legal Profession
5. Admissions & Registrations Committee
6. Professional Affairs Committee
7. Legal Education Committee
8. Management Committee
9. Report from the Law Librarian
10. Report from the Articles Training Program Director
11. Report from the Senior Trust Account Inspector
12. Other Legal Requirements
  - 12.1 Public Interest Disclosure
  - 12.2 Equal Employment Opportunity
  - 12.2 Public Sector Standards and Ethical Codes
  - 12.3 Recordkeeping
13. Government Policy Requirements
  - 13.1 Corruption Prevention
14. Special Purpose Financial Report and Financial Statements

## 1. REPORT FROM THE CHAIRPERSON

---

### 1.1 The role of the Legal Practice Board

The Board is frequently questioned on the reasons behind the relatively high cost of Western Australian practice certificates compared to those in other Australian jurisdictions. Accordingly, prior to providing a perspective on the Board's activities for the 2007-2008 year, I would like to take the opportunity to highlight the activities and roles that are undertaken by the Board and identify some of the differences that exist between the Board's role as a regulator of the legal profession in Western Australia and other regulators, provide a comparison to other Australian jurisdictions, and to comment upon the funding of those activities.

As described on the Board's website:

"The Legal Practice Board has statutory responsibility for the admission, supervision and discipline (through the Legal Practitioners Complaints Committee) of all legal practitioners in Western Australia. It also regulates the issue of annual practice certificates and administers the Articles Training Program and the law libraries at the Supreme and Central Law Courts."

These statutory obligations require the Board to perform the following functions:

#### Admission & Registration:

- Prescribe, assess and monitor quality and delivery of initial legal qualifications (delivered by the universities);
- Assess applications for admission and re-admission from local applicants;
- Assess applications and qualifications for registration or mutual recognition of practitioners' qualifications from both overseas and interstate;
- Conduct all matters relating to the delivery of the Articles Training Program (ATP);
- Assess and monitor practical legal training courses from interstate applicants;
- (With the introduction of the incoming *Legal Profession Act 2008*) prescribe, assess and monitor quality and delivery of practical legal training courses in Western Australia.

#### Professional Affairs:

- Issue and renew practice certificates from local practitioners;
- Consider the imposition of conditions on practitioners;
- Manage, and where appropriate prosecute, issues relating to the practice of law by those not qualified to do so;
- Organise the supervision of legal practices requiring monitoring and supervision;
- Monitor and inspect practitioner trust accounts;
- Monitor incorporated legal practices and multi disciplinary practices;
- Maintain the roll of legal practitioners and the disciplinary register;
- (With the introduction of the incoming *Legal Profession Act 2008*) monitor and audit obligations of practitioners and quality assured providers regarding Continuing Professional Development (CPD).

#### Law Library

- Manage all aspects of the operation of the Law Libraries at the Supreme Court and the Central Law Courts.

#### Disciplinary Matters

- Receive, manage and prosecute where appropriate, complaints and disciplinary matters via the Legal Practitioners Complaints Committee (LPCC).

Additionally, with increasing Commonwealth Government pressure for uniformity in both the administration of laws and the regulation of the legal profession, and with the more national (and indeed global) nature of the profession, the Board is actively working at a national level with other regulators, the Law Societies, the Law Council of Australia (LCA) and the Law Admissions Consultative Committee (LACC) to feed into the Standing Committee of Attorneys General (SCAG) and Council of Australian Governments (CoAG). The profession in Western Australia must engage in these activities or risk its views not being taken into consideration at the national level, which may impact significantly upon the future of the profession in Western Australia.

Of course, associated with these activities, is the Board's legal requirement to report on its compliance with applicable Government "public service" obligations, regulatory standards and record keeping obligations.

To support all of these operations the Board currently has 50 staff members across 5 separate geographical locations (the Board Office, the LPCC offices, the offices of the ATP, the Law Library at the Supreme Court and the Branch Library at the Central Law Courts).

Most of the services provided by the Board are not optional – they are mandated by statute – and yet have to be funded. Government support comes from bearing the rental cost and premises for the Board office, the LPCC, and the Library premises. The Government also makes an annual grant (at an unchanged figure set 16 years ago), to assist in maintenance of the Library and the cost of a librarian to staff the Librarys. These grants currently equate to approximately 22% of the cost of conducting the Library operations. Rental costs for the ATP office and all other Board costs, including staffing costs, are met by the Board itself. To this extent, the Board's is primarily funded through the payment by the profession of practice certificate fees.

As stated, the Board's power is derived from the *Legal Practice Act 2003* and the legislation gives the Board full regulatory control over all aspects of legal practice in the state. No other single regulator in the country has regulatory control over that range of activities. For example, NSW, Victoria and Queensland each have a separate office of a Legal Services Commissioner controlling complaints and disciplinary activities and issues relating to the operation of incorporated legal practices, independently of any other regulatory activity, and funded by their respective state governments. Other regulatory responsibilities in those jurisdictions, for example, professional affairs matters, admission of practitioners, continuing professional development, and issue and renewal of practice certificates are shared by specific admission authorities (also government funded) and/or the Law Societies.

Historically, the regulation of the legal profession in Western Australia has developed as a body that is largely funded by the profession itself, yet the extent of that regulation is mandated by legislation. The Board is therefore in a position where, in order to fund the statutory obligations imposed upon it, it must (more often than not) pass those costs on to

the profession through the imposition of higher practice certificate fees. The Board does not have – nor should it have – a profit generating function. This would conflict with its role as a regulator. Hence, the services that are provided by the Board are done so at cost. Where possible, the Board seeks to find alternative means to fund its statutory functions, such as is the case with CPD shortly to be introduced.

The above explains the cost of a legal practice certificate in Western Australia and why comparisons to other jurisdictions cannot be made. However the Board is mindful of the cost of practice certificates and takes every step possible to ensure that such cost is kept to the absolute minimum, whilst ensuring that the Board fulfils its statutory obligations and responsibilities.

## **1.2 Appointment of Executive Director**

The Board took a new strategic direction during this year with the appointment of an Executive Director with a remit to review and assess the Board's activities and provide strategic and managerial advice and leadership. Graeme Geldart joined the Board in this role on 14 January 2008, and it was great relief to both Robert Cock QC (Convenor of the Management Committee) and myself, to be able to pass-over the executive roles we had been undertaking over the previous 9 months in the absence of a Board secretary and manager.

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

The year has been one of considerable change for the Board. The imminent introduction of the *Legal Profession Act 2008* meant that the Board had to undertake preparations for the 2008 Act's introduction into law.

The most significant and broad-reaching change will be the introduction of compulsory continuing professional development (CPD) as a condition on all practising certificates. Although these conditions cannot be imposed until the 2008 Act becomes operative, the Board progressed the implementation of its CPD policy in preparation for the introduction of CPD for the practice certificate renewal period for 2008-2009. Over the next 6 months, prior to the formal introduction of the CPD program, the Board will be delivering information seminars to both metropolitan and regional practitioners and to prospective providers of CPD.

The 2008 Act also provides for an alternative route to admission, being the undertaking of practical legal training (PLT) course rather than undertaking a period of service as an articled clerk. The Board will be developing guidelines for prospective providers of PLT to enable them to seek approval of their courses in preparation for introduction of the 2008 Act.

The 2008 Act will also give the Board the power to introduce as subsidiary legislation, professional conduct rules. The Board will consider the content of such rules with the aim of developing and proclaiming professional conduct rules for the profession.

The structure of the membership of the Board will also undergo a change under the provisions of the 2008 Act. Queens and Senior Counsel, who are currently automatically

members of the Board upon the taking of silk, will now have to elect to be members of the Board – giving them a choice whether or not to actively participate in the Board’s activities.

#### **1.4 Online renewal of practice certificates**

For the renewal period for practice certificates for 2008-2009, the Board introduced an online renewal process – the first Australian jurisdiction to do so. It appears that the process has worked extremely well, and the opportunity to renew online was taken up by an overwhelming number of practitioners who have provided very positive feedback.

The Board will be working towards further refining the online renewal process, as well as applying the technology developed to assist in simplifying other Board processes.

#### **1.5 Office refurbishment**

The refurbishment of the Board office premises at level 5, 533 Hay Street, Perth has now been substantially completed, providing staff with far superior facilities to be able to properly and professionally deliver the Board’s services. I am sure that everyone, especially the Past Chairperson, Steven Penglis, who initiated the project, will be most pleased to see its ultimate delivery and the quality working environment provided to the Board’s staff and members. The costs of the refurbishment were met from the Board’s reserves, which the Board has built up over a number of years for such purposes.

#### **1.6 The Future**

The next year will see a great deal of change for both the Board and the profession. The 2008 Act will become operational; bringing Western Australian practitioners more into line with the rest of the legal profession in Australia.

For the Board, that will mean the creation of new rules and guidelines to deal with the increased regulatory obligations imposed upon the Board, and ensuring the legal profession is forewarned of changes. To this end, the continuing improvements being made to the Board’s website and IT system will allow the Board to be better able to keep the profession informed of changes.

Coupled with the Board’s increased regulatory obligations, the Board must also ensure that it responsibly manages the Board funds. This task is far from easy, as explained above, but all Board members are acutely aware of the need to minimise the financial burden on the profession.

#### **1.7 Acknowledgements**

I would like to take this opportunity to thank the staff across all divisions of the Board’s operations for their dedication and committed work on behalf of the Board and Committees, often in circumstances that can test the goodwill and patience of us all. The knowledge and expertise that we have now built has been, and will continue to be, of invaluable assistance to us all.

Special thanks are extended to all members of the Board who, once again, selflessly give of their time and expertise on the Board's committees, various inquiries and other pro bono activities. This 'giving back' to the profession, and maintaining a protective role for members of the public, is something that should be greatly appreciated by both the profession and the community at large.

A particular vote of thanks goes to Grant Donaldson SC (Deputy Chair and Convenor of the Admissions and Registrations Committee), Robert Cock QC (Convenor of the Management Committee), Matt Zilko QC (Convenor of the Professional Affairs Committee), Clare Thompson (Convenor of the Legal Education Committee), and Chris Zelestis QC and Ken Martin QC (Convenor and Deputy Convenor of the Legal Practitioners Complaints Committee) for their leadership, not to mention the contribution to the various committees that they chair.

I look forward to serving in the year ahead.

Anna Liscia  
Chairperson  
November 2008.



## **2. REPORT FROM THE EXECUTIVE DIRECTOR**

---

Having joined the staff of the Legal Practice Board on 14 January 2008, I was greeted with the 'building site' that was the Board office in Hay Street, part way through its refurbishment. To their great credit, the staff had adapted to working in the 'rubble' and had risen to the occasion to ensure that all of the Board's operations and obligations were still being fulfilled. This was a terrific introduction for me, as it provided a very clear indication of the dedication and capabilities of the staff. Over the past 5 months I have seen that the same dedication is also being demonstrated across all of the Board's operations at the Legal Practitioners Complaints Committee (LPCC), the Articles Training Program (ATP) and the Law Library. May I take this opportunity to thank all of the Board's 50 staff members for that dedication and for making my transition into my job role an enjoyable one.

With the refurbishment of the Board's office now complete, that 'diversion' has now been removed and we have been able to provide a greater focus on other Board projects and activities.

### **2.1 Project Arch**

Project Arch is the Information Technology (IT) re-development project – so named as its primary aim is to provide an over-arching connectivity between all of the Board's four geographically separated divisions. Project Arch will extend through into 2008-2009, and culminate in the re-development of the Board's website and the development of an organisation wide and consistent Records Management system.

The first phase of Project Arch involved the introduction and customisation of a new database (known as iMIS) whilst simultaneously developing an online renewal process for practice certificates in time for the 2008-2009 renewals. This was successfully achieved, and feedback received by the office on the process has been very positive indeed. Online renewals will be further refined following feedback and the experience of the first tranche and practitioners can look forward to even further simplicity in the year to come.

### **2.2 Legal Profession Bill 2007**

The introduction of the *Legal Profession Bill 2007* has meant that Board staff have had to address issues in preparation for the introduction of compulsory continuing professional development (CPD), the introduction of practical legal training (PLT), expanded monitoring of incorporated legal practices and national admissions initiatives. The Bill has been introduced as part of the establishment of a national profession aiming for consistent regulatory regimes. Whilst the Board is working actively with regulators from other jurisdictions, and with Law Societies and the Law Council of Australia (LCA) to support these initiatives, there remains many hours of consultation and work to bring those visions to fruition.



### **2.3 Staffing**

Apart from my appointment in an initial Executive Director role, other significant staffing developments have occurred during the period under review:

- Gael Roberts and Gail McCahon have been appointed as Principal Legal Officers in a dual role at the LPCC, following the resignation of Catherine Coombs from that role.
- Karen Whitney has been appointed as an Acting Senior Legal Officer at the LPCC.
- Miranda Breisch has been appointed as Acting Legal Counsel in an expanded role in the Board office.
- Julie Bain has been appointed as the Legal Education Coordinator to administer the CPD processes.
- Deb McDonald's Acting role has been confirmed as the Admissions and Registrations Coordinator.
- Rhys McVicker has been appointed as Course Coordinator for the ATP following the resignation from that role of Linda Norrish.
- Alice Yap resigned from the role of Legal Research Officer.

My congratulations are extended to each of the staff members appointed into these roles, and sincere thanks are also extended to those long term staff members who have moved on from the Board.

### **2.4 The Future**

Upon my appointment I was given the remit to provide some strategic direction and advice to the Board to allow it to better meet its statutory obligations. I have spent the past 5 months assessing the Board's activities, its structures, staffing, and operating procedures and, in conjunction with the preparation of next year's budget, and in consultation with the honorary officers, the Directors of the Board's divisions (with their staff input), will develop short, medium and long term Strategic Planning. Such planning ought not be ideological, but practical in its nature, and must consider and anticipate developments within the changing profession. Part of these developments should involve increased representation by the Board, in co-operative consultation with regulators and Legal Service Commissioners from other jurisdictions, and engagement with the LCA and Law Societies from all jurisdictions, and with the Law Admissions Consultative Committee (LACC) with a view to ensuring that the Western Australian profession has the opportunity to provide input into matters before SCAG and CoAG.

I also anticipate an increasing 'educative' role for the Board. With the forthcoming re-development of the website will come the opportunity to more effectively disseminate information to the profession. The Board's role should not only be one of a strict interpreter and enforcer of statutory regulation, but should include activities to inform, educate and advise the profession on its obligations and the expectations of the standards expected by the profession itself, and by members of the public.

The Board should also be taking a more pro-active role in the monitoring of incorporated and multi-disciplinary legal practices, and will be moving towards audit and practice review of firms operating under those structures.

Information sharing and the connectivity between offices of the Board divisions is being addressed through Project Arch. However, at a national level, with an ever-expanding national profession with ready mobility between jurisdictions, relevant information sharing needs to be expanded between Australian jurisdictions. These issues are being addressed by LACC, the LCA and the Legal Services co-operatives and the Board's increasing engagement with those processes is essential.

## **2.5 Vote of thanks**

Thank you to my Chairperson, Anna Liscia, for her continuing support and sage advice on all matters, to Robert Cock QC, Convenor of the Management Committee, for his trust in allowing me to take the reigns at management level, to the Convenors of each of the Board Committees and Advisory Committees – Grant Donaldson SC, Matt Zilko QC, Clare Thompson, Steven Penglis, Chris Zelestis QC, Ken Martin QC and The Hon. Justice Hasluck – and to the committee members - for guiding the policy behind the day-to-day operations of the Board.

Thanks also to the directors of the Board's divisions – Di Howell, the Law Complaints Officer at the LPCC; Deborah Milton at the ATP, and; Alice Anderson at the Law Library – for understanding the issues faced by the Board and working with me towards their best delivery.

Finally, a special thanks again to all of the staff. I shall not name specific staff members for risk of leaving out a well deserved mention. You have all delivered, and the Board's operations are better for that.

Graeme Geldart  
Executive Director  
November 2008

---

### **3. THE LEGAL PRACTICE BOARD**

---

#### **3.1 ROLE**

The Legal Practice Board ("Board") is constituted under the *Legal Practice Act 2003* ("LPA"). The Board has statutory authority for the admission, supervision and discipline through the Legal Practitioners Complaints Committee ("LPCC") and the State Administrative Tribunal ("SAT") for all the legal practitioners in Western Australia.

The Board regulates the issue of annual practice certificates and administers the Law Library in the Supreme Court and its Branch Library in the Central Law Courts. The Board also provides a practical legal training course through the Articles Training Program for the training of articulated clerks.

#### **3.2 MEMBERSHIP**

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

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

##### **3.2.1 Queens Counsel**

At 30 June 2007 there were 17 Queens Counsel resident and practising in Western Australia, and therefore members of the Board.

During the year under review:

On 01 July 2008 Mr Michael Odes QC retired from practice, ceased to be the holder of a WA practice certificate and so ceased to be a member of the Board.

On 25 June 2007, Mr Andrew Beech SC was sworn in and welcomed as a Judge of the Supreme Court of Western Australia and so ceased to be a member of the Board.

On 15 October 2007, Mr Neil McKerracher QC was sworn in and welcomed as a Judge of the Federal Court of Australia and so ceased to be a member of the Board.

### **3.2.2 Senior Counsel**

At 30 June 2007 there were 20 Senior Counsel resident and practising in Western Australia, and therefore members of the Board.

During the year under review:

On 1 December 2007 the following practitioners were appointed as Senior Counsel, and became members of the Board:

Mr Theo Lampropoulos SC  
Mr Peter van Hattem SC  
Mr Jeremy Allanson SC  
Ms Gail Archer SC  
Mr Robert Mitchell SC

### **3.2.3 Total number of silk as at 30 June 2008**

At the conclusion of the year under review the Board had a total of 37 Queens Counsel and Senior Counsel as members of the Board.

### **3.2.4 Elected Members**

- 1 July 2007 to April 2008 election

Elected members in office during this period were: Ms LB Black, Mr BK Davies, Mr JGM Fiocco, Mr JRB Ley, Ms AM Liscia, Mr S Penglis, Ms SM Schlink, Mr JG Syminton, Ms CH Thompson, Ms AM Van Onselen, Ms FB Walter, and Mr I Weldon.

- April 2008 election to 30 June 2008

Elected members in office during this period were: Ms LB Black, Mr JGM Fiocco, Mr JRB Ley, Ms AM Liscia, Mr S Penglis, Ms SM Schlink, Mr JL Sher, Mr JG Syminton, Ms CH Thompson, Ms AM Van Onselen, Ms FB Walter, and Mr I Weldon.

Mr Brett Davies stood down as a member of the Board having served on the Board since his election in April 2006. His contribution to the Board during the time is acknowledged.

- Appointment of Chairperson and Deputy Chairperson

Ms AM Liscia was re-appointed Chairperson on 09 April 2008, effective for the ensuing year.

Mr GR Donaldson SC was re-appointed Deputy Chairperson on 09 April 2008, effective for the ensuing year.

### 3.2.5 Board members as at 30 June 2007

<b>Attorney General</b> The Hon. Mr J McGinty, MLA	<b>Solicitor General</b> Mr RJ Meadows QC	<b>Chair</b> Ms AM Liscia	<b>Deputy Chair</b> Mr GR Donaldson SC
<b>Queens Counsel</b> Mr MJ McCusker AO QC The Hon. D Williams AM QC Mr RJ Davies QC The Hon Mr RI Viner AO QC Mr CL Zelestis QC Mr RK O'Connor QC Mr S Owen-Conway QC Dr AF Dickey QC Mr RJ Meadows QC The Hon Mr P Foss QC Mr RE Birmingham QC Mr KJ Martin QC Mr F Castiglione QC Mr TF Percy QC Mr RE Cock QC Mr PI Jooste QC Mr MT Trowell QC	<b>Senior Counsel</b> Mr KR Wilson SC Mr MH Zilko SC Mr CG Colvin SC Ms G Braddock SC Mr KM Pettit SC The Hon Mr PMC Dowding SC Mr GMG McIntyre SC Mr EM Corboy SC Mr GTW Tannin SC Mr SD Hall SC Mr GH Murphy SC Mr GA Calcutt AM SC Mr CP Shanahan SC Mr GR Donaldson SC Mr B Fiannaca SC Mr T Lampropoulos SC Mr PCS van Hattem SC Mr JD Allanson SC Ms GA Archer SC Mr RM Mitchell SC	<b>Elected Members</b> Ms LB Black, Mr JGM Fiocco, Mr JRB Ley, Ms AM Liscia, Mr S Penglis, Ms SM Schlink, Mr JL Sher, Mr JG Syminton, Ms CH Thompson, Ms AM Van Onselen, Ms FB Walter, Mr I Weldon.	

### 3.3 COMMITTEES

#### 3.3.1 LPA Section 10 Committees

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

The Board's Committees so constituted in the year under review are:

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

A summary of the main areas of responsibility and activities of the above committees during the 2006/2007 reporting year is set out further in this report.

Information required to be provided in the Board's annual reports pursuant to section 17 of the LPA is provided in each of the Committee's reports below. These Committees' reports also detail significant issues and trends relating to each of the Committee's areas of administration in the performance of the Board's statutory functions.

### 3.3.2 Other Committees

The Board has two advisory Committees whose members include representatives of key stakeholders. In this reporting year, the Law Library Advisory Committee continued to hold meetings to run the business of the Law Library. The Professional Conduct Rules Advisory Committee was established and will advise the Board on the promulgation of professional conduct rules under the provisions of the incoming *Legal Profession Act*.

### 3.3.3 Meeting Overview

During this reporting year, the Board met on the following occasions:

Full Board (every 3 months)	3
Admissions and Registrations Committee	12
Admissions and Registrations Committee – Electronic Quorums	6
Professional Affairs Committee	10
Special Professional Affairs Committee	4
Management Committee	9
Special Management Committee	1
Legal Education Committee	4
Law Library Advisory Committee	7

## 3.4 ORGANISATIONAL STRUCTURE

As presently structured, the Board carries out its functions in 4 distinct locations:

- the Office of the Board in the Kings Building, Hay Street, Perth;
- the Articles Training Program in Alvan Street, Mt Lawley;
- the Law Library in the Supreme Court and a Branch Library in the Central Law Courts;
- the LPCC at 55 St Georges Terrace, Perth.

### **3.4.1 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 LPA. 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 practice certificates and the administration of other practitioner compliance matters;
- conducting the Board's annual election;
- management of the Board's human, financial and physical resources.

### **3.4.2 Articles Training Program**

The ATP is a post-graduate pre-admission course designed to enhance practical legal training with direction from the Board. Part-time lecturers are engaged to conduct the courses. The Report of the ATP Director is included in this report.

### **3.4.3 Law Library**

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

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

The operation of the Law Library is supported by the Law Library Advisory Committee, chaired by the Hon. Justice Hasluck. The Report by the Law Librarian is included in this report.

### **3.4.4 Legal Practitioners Complaints Committee**

The LPCC is responsible for supervising the conduct of legal practitioners and the practice of law. Pursuant to the LPA, 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 166 of the LPA, the LPCC provides a separate annual report in relation to its activities to the Attorney General.

### 3.4.5 Staff

As at 30 June 2008, the following numbers of staff were in full-time, part-time or contract employment with the Board:

<b>Divisions</b>	<b>No. of Staff</b>
Office of the Board	16
ATP	8
Law Library and Branch Library	8
LPCC	20
Trust Account Inspector	1
<b>Total Staff</b>	<b>53</b>

---



## 4. PROFILE OF THE WA LEGAL PROFESSION

### 4.1 Composition of the WA Legal Profession

	Resident Females	Non-Resident Females	Resident Males	Non-Resident Males	Totals
Barristers	31	0	151	1	183
Commonwealth Government	31	0	32	1	64
Consultants	25	0	51	1	77
Director	42	1	211	0	254
Employees	1050	53	823	68	1994
Equity Partner	40	0	301	10	351
Fixed Profit-share Partner	4	0	23	0	27
Inhouse	131	13	206	18	368
Locum					0
Not practising (certificated)	126	26	93	22	267
Salaried Partner	18	1	43	1	63
Sole Practitioners	103	1	349	5	458
Judiciary <sup>^</sup>	2	0	5	0	7
Deceased <sup>^</sup>			5		5
Struck Off /Suspended <sup>^</sup>	0	0	1		1
State Government <sup>*</sup>	21	1	18	0	40
<b>Practice Certificates ISSUED</b>	<b>1624</b>	<b>96</b>	<b>2312</b>	<b>127</b>	<b>4159</b>
S.36 Practitioners					
** State Solicitor's Office	59		38		97
**Director of Public Prosecutions (State)	50		57		107
**Other Departments	93		54		147
<b>TOTAL PRACTITIONERS</b>	<b>1805</b>	<b>95</b>	<b>2443</b>	<b>127</b>	<b>4510</b>

<sup>^</sup> held a practice certificate during 2007/2008, however by 30 June 2007, were appointed judiciary/deceased/struck off/suspended.

<sup>\*</sup> State Government employees who held a practice certificate during 2007 – 2008

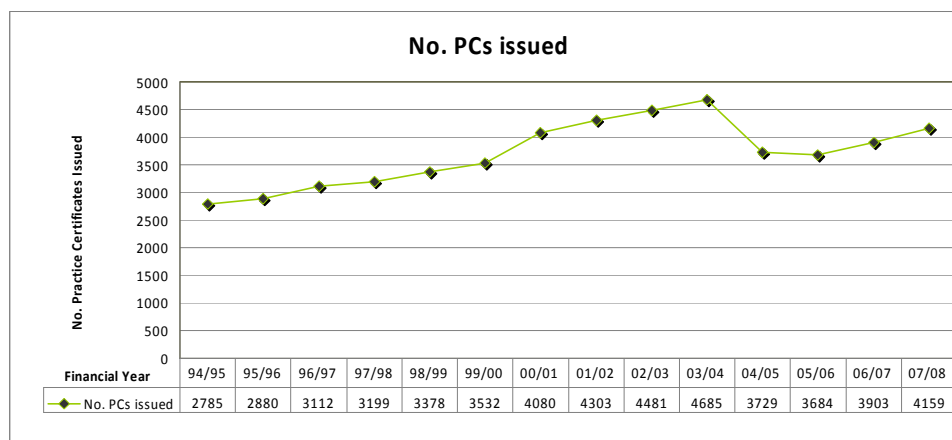
<sup>\*\*</sup> State Government employees taken to be certificate pursuant to Section 36 of the Legal Practice Act 2003

### 4.2 Incorporated Legal Practice

In the period under review Pursuant to section 50(1) of the Act 47 incorporated legal practices gave notice of their intention to commence practice and 12 incorporated legal practices ceased practice.

### 4.3 Practice Certificates

The number of practice certificates issued during 2007/2008 was 4159 which represents a 6.55% increase in the number of certificates issued in the previous period.



### 4.4 Renewal of Practice Certificates

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

For the financial year 2007/2008 the Board continued to populate the fields on the application form with information contained within the Board's database. This reduces workload for Board staff and allows the practitioner to monitor the information held by the Board.

With regard to the 2007/2008 practice certificate renewal period:

- 30 practice certificate renewal forms were received up to one week late.
- 57 practice certificate renewal forms were received between one week and one month late.
- 21 practice certificate renewal forms were lodged over one month late.

For the financial year 2008/2009 the Board introduced an on line renewal process for the renewal of annual practice certificates. To encourage practitioners to use the new system the *Legal Practice Board Rules 2004* were amended so that the early discount fee for renewing practice certificates by 31 May each year was withdrawn. This was replaced by a discount for renewing practice certificates on line by 30 June 2008.

Another major change was in relation to Professional Indemnity Insurance (PII) and the Accountant's Certificate Form 20.

If an application for a practice certificate is made via the Board's website, practitioners must ensure that the Board is provided with proof of professional indemnity insurance and an Accountant's Certificate Form 20, if applicable, by no later than 14 days after the commencement of the certificate period. However, if the practitioner makes a manual application via the Offices of the Board the practitioner must ensure the Board is provided with proof of professional indemnity insurance and Accountant's Certificate Form 20, if applicable, by 30 June 2008.

On Friday 16 May 2008 a letter was sent to every practitioner who held a current practice certificate, inviting them to renew their practice certificate on line. Each practitioner was given a log in and password to access the on line renewal system. An additional administrators log in was also made available to all practices to allow for the bulk payments of practice certificates by the Human Resources officer.

By 30 June 2007, 3612 practice certificates had been issued for the financial year 2008/2009 and of these 157 practitioners had made application manually and 3455 had made application on line. The following methods of payment were used:

Credit Card	1253
Cheque	1723
Electronic Funds Transfer	635
Cash	1

As can be seen from the number of practitioner who used the on line renewal process this modern approach to the renewal of practice certificates was generally welcomed by the profession.

#### **4.5 Uncertificated Legal Practitioners**

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

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

During 2007/2008 a total of 152 practitioners were referred to the Professional Affairs Committee for apparently engaging in the practice of law whilst uncertificated. This is a slight decrease the last reporting period. 89 practitioners were uncertificated for a period of less than 14 days, an increase of 31% on the last reporting period. 63 were uncertificated for a period in excess of 14 days a decrease of 33% on the last reporting period.

Of the 152 practitioners referred to the Professional Affairs Committee, 94 were a consequence of the late renewal of a practitioner's practice certificate and occurred during

the period of July and August. This is a similar number to the last reporting period. A percentage of these late applications were from practitioners either taking a break from the law and/or outside the jurisdiction and neglecting to either renew on time or inform the Board of their change in circumstances.

A further 58 practitioners were referred to the Professional Affairs Committee during the remainder of the period under review. This is a decrease of 12% on the last reporting period.

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

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

## 5. ADMISSIONS AND REGISTRATIONS COMMITTEE

---

**Convener:** Mr GR Donaldson SC.  
**Deputy Convener:** Ms A Liscia acted informally in this role until Ms A van Onselen was appointed on 2 April 2008

The Admissions and Registrations Committee (ARC) has been delegated the power and duty of the Board pursuant to the *Legal Practice Act 2003* (LPA) and the *Legal Practice Board Rules 2004* (Rules) to deal with matters relevant to:

- articulated clerks
- the admission of legal practitioners
- the imposition of conditions on practice certificates
- restricted practice
- interstate practitioners, and
- registration of foreign lawyers.

The ARC also deals with the Board's responsibilities resulting from the *Mutual Recognition (WA) Act 2001* (MRA) and the *Trans-Tasman Mutual Recognition (WA) Act 2008* (TTMRA).

The admissions information on the Board's website was upgraded and expanded during the period under review and included:

- Flowcharts and overviews relating to entitlement to practice and pathways to admission;
- Mutual Recognition Guidelines for practitioners who have been admitted in Australia and or New Zealand, and who hold, or do not hold current practising certificates in their home jurisdiction;
- Guidelines on making application for registration of articles;
- Guidelines for applying for assessment of Australian and overseas qualifications and experience;
- Guidelines on lodging Notices of intention to apply for admission;
- Admission ceremony dates;
- Agenda closing dates and meeting dates for the ARC;
- Restricted practice Guidelines; and
- Contact details for other Australian admitting authorities.

### 5.1 Articles of Clerkship

Articles of clerkship (supplemented by the Articles Training Program) remained the only form of pre-admission practical legal training in Western Australia. The ARC will have power to approval practical legal training courses as an alternative to articles of clerkship, once the *Legal Profession Act 2008* is operational.

### **5.1.1 Suitability Issues**

In considering applications for registration of articles, the ARC continued to execute its statutory obligation to consider the suitability of a prospective articulated clerk and principal.

In considering the suitability of an articulated clerk the ARC had regard to, inter alia, whether the articulated clerk had disclosed convictions or other suitability matters within their application.

In considering the suitability of a practitioner to take an articulated clerk, the ARC had regard to, inter alia, whether a practitioner had a disciplinary record, or was the subject of pending disciplinary matter. The ARC made several resolutions to hold Inquiries during the period under review, most of which were either determined on the papers without the need for a formal hearing, or did not proceed at the request of the practitioner.

Details of Formal Inquiries conducted by the ARC are listed later in this report.

### **5.1.2 Five Year Articles of Clerkship and Managing Clerks**

The systems of “five year articles of clerkship” and “managing clerks” were abolished when the *Legal Practitioners Act 1893* was repealed. However, clerks registered prior to 1 January 2004, have continued service. Between 1 July 2007 and 30 June 2008, no five year articulated clerks were admitted to practice and approval was granted for the cancellation of three registrations. As at 30 June 2008 there is one articulated clerk still in the process of completing five year articles, and one managing clerk in the process of completing a managing clerkship.

## **5.2 Admission and Requirements for Admission**

The ARC processed all applications for admission, other than admissions pursuant to the MRA and TTMRA.

Law graduates who held a law degree from one of the approved Western Australian universities, i.e. the University of Western Australia, Murdoch University, Notre Dame University or Edith Cowan University, were eligible for admission after completion of twelve months articles of clerkship. In February 2008 one of these universities advised its intention to establish an external law degree program in WA and this proposal is still under consideration.

Law graduates from other Australian jurisdictions were required to apply for assessment of their qualification and to complete twelve months articles in order to be eligible for admission. From October 2007 the ARC ceased to impose additional academic requirements, in particular Conveyancing, on applicants who held an Australian qualification that met the academic requirements for admission in that Australian jurisdiction.

Law graduates and practitioners qualified and/or admitted in an overseas jurisdiction where the system of law was substantially equivalent to that in Western Australia, were required to

apply for assessment of their qualifications and or experience and were eligible for admission after satisfying any imposed requirements. A person qualified or admitted in a Civil Law jurisdiction, or other jurisdiction where the system of law could not be considered equivalent to that in Western Australia, was required to obtain an approved law degree from one of the approved Western Australian universities in order to satisfy the academic requirements for admission.

Following a decision of the Management Committee of the Board, an increase from \$250 to \$300 was gazetted in May 2008, for application fees for:

- assessment of qualifications,
- admission of persons not previously admitted overseas, and
- re-admission.

### **5.2.1 Uniform Principles for the Assessment of Overseas Qualified and Admitted Applicants**

The Law Admissions Consultative Committee (LACC) aims to achieve national consistency of admission requirements in Australia. In February 2008, as a result of communications between the Chair, Justice McKechnie and the Chief Justice, it was agreed that a member of the Legal Practice Board would be the representative for Western Australia on LACC, in place of a member of the judiciary. The representative for WA at the meeting held in February 2008 was the Chair of the Board, who at that time, also acted as the Deputy Convenor of the ARC.

During the year under review there was further progress on the national project, overseen by LACC, to agree on Uniform Principles for the assessment of overseas qualified and admitted applicants. On 3 October 2007 the ARC formally adopted the Draft Uniform Principles, as they stood at that time. As the ARC had, since September 2005, advised applicants for assessment that requirements were under review, the ARC reviewed all assessments issued since that date in December 2007. Revised assessment statements were issued however, requirements were not more onerous than initially imposed.

There were some legislative restrictions on adopting the Draft Uniform Principles in their totality, however it was agreed to defer seeking any changes to the existing legislation due to the impending introduction of the *Legal Profession Act 2008*. Adoption of the Draft Uniform Principles resulted in the following significant departures from previous practice:

- Further academic study was no longer imposed on practitioners admitted in New Zealand (In any event, following the introduction of the TTMRA in February 2008, New Zealand admitted practitioners sought admission directly to the Supreme Court).
- Conveyancing ceased to be imposed as an academic subject if the applicant was required to complete a term of articles, as all articulated clerks are required to demonstrate that they have obtained the minimum competency standards in Property Law Practice before they are eligible for admission. However, "Commercial Practice, Conveyancing and Drafting" was imposed as an academic subject on any overseas applicant for admission who was not required to complete a term of articles.

- Australian Corporations Law ceased to be imposed on every applicant.
- From May 2008, Ethics and Professional Responsibility was imposed as an academic requirement on some applicants.
- English Language Testing requirements were imposed on all applicants.

It is an expectation of the application of the Uniform Principles, and a long-standing requirement of the ARC, that academic subjects imposed on overseas applicants for admission are completed in WA. However, in February 2008 the ARC resolved that requests to complete prescribed subjects at other Australian universities would be considered on their merits, if the applicant could demonstrate that the unit is ordinarily studied as part of an Australian degree in law, and completion of that law degree satisfies the academic requirements for admission in that Australian jurisdiction. Submissions to complete subjects externally via the University of New England in NSW were subsequently approved for those applicants who could demonstrate that it was not possible or practical for them to attend one of the approved WA universities.

During the period under review the ARC confirmed its view that a person admitted to practice in another country, but not yet admitted to practice in Western Australia, may only be described as a “clerk” or “law clerk”.

### **5.3 Mutual Recognition**

On 2 July 2007, the Supreme Court issued a practice direction whereby applicants seeking admission pursuant to the MRA were required to make application directly to the Court. Accordingly the Board ceased to have responsibility for the administrative processing of applications for admission pursuant to the MRA.

However, the ARC continued to have responsibility for applications to mutually recognise practice certificates pursuant to the MRA, where the applicant held a current Australian practising certificate in another jurisdiction. MRA applicants who did not hold an Australian practising certificate were required to apply for a practice certificate pursuant to the LPA prior to engaging in legal practice. The ARC retained responsibility for considering these applications and the conditions, if any, to be imposed on the practice certificates.

As a result of administrative changes, the Board requested Parliamentary Counsel to amend the Rules. In considering the requested amendments, Parliamentary Counsel’s office suggested changes to the processes the ARC adopted in relation to applications for a grant of registration of a practice certificate pursuant to the MRA. These suggestions were implemented during the period under review.

The TTMRA became operational on 1 February 2008, giving practitioners who were admitted and or certificated in New Zealand, the right to be admitted and/or apply for a practice certificate in WA. Processes for applying for admission and making application for a practice certificate are similar to those that apply to MRA applicants.



#### 5.4 Applications for Re-Admission

An application for re-admission (received in January 2005) remained active throughout the year under review. The ARC was awaiting a current psychiatrist's report, before proceeding with an Inquiry. In February 2008 a further application for re-admission was received. At the conclusion of the period under review, Counsel was in the processing of arranging the dates on which these formal Inquiries would be held.

#### 5.5 Inquiries Pursuant to the LPA

The ARC may conduct an Inquiry for the purpose of determining whether –

- a person seeking to be articled is of good fame and character [section 19(2)];
- a legal practitioner should be approved to take an articled clerk [section 20(2)];
- a person seeking a certificate under section 28(1)(c) is of good fame and character and fit and proper to be admitted [section 28(2)];
- a person is suitable for re-admission [section 34(3)].

The ARC conducted the following Inquiries during the period under review:

- Inquiry to determine whether a person seeking to be articled is of good fame and character

The Inquiry was in relation to an applicant who had disclosed a conviction for unlawfully bringing money into the country as an overseas student. The Inquiry determined that the applicant was of good fame and character to be articled.

- Inquiry to determine whether a practitioner should be approved to take an articled clerk:

The Inquiry was in relation to a practitioner who was the subject of a 2005 LPCC summary jurisdiction finding relating to neglect and undue delay in 2001 and 2002, and accepting instructions to act in matters beyond his competence between 2000 and 2002. The practitioner was also the subject to a pending matter before the LPCC relating to comments made in a 2007 Supreme Court decision relating to the practitioner's inappropriate response to a conflict arising between two of his clients, and his handling of trust account moneys the subject of the conflict. At the conclusion of the Inquiry, the ARC approved the practitioner to take an articled clerk.

#### 5.6 Conditions on Practice Certificates

The ARC determines the imposition of conditions on practice certificates issued to practitioners admitted pursuant to the MRA.

The ARC considered a request for review of a decision to impose a two year restricted practice period to a practice certificate issued to a practitioner who had been admitted pursuant to the MRA. The practitioner had no post-admission experience and had completed a practical legal training course prior to gaining admission in another Australian jurisdiction. The review was requested primarily on the grounds that a person admitted pursuant to the LPA (after having completed twelve months articles) was subject to a twelve

month restricted practice condition. The ARC determined there were no grounds for review of the decision and issued the practitioner with Reasons for Decision.

The ARC also considers applications for renewal of practice certificates from practitioners who have not held a practice certificate in this State during the preceding five years. The ARC will consider the practitioner's past practice particulars and/or other employment/personal particulars since the date the practitioner last held a practice certificate in Western Australia, and requires certificates of good standing from any other jurisdiction in which the applicant has practised.

During the year under review the ARC considered and approved an application for renewal of a practice certificate by an applicant who had held judicial appointments for the previous 16 years. The ARC determined that there was no power to refuse the issue of a practice certificate on the grounds that the applicant had recently held a judicial position.

## **5.7 Restricted Practice**

The ARC has a statutory obligation to ensure that a practitioner who is subject to a restricted practice condition is appropriately supervised. The ARC considers submissions relating to:

- approval to undertake restricted practice working under the supervision of a legal practitioner who is not otherwise authorised under the LPA to supervise a 'restricted' practitioner;
- applications to complete restricted practice on a part-time basis;
- secondments during restricted practice;
- approval of external supervision arrangements.

The ARC had previously adopted a policy whereby, absent exceptional circumstances, restricted practice may only be completed on a part-time basis if the employment was for a minimum of 20 hours per week over 3 days per week. During the period under review ARC developed further policies relating to part-time employment as follows:

- a restricted practitioner has no entitlement to practice, albeit under supervision, if their employment does not meet the minimum part-time requirement;
- a restricted practitioner must be employed to engage solely in legal practice;
- employment that requires a restricted practitioner to undertake a combination of legal and non-legal roles does not meet the requirements of the restricted practice condition.

The ARC noted the anomaly whereby there was no power under the LPA to consider employment by the State Government of legal practitioners admitted pursuant to the MRA as satisfying the "restricted practice" condition, unless the practitioner applied for a WA practice certificate.

## 5.8 Interstate Practitioners

An interstate practitioner who holds a current practice certificate in another Australian State/Territory and whose principal place of practice is in another State/Territory, is entitled to engage in legal practice in Western Australia.

An interstate practitioner is required to lodge a Notice of Establishment of Office with the Board if he or she *“offers and provides legal services to the public in this State from an office maintained by the interstate practitioner, or by the employer or a partner in legal practice of the interstate practitioner, for that purpose in this State”*.

## 5.9 Foreign Lawyers

Three applications for registration as a Foreign Lawyer were approved, in relation to legal practitioners from France, the United Kingdom and India, respectively.

## 5.10 Statistics pertaining to matters considered by the ARC during 1 July 2007 to 30 June 2008

### Articles of Clerkship Registrations

Registrations - Male articled clerks	100
Registrations – Female articled clerks	162
<b>Total new registrations</b>	<b>262</b>

<b>Law Graduates from:</b>	
University of Western Australia	115
Murdoch University	80
University of Notre Dame	56
Overseas Institutions	3
Interstate tertiary institutions	8

### Notice for Grant of Registration of Practice Certificate Pursuant to Mutual Recognition (WA) Act 2001

Total Lodged = 42

### Notice for Grant of Registration of Practice Certificate Pursuant to Trans Tasman Mutual Recognition (WA) Act 2008

Total Lodged = 3

## Admissions

Admitted pursuant to s27(2)(a) of the <i>Legal Practice Act 2003</i>	250
Admitted pursuant to s27(2)(b) of the <i>Legal Practice Act 2003</i>	11
Admitted pursuant to Mutual Recognition (WA) Act 2001	246
<b>Total new admissions</b>	<b>507</b>

*Out of the eleven (11) applicants admitted pursuant to s27(2)(b), two (2) were required to complete articles prior to admission.*

New admissions - Male	209
New admissions - Female	298
<b>Total new admissions</b>	<b>507</b>

The **250** practitioners admitted pursuant to s27(2)(a) of the *Legal Practice Act 2003* were law graduates from:

Western Australian Institutions	
▪ University of WA	121
▪ Murdoch University	70
▪ University of Notre Dame	53
Interstate tertiary institutions	3
From overseas institutions	3
Completed 5 years articles after having completed studies at the University of WA, Murdoch University and the University of Notre Dame, respectively	0

The **11** practitioners admitted pursuant to s27(2)(b) had previously been admitted:

England & Wales	3
England & Wales & Malaysia	1
England & Wales & Singapore	2
India	1
Sierra Leone	1
Singapore	1
South Africa	1
United States of America	1

## Assessments

10 Assessments were made for approval of qualifications pursuant to **s27(2)(a)(ii)** for Australian law graduates from:

New South Wales	2
Northern Territory	1
Queensland	1
South Australia	2
Tasmania	1
Victoria	3
<b>Total</b>	<b>10</b>

19 Assessments were made for approval of qualifications pursuant to **s27(2)(b)** for overseas law graduates from:

Cameroon	1
New Zealand	1
Nigeria	1
Scotland	1
Netherlands	1
Singapore	1
South Africa	2
United Kingdom	13
United States of America	2
<b>Total Overseas Law Degrees</b>	<b>23</b>

40 Assessments were made for approval of qualifications and experience pursuant to **s27(2)(b)** for practitioners previously admitted in:

Hong Kong	1
Hong Kong & UK (Qualifications in UK)	1
Hungary	1
India	2
Malaysia (Qualifications in UK)	4
Malaysia & Singapore (Qualifications in UK)	1
New Zealand	1
Pakistan & Canada (Qualifications in Pakistan)	1
Singapore	2
Singapore & UK (Qualifications in UK)	1
South Africa	13
South Africa & UK (Qualifications in South Africa)	1
Sri Lanka	3
England & Wales	7
United States of America	1
<b>Total Admitted Overseas</b>	<b>40</b>

### Foreign Lawyers

3 foreign lawyers have been registered with the Board from:

India	1
United Kingdom	1
United Kingdom & France	1
<b>Total Foreign Lawyers</b>	<b>3</b>

Grant Donaldson SC  
Convenor  
October 2008

---

## 6. PROFESSIONAL AFFAIRS COMMITTEE

---

**Convenor:** Mr MH Zilko SC  
**Deputy Convenor:** Mr GMG McIntyre SC

The Professional Affairs Committee met on 14 occasions between 1 July 2007 and 30 June 2008. This included 10 scheduled meetings and 4 special meetings.

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

- the renewal of practising certificates, subject to conditions in certain circumstances;
- ensuring that practitioners adhere to the practising certificate regime;
- the regulation of business structures, including incorporated legal practices and the legal practitioner directors who control and manage them;
- ensuring that the requirements prescribed for the administration and management of trust accounts are met;
- external intervention; and
- the prosecution of unqualified practice.

### 6.1 Practice Certificates

#### 6.1.1 Practice Certificate Information and Statistics

Information on Practice Certificates can be found in this report at 4.3 and 4.4.

#### 6.1.2 Conditions imposed on practising certificates

The Committee has delegated power under the Act to impose conditions on a practitioner's right to practice, primarily to protect the public. The Committee is also responsible for monitoring a practitioner's compliance with conditions.

Between 1 July 2007 and 30 June 2008, conditions requiring regular reporting to the Board were imposed with respect to three practitioners who entered into bankruptcy.

An inquiry was held with respect to one practitioner and, due to concerns relating to the practitioner's prior conduct, it was decided that any practice certificate issued to the practitioner would be subject to conditions that the practitioner only practice on a supervised basis. The practitioner has made an application to the State Administrative Tribunal for a review of this decision. The matter is yet to be determined.

Conditions carried over from the previous financial year relate to three cases of conditions requiring reporting to the Board arising out of a practitioner's bankruptcy, one instance of a supervised practice condition due to a practitioner's mental health and one instance of regular reporting to the Board due to a practitioner's mental health. With respect to the latter, the practitioner's failure to comply with the reporting condition led to a

successful application by the Board to the State Administrative Tribunal for an order that the practitioner's practice certificate be cancelled.

### **6.1.3 Uncertificated legal practitioners**

Information on uncertificated legal practitioners can be found in this report at 4.5.

## **6.2 Business Structures**

### **6.2.1 Incorporated Legal Practices**

The Board has a broad supervisory role in respect of incorporated legal practices (ILPs) and the legal practitioner directors who control and manage them.

A steady stream of WA firms have been incorporating since the power to do so was introduced by the Act in 2004. During the period under review, 47 new ILPs gave notice of their intention to commence practice and 12 ILPs ceased practice. The total number of ILPs in WA, as at 30 June 2008, is 176.

The Board has power under the Act to audit incorporated legal practices, to check compliance with the requirements of the Act in connection with the provision of legal services and the management of the provision of those services. Going forward, the Board plans to develop and implement an online audit process. This project will be carried out in consultation with other States to promote national consistency.

The year under review also marked the listing of the first WA based law firm on the ASX, namely, Integrated Legal Holdings Limited, on 17 August 2007.

## **6.3 Trust Account Investigations**

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

Every practitioner who is required to maintain a trust account must, when applying for a practice certificate, submit to the Board an accountant's certificate (in the prescribed Form 20) to the effect that the practitioner's books of accounts relating to that trust account have been kept in accordance with the rules relating to the keeping of trust accounts. If a certificate is considered unsatisfactory, the Committee may exercise its discretion to withhold the issue of the practice certificate.

The Committee has power to grant an exemption from the requirement to submit an accountant's certificate in circumstances where there has been minimal trust account activity during the relevant period. The policy for this exemption is available on the Board's website.



The Board continued to employ one trust account inspector, funded by the Legal Contribution Trust, who carried out numerous trust account inspections, reports of which were considered by the Committee. The Report of the Senior Trust Account Inspector is included in this report.

The Committee continues to be concerned at the timing of remedial action of errors in trust accounting; a large number of errors are discovered by the end of financial year audit that should have been picked up by the monthly reconciliation process, required by the Act.

Another increasing concern is the number practitioners who are engaging unqualified accountants to audit their trust accounts. Any 'Form 20s' completed by an unqualified accountant were returned to the practitioner. Practitioners are reminded that, pursuant to section 147 of the Act, an accountant must be –

- (a) a person registered as an auditor, or taken to be registered as an auditor, under Part 9.2 of the Corporations Act; or
- (b) a person approved for the purposes of section 72(2) of the *Real Estate and Business Agents Act 1978*.

Looking toward the year ahead, the Committee is aiming to enhance awareness of regulatory compliance in the area of trust accounts and the changes introduced by the *Legal Profession Act 2008*.

#### **6.4 External Intervention**

The Committee is empowered, when it becomes aware of specific circumstances, to appoint a supervising solicitor to a law practice. In making its determination, the Committee considers, amongst other things, the interests of clients of the practice. The primary function of a supervising solicitor is to arrange for the timely distribution of client matter files and trust money.

Three new appointments were made during the 2007/2008 year, all of which were in circumstances where a sole practitioner had passed away suddenly. This brought the total number of active supervising solicitor assignments to six when including the three assignments carried over from the previous financial year (two of which related to suspended practitioners and one relating to a deceased practitioner).

The work undertaken by supervising solicitors is demanding and often thankless work carried out in difficult circumstances. The Committee takes this opportunity to thank the following practitioners who carried out the role of supervising solicitor during the 2007/2008 year: Mr Peter Bogue, Mr Mark Leaker, Mr Francois Carles, Mr Kevin Edwards and Ms Veronica Jumeaux.

The Committee also closely monitored the wind up of three law practices of retiring sole practitioners; two of which were due to the sole practitioner's health problems. This removed the need to appoint a supervising solicitor and therefore the associated financial costs.

## 6.5 Unqualified Legal Practice

The Committee is responsible for instituting proceedings against unqualified persons who perform legal work for reward or who hold themselves out as admitted legal practitioners. It is an ongoing concern that the community is being disadvantaged by persons offering so called 'legal services' without the appropriate legal training and with no financial protection against claims of negligence and/or unprofessional conduct.

These matters are prosecuted under section 250 of the Act as contempts of the Supreme Court. Contempt proceedings are technical in nature and must be proved beyond reasonable doubt, therefore placing a heavy evidentiary burden on the Committee.

During the year under review, the Board received 22 new complaints regarding possible unqualified legal practice - a decrease from the 33 complaints received during the previous reporting period.

The lack of investigatory powers provided for in the Act with respect to these matters frustratingly prevented the Committee from pursuing and proactively investigating the majority of these complaints. It is the Committee's intention to make detailed submissions to the Attorney-General recommending legislative amendments to give the Board coercive power to investigate suspected instances of unqualified practice (similar to the powers afforded to the Legal Practitioners Complaints Committee with respect to complaints against practitioners).

Of the matters pursued, the Committee:

- did not proceed to prosecute two matters in light of evidence produced that the legal work undertaken was not for reward (a defence under the Act);
- initiated proceedings (still pending) against a person alleging five contempts;
- exercised its discretion, due to lack of public interest, and resolved not to prosecute an overseas qualified lawyer who, for a period of time, was engaging in legal practice in WA in an in-house capacity;
- sought advice from its external solicitors in relation to the possible prosecution of a further two apparent breaches of the Act (still pending); and
- was unsuccessful in the prosecution of Computer Accounting and Tax Pty Ltd by reason that the proceedings were brought under section 123 of the Act and it was held that this section was not applicable to corporations. However, the Court did find that company's advertisement of the preparation of trust deeds for \$330 and the actions of one of its directors (who was an accountant) in doing so, did amount to unqualified legal practice.

On a positive note, the employment of a certificated legal practitioner to support the Committee has increased the Board's in-house capabilities and significantly reduced the Board's external legal costs in this area.

Mat Zilko SC  
Convenor  
October 2008

## 7. LEGAL EDUCATION COMMITTEE

---

Convenor - Ms Clare Thompson  
Deputy Convenor – Ms Anna Liscia

As foreshadowed in the 2006-2007 report, this year has been an extremely busy one for the Legal Education Committee.

The *Legal Profession Act* was passed by Parliament in May 2008, which includes provisions enabling the Board to require, as a condition of practice, that practitioners undertake continuing professional development (see sections 47 and 52). It is intended that, subject to the commencement of the Act, the Policy will require compliance by practitioners for practice certificate renewals due on 1 July 2009.

In the lead up to the introduction of the Act, the Committee began final preparation of the Board's CPD Policy. In July 2007 a final consultation draft was circulated to the profession and other stakeholders, for comment. Some thirteen submissions were received, resulting in a number of refinements to the Policy. Throughout that process, a series of meetings were held with interested stakeholders to discuss various aspects of the draft policy.

On 14 November 2007, the Policy received the unanimous approval of the Board and authority for general amendments to it, was delegated to the Committee. To that end, several amendments have been made to the Policy since November 2007, of a minor nature.

The Committee resolved to undertake an information strategy to publicise the Policy and to inform practitioners of their obligations. This strategy has resulted in the development of materials for practitioners, including FAQs, an information paper, forms and various other materials. The materials, including the Policy are made available on the Board's web-site.

The Committee developed a seminar series which, by June 2008, saw over 800 practitioners attend at one of several metropolitan seminars to learn more about their obligations, as well as providing over 50 potential providers with information relevant to their applications. It is intended to take the practitioner seminar series to regional areas in the 2008 year. The seminar series has been supplemented by numerous sessions with specific groups or organisations who are anticipated to become providers, on a one on one basis. The Board has been represented at those by either of Ms Thompson, Ms Liscia or Mr Geldart.

The Committee developed a fee structure for applications from potential QA Providers (and which encompasses some other minor fees), which received the approval of the Management Committee in early 2008. The aim of the fee structure is to ensure that the costs of implementation of the Policy, which are anticipated to be about \$100,000 per annum) do not result in increased practice certificate fees, but are borne by providers of legal education. Once the Act comes into force the Board will commence charging fees under the Policy.

In May 2008, the Board appointed Ms Julie Bain as the Legal Education Coordinator with responsibility to administer the CPD Policy, under the direction of the Committee. The work of the Committee has been greatly enhanced by her appointment.

In June 2008, the Committee was delegated powers by the Board for the implementation of the scheme, including the approval of QA Providers.

The introduction of CPD in this state comes at a time where there is considerable focus on national uniformity through the harmonisation of the regulation of the legal profession across Australia. It is interesting in that context to note that there are many different CPD schemes across Australia. Some jurisdictions remain without a CPD scheme, whilst some States have two different schemes, i.e. one for solicitors and for barristers. It is ironic that many of the submissions received in late 2007 requested that the Board adopt a “uniform approach” to CPD, when in fact the only uniform element of all CPD schemes across all those jurisdictions which have one is that the CPD Period is 1 April – 31 March. Whilst there is much to be said for harmonisation, the Board and the Committee is conscious of the need to implement a policy which is in line with the Law Reform Commission recommendation 441 in Report 92, and which meets the present needs of the WA profession, including the fact that it is a fused profession, so that it is not appropriate for separate schemes to be developed for different parts of the profession. Furthermore, it is significant that the Board’s development of its CPD scheme has been done in the context of the Board being a pure regulator, rather than a substantial provider, through a captive membership base, of CPD. This is also in contrast to the context within which other jurisdictions have developed CPD programs.

Clare Thompson  
Convenor  
October 2008

---

## **8. MANAGEMENT COMMITTEE**

---

Convenor: Mr RE Cock QC  
Deputy Convenor: Ms AM Liscia

The Management Committee exercises powers delegated to it by the Board in relation to the management of the Boards human, physical and financial resources.

### **8.1 Committee Process**

The Management Committee meets monthly to receive and consider information and reports from the Executive Director and the Corporate Support Officer in regard to resourcing and financial issues. Following the appointment of the Executive Director, much of the executive work, previously undertaken directly by the committee during the period of absence of a staff member in a management role, was again able to be managed within the normal operations of the office without referral to the committee. This has enabled the committee to focus on advice received on more strategic issues.

### **8.2 Human Resources**

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

The year under review saw the number to the staff increase slightly from 51 to 55 across all four divisions of the Board. Amongst senior appointments, Graeme Geldart was appointed as Executive Director, an additional staff member was employed as Legal Education Coordinator to administer the incoming Continuing Professional Development program and an additional Senior Trust Account Inspector was employed to support the work undertaken in that area of the Board's responsibilities. Other significant changes in staffing structures are contained in the report of the Executive Director.

### **8.3 Physical Resources**

The major refurbishment of the Board office in Hay Street was undertaken during the year under review and is very near completion. This project was funded from the Board's reserves.

The I.T. re-development (Project Arch) commenced during this review year and will continue throughout 2008-2009. The project will provide connectivity between all of the Board's separate locations, an enhanced reporting capability, a re-developed website and ultimately a consistent records management system. This vital project is also being funded from Board reserves.

### **8.4 Financial Resources**

The Board is primarily self funded, with approximately 10% of its funding coming from the State Government through contribution by grant toward the cost of

maintaining the Law Library and also funding the cost of the accommodation of the Offices of the Board and the Legal Practitioners Complaints Committee. This financial relationship is one which warrants review with the government.

### **8.5 The Law Library**

The Management Committee, guided by the recommendations of the Law Library Advisory Committee, administers the Law Library in the Supreme Court and the branch library in the Central Law Courts. Whilst this is not a regulatory activity, it a statutory obligation placed upon the Board.

Robert Cock QC  
Convenor  
November 2008



## **9. REPORT FROM THE LAW LIBRARIAN**

---

### **9.1 Introduction**

The purpose of the Law Library at the Supreme Court is to provide an effective reference and research centre for the legal community of Western Australia.

The main objectives are to adapt to the changing environment of information provision and to maintain a role as a major provider of legal information.

A Practitioners Branch Library is situated in the Central Law Courts building for the convenience of practitioners appearing in the District and Magistrate's courts.

### **9.2 The Law Library Advisory Committee**

The Law Library Advisory Committee is an advisory body whose purpose is to assist the Legal Practice Board with the policy and development of the Law Library, ensuring the availability of comprehensive legal resources and information services to the legal community.

### **9.3 Priorities for 2007 – 2008**

#### **9.3.1 Collections**

The outcomes achieved during the last financial year have contributed to the development and maintenance of an appropriate collection of legal material, including the increasing provision of online, electronic resources.

Specific projects include:

- Developing additional two databases for PLEAS (Practitioners Legal Electronic Access Service). The first is a database of pre 1991 Supreme Court decisions with attached PDF copies of the judgments. As there were no electronic versions of these judgments, the print copies had to be scanned and indexed. The second is the database of Sentencing Remarks which is made available by the Supreme Court.
- The introduction of predominantly electronic format for reports and loose-leaf monographs held in the Practitioners Branch Library to create an enhanced electronic research facility.
- Preservation of the existing print material in the Law Library. During the year 323 volumes were bound and 84 volumes repaired. This included two sets of Howell's State Trials which were restored by Biblio Folio funded by a grant from the Public Purposes Trust.

### **9.3.2 Library Services**

The strategy this year was to focus on actions which would contribute to the ability to offer timely, efficient and cost-effective library services to library users.

- Promoting an active program of staff training, including peer training.
- The nine Library staff members attended a total of 158 hours of professional development, library software and legal product training during the year.
- Promoting legal information literacy through training given to library users on the capabilities of the various online products available in the libraries.
- The Customer Services Librarian devised new library induction programs for Judges Associates and Articled clerks. Fourteen groups of:
  - Articled Clerks attended induction sessions in the library and the Law Library participated in the Supreme Court's Associate and Summer Clerks
  - Induction program with six groups attending sessions in the library.
- The services of the Law Library were promoted through the participation in Law Week during May 2008. Two very successful training sessions were conducted in the Burt Seminar Room entitled 'Free legal information on the Internet'. These sessions were over subscribed.
- Utilising technology to improve service delivery to library clients.
  - The methods of delivering material requested by users was reviewed and efficiencies achieved by the greater use of electronic delivery of documents and information via the Internet.

### **9.4 Accommodation**

Court Services have undertaken a major redevelopment of the CBD courts this year. A new District Court was completed and the refurbishment of the Central Law Courts building for the Magistrates Court and other agencies commenced in June 2008. As the Practitioners Branch Library continues to be housed on the 6<sup>th</sup> Floor of this building, the Law Library Advisory Committee has been active in supporting submission to the Department for additional space and the upgrade of the facilities at the branch library.

### **9.5 Links with the legal community**

During this reporting period, the Law Library has maintained links with the legal community. The library supports the activities of the Supreme Court and the Law



Week initiative of the Law Society. During Law Week in May 2008, approximately 84 people visited the Law Library as a part of the tours of the Supreme Court building.

The Law Library has close links with the law libraries attached to the law schools at Western Australian universities and also offers placements for practicum students at the library schools. A library student from ECU University did a two week practicum at the Law Library during September 2007.

Library staff maintains membership of professional library associations and the Librarians and Library Technicians actively participate in Australian Law Librarians Association (WA) and the Australian Court Librarians Group. The Librarian attended the National ALLA Conference in Sydney in September and the associated Court Librarians meeting.

## **9.6 Ongoing projects / Future issues**

Projects which will continue into the 2008 – 2009 financial year include:

- Continuing the digitization of early judgments.
- Developing and enhancing training in the use of online legal research resources. The possibility of providing accredited CPD training for practitioners will also be considered.
- The further development of the PLEAS system, starting with the provision of the Family Court of Western Australia decisions accessed via the web to eligible subscribers.
- The development of an effective web presence to promote the library and to enhance service delivery.
- Progressing the initiative to develop a portal giving access to Western Australian historical legal material in partnership with other interested organisations.
- Continuing collection development, striving for a cost-effective balance between the print and online resources according to the needs of library users.

The continued viability of the Practitioners Branch Library at the Central Law Courts complex is an issue that will be monitored and considered by the Law Library Advisory Committee and the Legal Practice Board in consultation with the legal profession and the judiciary during 2008 – 2009.

I would like to express my appreciation to the Law Library Advisory Committee members for the support and guidance given during the year and to the staff of the Law Library for the enthusiasm and professionalism with which they deliver the best possible library service.

Alice Anderson  
A/Supreme Court Librarian  
October 2008

---

## 10. REPORT FROM THE ARTICLES TRAINING PROGRAM DIRECTOR

### 10.1 Introduction

In order to qualify for admission to practice as a Legal Practitioner in Australia a law graduate must complete a period of practical legal training prescribed by the relevant admitting authority (being the admitting authority in the jurisdiction in which they seek first time admission). In this regard in Western Australia the *Legal Practice Board Rules 2004* require the completion of a period of articles of clerkship and a course of programmed practical legal training provided by the Articles Training Program (ATP) refer Section 27 *Legal Practice Act* and Rule 34.

The ATP was established in 1995 to provide articulated clerks with a program of structured training in practical aspects of the practice of the law in Western Australia.

ATP courses are designed to teach and assess the competence of articulated clerks across a number of Skills, Values and Practice Areas that have been identified by the Australasian Professional Legal Education Council (APLEC) and the Law Admissions Consultative Committee (LACC) as necessary to practice law (refer "*Competency Standards For Entry Level Lawyers*" published jointly by APLEC and LACC in November 2000<sup>1</sup>).

A number of different courses are run by the ATP details of which are described below. The course is largely funded through the fees paid upon enrolment. Fees are set by the Legal Practice Board as part of its annual budget considerations. Fees are maintained at a level sufficient to cover the program's operating costs.

### 10.2 Core Course

Every articulated clerk must complete the four week core course. The course is designed to teach and assess clerks across the following Skills, Practice Area and Values

SKILLS	PRACTICE AREAS	VALUES
Lawyers Skills Problem Solving Work Management and Business Skills Trust and Office Accounting	Civil Litigation Criminal law Practice Consumer Law Practice	Ethics and Professional Responsibility

Before commencing the Core Course a clerk must complete a minimum of 12 weeks employment in their Principal's office. This ensures that they have a degree of context for the teaching and learning covered in the course.

The course runs Monday to Friday for four weeks. Classes operate from 8.45am to 5.00pm on each day and the Course Rules require attendance at all classes unless prior permission is obtained from the Director to be absent.

<sup>1</sup> A link to the text of this document is available on the Resources page of the APLEC website [www.cleaa.asn.au](http://www.cleaa.asn.au)

Teaching is by lectures, tutorials, workshops and practical exercises. There is a strong emphasis on the practical aspects of the practice of law and most of the clerk's time is spent engaged in practical exercises. Clerks are required to complete around 25 written or oral assessment tasks including the conduct of a mock criminal and civil trial, an argued chambers application, an application for bail and a plea in mitigation. Written assessment tasks include letter writing, drafting court documents and the gathering and presentation of written evidence. A clerk who does not demonstrate the minimum level of competence on an assessment is provided with individual tuition to enable them to be reassessed.

There is a significant emphasis on Ethics and Professional Responsibility. The lecture content of this part of the course is usually presented by a member of the independent bar or a member of the judiciary, thereby ensuring a practical and relevant focus. The lectures cover the professional obligations of legal practitioners to their clients, the courts, and to society generally. *The Law Society Professional Conduct Rules* are examined in detail and are fleshed out in tutorials designed to engage the clerks in discussions of hypothetical situations based on the facts of reported cases. There are a number of sessions devoted to raising the awareness of clerks as to the importance of managing work and living so as not to impair health and family life. Clerks are made aware of the resources available to practitioners in this regard.

At the conclusion of the course clerks and their principals are provided with advice certifying that through their participation in the course they have demonstrated the minimum level of competence in each of the Skills, Practice Areas and Values described above.

In order to accommodate the number of articled clerks registered with the LPB during the reporting period the ATP ran six Core Courses. Courses were spread through the year to enable as many clerks as possible to commence a Core Course within 6 months of the registration of their articles of clerkship. Course numbers are limited to 40 per course.

### **10.3 Optional Courses-Property Law practice and Corporate and Commercial Practice**

The admission rules require applicants for admission at the time of their application for admission to have demonstrated the minimum level of competence in two Practice Areas not taught or assessed in the Core Course viz:

- Property Law Practice
- Commercial and Corporate Practice

Following the proclamation of the 2004 *Legal Practice Board Rules* articled clerks may be trained and assessed in these Practice Areas by attending an ATP course **or** their principal may make alternative arrangements to teach and assess their competence against the Competency Standards. Such arrangements may include in house training and assessment or the provision of such by a third party provider.

The ATP offered its first courses in these Practice Areas in the first half of 2007. The courses are intensive. They each run for three full consecutive days. Due to time

constraints much of the teaching is by way of lectures a number of which are delivered by visiting practitioners with current practice experience in the subject matter. The emphasis of the lectures is on the practical aspects of practice in these areas rather than legal theory. For example in the property practice course clerks are taught how to effect common types of transactions rather than the theory of property law, which they have studied at university.

Assessment of clerks' competence in Property Law Practice and Commercial and Corporate Practice is by way of an examination and an assignment in each subject. Clerks receive detailed written feedback on their work which it is hoped will supplement the clerks' knowledge and understanding of the material which has been taught. Clerks who are unable to demonstrate the minimum level of competence on their first attempt at an assessment task are offered further tuition before completing further assessment tasks.

#### **10.4 Basic Accounting**

The National Competency Standards requires applicants for first time admission to have demonstrated a minimum level of competence Trust and Office Accounting. The Descriptor for this Skill provides:

*"an entry level lawyer should have a sound knowledge of the significance of, and the principles governing, trust and general accounting in legal practice and sufficient knowledge, skills and values to maintain trust and general account records according to law and good practice, to the extent usually permitted and expected of an employed solicitor".*

Many clerks have undertaken a study of accounting principles as part of a double degree at undergraduate level. The LPB does not require those clerks to complete any further study or assessment in this area as part of their practical legal training. Clerks who fall into this category may apply to the Director of the ATP for an exemption from attendance at the Basic Accounting course. All other clerks must attend a two day intensive Basic Accounting course run by the ATP. Clerks' competence in this area is assessed via a 1 hour test which requires a score of at least 60% to pass.

#### **10.5 Staffing**

During the reporting period the ATP was staffed by two full time administrative staff and 5 teaching staff (four of whom are employed on a part time basis). We are fortunate to be supported by a number of experienced members of the profession who participate by delivering lectures and participating in tutorials, workshops and mock court hearings. The participation of these practitioners contributes significantly to the quality of the program by ensuring that clerks are provided with current information about the practice of the law in western Australia.

#### **10.6 The Future of the Articles Training Program**

Imminent changes to the State legislation regulating the legal profession will permit law graduates to complete their PLT requirements other than by way of articles of

clerkship. It remains to be seen whether this will have the effect of a significant decrease in the number of articulated clerks registered with the LPB. If that does occur it will become difficult for the cost of the program to be recouped via enrolment fees. In the event of such a scenario the Board will no doubt be forced to consider the future of the ATP.

Deborah Milton  
Director  
Articles Training Program  
September 2008

---

## **11. REPORT FROM THE SENIOR TRUST ACCOUNT INSPECTOR**

---

### **11.1 Current Situation**

The Board employed another Trust Account Inspector on 23 July 2008 providing the capacity for inspections to be increased for the later part of this year and thereafter. I am now dealing with all casual inspections requested by the Legal Practitioners Complaints Committee and the new Trust Account Inspector is dealing with qualified accountants' certificates and random inspections referred to him by the Board.

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

The *Legal Profession Act 2008* ('the New Act') is expected to come into effect from 1 January 2009.

The New Act relating to Trust Accounting is dealt with in Part 9 and reflects a move by the profession nationwide to establish a more uniform approach to regulating trust moneys. It has however, increased in volume from 12 sections to 47 sections and provides a more detailed framework of requirements than previously in place. Although this may at first seem overwhelming, the new structure provides a more comprehensive set of guidelines, which should provide legal practitioners with more direction as to their obligations concerning trust moneys.

The New Act introduces penalties of \$5,000 to \$25,000 for non-compliance with its new provisions.

Practitioners will need to review their current computer software to obtain verification that they meet the needs of the New Act.

This change has been adopted to provide a more uniform approach to the legal profession in Australia and this has been achieved through regular consultation with other jurisdictions.

### **11.2 Inspections 2008**

From inspections undertaken in 2008, it is apparent that practitioners are still not placing enough emphasis on the reconciliation process of their trust bank account in line with the requirements of the *Legal Practice Board Rules 2004*.

There is also a need for practices to be aware of their obligations to adequately inform their clients in respect to their costs and to ensure the correct notification on invoices issued to clients.

During the year, various complex investigations have been undertaken which have consumed a great deal of my resources. However, a greater number of more routine trust account inspections were completed due to the employment of the new Trust Account Inspector.

### 11.3 Seminars

This year I conducted seminars for practitioners on 19 May 2008 (with 88 attendees in the city) and 26 May 2008 (with 15 attendees in Bunbury) and presented a paper on 14 May 2008 at a seminar held by the Law Society of WA dealing with the introduction of the New Act.

With the introduction of the New Act I have been involved in undertaking a proactive approach to highlighting the needs and requirements of the New Act to country practitioners which required travelling to Albany and later this year I will be visiting Broome and Geraldton.

As the regulations under the New Act are still to be finalised a further round of seminars dealing with the actual day to day requirements will need to be scheduled closer to the expected effective date so that practitioners can be adequately prepared. This training will require a more in-depth approach than the previous seminars which dealt with introducing the New Act. I will be targeting the correct processes and documentation that will need to be established by practices as required by the New Act. It is important that this training is scheduled to cover all trust accounting issues and is provided to all practitioners in Western Australia.

Anna Buckley (MS) MBA CPA  
Senior Trust Account Inspector  
October 2008

---

## **12. OTHER LEGAL REQUIREMENTS**

---

### **12.1 Public Interest Disclosure**

In accordance with the *Public Disclosure Act 2003* the Board has a duly appointed Public Disclosure Officer.

No requests for public disclosure were received during the period under review.

### **12.2 Equal Employment Opportunity**

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

### **12.3 Public Sector Standards and Ethical Codes**

In accordance with the *Public Sector management Act 1994* the Board provides the following information regarding compliance during the period under review:

#### 12.3.1 Public Sector Standards

- Nil breach claims
- Information on standards was provided at recruitment
- Training was provided to person on recruitment panels to ensure compliance with relevant standards

#### 12.3.2 WA Code of Ethics

- Nil reports on non-compliance
- WA Code of Ethics forms part of staff induction materials
- Policies are consistent with ethical principles

#### 12.3.3 Agency Code of Conduct

- Is currently being developed

### **12.4 Recordkeeping**

In accordance with the *State Records Act 2000* the Board provides the following information for the period under review:



#### 12.4.1 Recordkeeping Plan

The Board lodged with the State Records Office a revised Retention and Disposal Schedule in February. The Board's Recordkeeping Plan requires amendments and is due to be lodged in December 2008.

#### 12.4.2 Needs and developments

The Board's recordkeeping systems are in considerable need of review, across the various divisions of the organisation. An audit of the Board's record keeping practices will be carried out early January 2009 by a contracted record keeping consultant. As part of the audit, corrective actions will be recommended and the Board will then consider implementation and planning for those recommendations.

#### 12.4.3 Staff training and information sessions

Staff across all divisions require additional regular training programs that are not currently being provided. A regular recordkeeping training program will be developed and implemented by June 2009.

### **13. GOVERNMENT POLICY REQUIREMENTS**

---

#### **13.1 Corruption Prevention**

The Board has acknowledged the risk of corruption when managing organisational risk. As part of the induction of new staff, they are trained in the policies, practice 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 and adhered to.

The Board in the reporting year did not have a written strategy for identifying, managing and preventing misconduct and corruption.

**14. SPECIAL PURPOSE FINANCIAL REPORT**

---

**LEGAL PRACTICE BOARD  
OF WESTERN AUSTRALIA**

**Special Purpose Financial Report  
For the financial year ended 30 June 2008**

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**SPECIAL PURPOSE FINANCIAL REPORT**  
**FOR THE FINANCIAL YEAR ENDED 30 JUNE 2008**

	<u>Page Number</u>
Statement by Executive Director	1
Auditors' Report	2-3
Balance Sheet	4
Income Statement	5
Cash Flow Statement	6
Statement of Changes in Equity	7
Notes to the Financial Statements	8-22

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**STATEMENT BY EXECUTIVE DIRECTOR**

**For the year ended 30 June 2008**

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 it is unlikely that users of the financial report exist, who are not themselves in a position to prepare reports to satisfy specifically all of their information needs. Accordingly, this "special purpose financial report" has been prepared to satisfy the Board's reporting requirements under Sections 14, 15 and 17 of the Legal Practice Act 2003.

The Board declares that:

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



Mr Graeme Geldart  
Executive Director

Date: 13 November 2008  
Perth WA

## **Independent Auditor's Report to the Legal Practice Board of Western Australia**

We have audited the accompanying financial report, being a special purpose financial report, of the Legal Practice Board of Western Australia, which comprises the balance sheet as at 30 June 2008, and the income statement, cash flow statement and statement of changes in equity for the year ended on that date, a summary of significant accounting policies, other explanatory notes and the Statement by the Executive Director as set out on page 1 and pages 4 to 22.

### *The Responsibility of the Board for the Financial Report*

The Board of the entity are responsible for the preparation and fair presentation of the financial report and have determined that the accounting policies described in Note 1 to the financial statements, which form part of the financial report, are appropriate to meet the financial reporting requirements of Sections 14, 15 and 17 of the Legal Practice Act 2003 and are appropriate to meet the needs of the Board. The responsibility of Board also includes establishing and maintaining internal control relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

### *Auditor's Responsibility*

Our responsibility is to express an opinion on the financial report based on our audit. No opinion is expressed as to whether the accounting policies used, as described in Note 1, are appropriate to meet the needs of the Board. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance 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 the Board, as well as evaluating the overall presentation of the financial report.

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

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

Member of  
Deloitte Touche Tohmatsu



*Auditor's Independence Declaration*

In conducting our audit, we have complied with the independence requirements of the Australian professional accounting bodies.

*Auditor's Opinion*

In our opinion, the financial report presents fairly, in all material respects, the financial position of the Legal Practice Board of Western Australia as at 30 June 2008 and of its financial performance, its cash flows and its changes in equity for the year ended on that date in accordance with the accounting policies described in Note 1 to the financial statements.

*Deloitte Touche Tohmatsu*

**DELOITTE TOUCHE TOHMATSU**

*Kathleen Bozanic*

**Kathleen Bozanic**

Partner

Chartered Accountants

Perth, 13 November 2008

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**  
**BALANCE SHEET**  
**AS AT 30 JUNE 2008**

	Note	<u>2008</u> \$	<u>2007</u> \$
<b>CURRENT ASSETS</b>			
Cash and Cash Equivalents	3	6,791,377	6,466,853
Trade and Other Receivables	4	229,113	228,485
Other Current Assets	5	182,097	181,300
<b>TOTAL CURRENT ASSETS</b>		<b>7,202,587</b>	<b>6,876,638</b>
<b>NON-CURRENT ASSETS</b>			
Plant and Equipment	6	1,159,947	441,601
<b>TOTAL NON-CURRENT ASSETS</b>		<b>1,159,947</b>	<b>441,601</b>
<b>TOTAL ASSETS</b>		<b>8,362,534</b>	<b>7,318,239</b>
<b>CURRENT LIABILITIES</b>			
Trade and Other Payables	7	848,866	342,602
Provisions	8	356,471	279,089
Income in Advance	9	3,864,888	3,771,044
<b>TOTAL CURRENT LIABILITIES</b>		<b>5,070,225</b>	<b>4,392,735</b>
<b>NON-CURRENT LIABILITIES</b>			
Provisions	10	73,375	101,868
<b>TOTAL NON-CURRENT LIABILITIES</b>		<b>73,375</b>	<b>101,868</b>
<b>TOTAL LIABILITIES</b>		<b>5,143,600</b>	<b>4,494,603</b>
<b>NET ASSETS</b>		<b>3,218,934</b>	<b>2,823,636</b>
<b>EQUITY</b>			
Retained Earnings	11	3,218,934	2,823,636
<b>TOTAL EQUITY</b>		<b>3,218,934</b>	<b>2,823,636</b>

Notes to the financial Statements are included on Pages 8 to 22



**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**  
**INCOME STATEMENT**  
**FOR THE YEAR ENDED 30 JUNE 2008**

	Note	<u>2008</u> \$	<u>2007</u> \$
<b>REVENUE</b>			
Office of the Board	12	4,876,911	4,665,733
Articles Training Program	13	923,400	564,000
Trust Account Inspector	14	127,032	123,310
Legal Practitioners Complaints Committee	15	178,920	133,925
Law Library	16	215,855	194,855
Income from State Government	17	337,819	331,204
<b>TOTAL REVENUE</b>		<b>6,659,937</b>	<b>6,013,027</b>
<b>EXPENDITURE</b>			
Office of the Board	12	1,556,175	1,293,251
Articles Training Program	13	892,251	673,059
Trust Account Inspector	14	145,286	114,628
Legal Practitioners Complaints Committee	15	2,106,677	2,002,300
Law Library	16	1,226,431	1,101,564
Expenditure from State Government	17	337,819	331,204
<b>TOTAL EXPENDITURE</b>		<b>6,264,639</b>	<b>5,516,006</b>
<b>Net Profit</b>	11	<b>395,298</b>	<b>497,021</b>

Notes to the financial Statements are included on Pages 8 to 22

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**  
**CASH FLOW STATEMENT**  
**FOR THE YEAR ENDED 30 JUNE 2008**

	Note	<u>2008</u>	<u>2007</u>
		\$	\$
<b>Cash flows from operating activities</b>			
Receipts from customers		6,645,552	5,744,793
Payments to suppliers and employees		(5,810,489)	(5,082,368)
Interest received		358,276	200,653
Net cash provided by operating activities	19(b)	1,193,339	863,078
<b>Cash flows from investing activities</b>			
Payment for property, plant and equipment		(868,815)	(184,866)
Net cash used in investing activities		(868,815)	(184,866)
<b>Net increase in cash and cash equivalents</b>			
		324,524	678,212
Cash and cash equivalents at the beginning of the financial year		6,466,853	5,788,641
Cash and cash equivalents at the end of the financial year	19(a)	6,791,377	6,466,853

Notes to the financial Statements are included on Pages 8 to 22

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**  
**STATEMENT OF CHANGES IN EQUITY**  
**FOR THE YEAR ENDED 30 JUNE 2008**

	<b>Retained Earnings \$</b>
<b>Balance at 1 July 2006</b>	2,326,615
Profit for the year	497,021
Total recognised income and expense for the year	<u>497,021</u>
<b>Balance at 30 June 2007</b>	<b><u>2,823,636</u></b>
<b>Balance at 1 July 2007</b>	<b>2,823,636</b>
Profit for the year	395,298
Total recognised income and expense for the year	<u>395,298</u>
<b>Balance at 30 June 2008</b>	<b><u>3,218,934</u></b>

Notes to the financial Statements are included on Pages 8 to 22

## LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

### NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2008

#### 1. Significant Accounting Policies

##### Financial Reporting Framework

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

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

##### Statement of Compliance

The financial report has been prepared on the basis of accounting specified by all Accounting Standards and Interpretations, and the disclosure requirements of AASB 101 'Presentation of Financial Statements', AASB 107 'Cash Flow Statements', and AASB 108 'Accounting Policies, Changes in Accounting Estimates and Errors'

Accounting standards include Australian equivalents to International Financial Reporting Standards ('A-IFRS').

##### Basis of Preparation

The historical cost convention has been adopted. Cost is based on the fair values of the consideration given in exchange for assets. All amounts are presented in Australian dollars.

##### 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 A-IFRS 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 2008; the comparative information presented in these financial statements for the year ended 30 June 2007.

#### 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:

Legal Practice Board	15 – 50%
Law Library	15 – 27%
Legal Practitioners Complaints Committee	15 – 27%
Trust Account Inspector	15 – 27%
Articles Training Program	15 – 27%

## LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

### NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2008

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

##### **a) Depreciation (cont'd)**

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

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, long service leave and sick 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 expected to be settled within 12 months, are measured at their nominal values using the remuneration rate expected to apply at the time of settlement. Liabilities recognised in respect of employee benefits which are not expected to be settled within 12 months 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 balance sheet 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 on disposals are determined by comparing proceeds with carrying amount. These are included in the income statement.

##### **d) Income Tax**

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

##### **e) Revenue Recognition**

##### Interest Revenue

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

##### 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 Practice Act 2003.

Other grants are assistance from the Public Purpose Trust for the purchase of specific library resources.

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2008**

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

**e) Revenue Recognition (cont'd)**

Grants (cont'd)

Grants relating to income are recognised as income over the period necessary to match them with the related costs. Government grants that are receivable as compensation for expenses already incurred are recognised as income in the period 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.

**f) 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 balance sheet.

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.

**g) Impairment of assets**

At each reporting date the company 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.

**h) Cash and Cash Equivalents**

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

**i) Provisions**

Provisions are recognised when there is a present obligation as a result of a past event that will likely require settlement of 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 reporting date. The amount recognised as a provision is the best estimate of the consideration required to settle the present obligation at reporting date, taking into account the risks and uncertainties surrounding the obligation. Where 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.

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2008**

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

**j) Financial Assets**

**Trade and Other Receivables**

Trade and other receivables are recognised and carried at the original invoice amount less an allowance for uncollectible amounts (i.e. impairment). The collectability of receivables is reviewed on an ongoing basis and any receivables identified as uncollectible are written off. The allowance for doubtful debts is raised where there is objective evidence that the Board will not be able to collect the debt. Trade and other receivables are measured at amortised cost less impairment.

**k) Trade and Other Payables**

Trade and other payables are recognised when the company 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.

**l) 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.

**m) Adoption of new and revised Accounting Standards**

At the date of authorisation of the financial report, the following Standards and Interpretations issued by the IASB/ IFRIC where an Australian equivalent has not been made by the AASB, were in issue but not yet effective:

AASB 1004 'Contributions (Revised)'	Effective for annual reporting periods beginning on or after 1 July 2008
AASB 101 'Presentation of Financial Statements' – revised standard	Effective for annual reporting periods beginning on or after 1 January 2009

Initial application of the Standards and Interpretations is not expected to have any material impact on the financial report of the Legal Practice Board of Western Australia.

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2008**

	<u>2008</u>	<u>2007</u>
	\$	\$
<b>2 Auditors Remuneration</b>		
Deloitte Touche Tohmatsu Audit of the financial report	16,000	14,469
	<hr/>	<hr/>
	16,000	14,469
	<hr/>	<hr/>
<b>3 Cash and Cash Equivalents</b>		
Cash at Bank	2,680,073	914,002
Cash on Hand	1,089	1,538
Term Deposits	4,110,215	5,551,313
	<hr/>	<hr/>
	6,791,377	6,466,853
	<hr/>	<hr/>
<b>4 Trade and Other Receivables</b>		
Trade Receivables	323,594	317,966
Less Allowance for Doubtful Debts	(94,481)	(89,481)
	<hr/>	<hr/>
	229,113	228,485
	<hr/>	<hr/>
<b>5 Other Current Assets</b>		
Accrued Interest	182,097	174,924
Prepayments	-	6,376
	<hr/>	<hr/>
	182,097	181,300
	<hr/>	<hr/>



**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2008**

**6. Plant and Equipment**

	Office of the Board \$	Law Library \$	Legal Practitioners Complaints Committee \$	Trust Account Inspector \$	Articles Training Program \$	Library Books \$	Total \$
<b>Gross Carrying Amount</b>							
Balance at 30 June 2006	181,074	242,756	192,268	17,768	228,844	100,000	962,710
Additions	25,328	8,271	112,972	4,324	35,796	-	186,691
Disposals	(6,958)	(5,613)	(17,436)	-	(12,132)	-	(42,139)
Balance at 30 June 2007	199,444	245,414	287,804	22,092	252,508	100,000	1,107,262
<b>Accumulated Depreciation/ Amortisation</b>							
Balance at 30 June 2006	(124,365)	(180,325)	(108,121)	(3,904)	(175,331)	-	(592,046)
Depreciation Expense	(19,882)	(23,079)	(42,740)	(2,225)	(21,927)	-	(109,853)
Disposals	5,133	5,613	15,974	-	9,518	-	36,238
Balance at 30 June 2007	(139,114)	(197,791)	(134,887)	(6,129)	(187,740)	-	(665,661)
<b>Net Book Value</b>							
As at 30 June 2006	56,709	62,431	84,147	13,864	53,513	100,000	370,664
As at 30 June 2007	60,330	47,623	152,917	15,963	64,768	100,000	441,601

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 2008**

**6. Plant and Equipment (cont)**

	Office of the Board \$	Law Library \$	Legal Practitioners Complaints Committee \$	Trust Account Inspector \$	Articles Training Program \$	Library Books \$	Total \$
<b>Gross Carrying Amount</b>							
Balance at 30 June 2007	199,444	245,414	287,804	22,092	252,508	100,000	1,107,262
Additions	851,638	1,778	13,213	-	2,186	-	868,815
Disposals	(55,433)	(3,390)	(1,938)	-	(4,897)	-	(65,658)
Balance at 30 June 2008	995,649	243,802	299,079	22,092	249,797	100,000	1,910,419
<b>Accumulated Depreciation</b>							
Balance at 30 June 2007	(139,114)	(197,791)	(134,887)	(6,129)	(187,740)	-	(665,661)
Depreciation Expense	(61,370)	(20,602)	(42,070)	(2,303)	(20,386)	-	(146,731)
Disposals	52,380	3,010	1,633	-	4,897	-	61,920
Balance at 30 June 2008	(148,104)	(215,383)	(175,324)	(8,432)	(203,229)	-	(750,472)
<b>Net Book Value</b>							
As at 30 June 2007	60,330	47,623	152,917	15,963	64,768	100,000	441,601
As at 30 June 2008	847,545	28,419	123,755	13,660	46,568	100,000	1,159,947

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 2008**

	<u>2008</u>	<u>2007</u>
	\$	\$
<b>7 Trade and Other Payables</b>		
Trade Payables	682,382	146,648
Other Payables	57,006	132,088
Accruals	109,478	63,866
	<hr/>	<hr/>
	848,866	342,602
	<hr/>	<hr/>
<b>8 Current Provisions</b>		
Provision for Annual Leave	216,715	182,976
Provision for Long Service Leave	139,756	96,113
	<hr/>	<hr/>
	356,471	279,089
	<hr/>	<hr/>
<b>9 Income in Advance</b>		
Publication Sales in Advance	8,700	8,200
Course Fees in Advance	431,432	327,820
Photocopying in Advance	24,812	25,230
PLEAS - Subscriptions in Advance	58,300	62,300
Practice Certificates in Advance	3,329,056	3,335,512
Solicitors Guarantee Fund	12,588	11,982
	<hr/>	<hr/>
	3,864,888	3,771,044
	<hr/>	<hr/>
<b>10 Non-Current Provisions</b>		
Provision for Long Service Leave	73,375	101,868
	<hr/>	<hr/>
	73,375	101,868
	<hr/>	<hr/>
<b>11 Accumulated Funds</b>		
Balance at Beginning of the year	2,823,636	2,326,615
Net Profit	395,298	497,021
	<hr/>	<hr/>
Balance at End of Year	3,218,934	2,823,636
	<hr/>	<hr/>

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2008**

12	<b><u>Office of the Board</u></b>	<b><u>2008</u></b>	<b><u>2007</u></b>
		\$	\$
	<b>Income</b>		
	Assessment of Qualifications	21,350	13,250
	Admissions	85,200	188,250
	Advertising - Admissions	15,930	13,200
	Annual Grant	250,000	250,000
	Articles Registration Fees	53,200	52,600
	Bank Interest	365,449	292,346
	Evidentiary Certificates	13,100	-
	Fines	56,750	129,500
	Foreign Lawyers	3,600	-
	Supervising Solicitors reimbursement	148,358	71,909
	Practice Certificates	3,861,400	3,654,510
	Miscellaneous Income	2,574	168
		<hr/>	<hr/>
		4,876,911	4,665,733
	<b>Expenditure</b>		
	Advertising	17,764	34,805
	Audit and Accounting Fees	16,469	13,158
	Bank Charges	17,101	11,312
	Computer Expenses	17,958	17,019
	Conference Attendance	13,195	5,938
	Depreciation	61,370	19,882
	Facsimile	1,014	1,089
	Fringe Benefits Tax	6,885	2,950
	HR Consultant	11,611	11,849
	Insurance	-	1,307
	Legal Costs - LPB	294,105	287,217
	Loss on Sale of Non-Current Assets	3,054	-
	Miscellaneous Costs	63,420	25,324
	Payroll Tax	37,206	33,776
	Postage and Petties	21,759	19,110
	Professional Memberships	3,770	-
	Printing and Stationery	39,730	20,698
	Allowance for Doubtful Debts	3,500	7,000
	Reference Materials	1,947	2,223
	Salaries	807,206	702,722
	Service and Maintenance	2,469	5,014
	Storage	13,025	5,393
	Superannuation Contributions	63,991	58,382
	Training	29,657	4,156
	Transcripts	1,287	-
	Travel & Accommodation	3,154	-
	Workers' Compensation	3,528	2,927
		<hr/>	<hr/>
		1,556,175	1,293,251
		<hr/>	<hr/>

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2008**

13 <b><u>Articles Training Program</u></b>	<b><u>2008</u></b>	<b><u>2007</u></b>
	\$	\$
<b>Income</b>		
Course Fees	923,400	564,000
	<hr/>	<hr/>
	923,400	564,000
	<hr/>	<hr/>
<b>Expenditure</b>		
Accommodation	128,952	123,983
Advertising	4,243	4,440
Cleaning and Gardening	19,649	17,664
Conference Attendance	6,820	3,661
Computer Expenses	1,650	2,954
Depreciation	20,386	21,927
Electricity	11,612	9,569
Fringe Benefits Tax	311	363
Insurance	-	766
Lecturers	115,816	58,050
Loss on Sale of Non-Current Assets	-	2,614
Miscellaneous Expenses	1,233	2,337
Payroll Tax	24,239	17,370
Postage and Petties	5,147	4,114
Printing & Stationery	24,089	11,031
Professional Memberships	3,226	5,685
Reference Materials	4,736	4,950
Salaries	457,962	333,947
Service and Maintenance	12,286	8,340
Student Amenities	2,869	2,756
Superannuation Contributions	35,347	28,921
Teaching Materials	179	-
Telephone and Facsimile	5,882	4,603
Training	3,985	1,760
Workers' Compensation	1,632	1,254
	<hr/>	<hr/>
	892,251	673,059
	<hr/>	<hr/>

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2007**

14	Trust Account Inspector	<u>2008</u>	<u>2007</u>
		\$	\$
	<b>Income</b>		
	Seminar Fees	4,482	3,946
	TAI Reimbursements	122,550	119,364
		<hr/>	<hr/>
		127,032	123,310
		<hr/>	<hr/>
	<b>Expenditure</b>		
	Computer Consultancy	-	360
	Conference Attendance	2,976	802
	CPA Membership	549	842
	Depreciation	2,303	2,225
	Fringe Benefits Tax	913	761
	Insurance	-	102
	Mileage	2,287	3,973
	Parking	4,885	3,536
	Payroll Tax	5,916	5,467
	Printing & Stationery	73	542
	Reference Materials	-	51
	Room Hire	2,079	1,611
	Salary	105,742	83,541
	Superannuation Contributions	8,251	7,488
	Telephone Reimbursement	258	344
	Training	2,877	1,604
	Travel and Accommodation	2,013	1,090
	Workers' Compensation	342	289
	Miscellaneous Expenses	3,822	-
		<hr/>	<hr/>
		145,286	114,628
		<hr/>	<hr/>

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2008**

15	Legal Practitioners Complaints Committee	<u>2008</u>	<u>2007</u>
		\$	\$
	<b>Income</b>		
	Costs Recovered	169,340	128,968
	Fines - Summary Jurisdiction	9,400	4,750
	Miscellaneous Income	180	207
		<hr/>	<hr/>
		178,920	133,925
		<hr/>	<hr/>
	<b>Expenditure</b>		
	Advertising	15,145	4,949
	Computer Expenses	1,465	3,454
	Conference Attendance	11,718	8,063
	Depreciation	42,070	42,740
	Fringe Benefits Tax	897	1,179
	Insurance	-	207
	Legal Costs	288,465	365,226
	Loss on Sale of Non-Current Assets	304	1,462
	Payroll Tax	66,536	56,139
	Postage and Petties	21,761	19,317
	Printing and Stationery	20,481	23,450
	Allowance for Doubtful Debts	1,500	34,904
	Professional Fees & Memberships	21,490	24,262
	Reference Materials	5,802	6,487
	Salaries	1,458,101	1,265,100
	Service and Maintenance	7,454	6,658
	Storage	6,782	6,067
	Superannuation Contributions	115,628	113,236
	Training	12,278	4,790
	Transcripts	2,228	1,535
	Workers' Compensation	4,943	4,765
	Miscellaneous Expenses	1,629	8,310
		<hr/>	<hr/>
		2,106,677	2,002,300
		<hr/>	<hr/>

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2008**

16	Law Library	<u>2008</u>	<u>2007</u>
	<b>Income</b>		
	Library Photocopier and other income	66,533	80,109
	PLEAS	59,100	65,200
	Reimbursement- Department of Attorney		
	General	75,262	29,546
	Grants	14,960	20,000
		<hr/>	<hr/>
		215,855	194,855
		<hr/>	<hr/>
	<b>Expenditure</b>		
	Serials	526,405	493,002
	Monographs	29,177	22,011
	Electronic Publications	162,848	149,992
	Online/Library Services	313	240
	Bank Charges	427	426
	Cleaning and Binding	34,641	15,795
	Computer Consultancy	32,004	36,622
	Conferences and Meetings	1,941	1,845
	Depreciation	20,602	23,079
	Fringe Benefits Tax	507	401
	Institutional & Professional Memberships	1,132	659
	Insurance	-	10,583
	Inter Library Loan Costs	-	36
	Loss on Sale of Non-Current Assets	380	-
	Minor Assets/ Office Equipment	973	538
	Payroll Tax	15,384	12,705
	Postage and Petties	1,344	1,990
	Printing and Stationery	1,211	1,696
	Promotions	80	101
	Salaries	345,986	285,534
	Service and Maintenance	884	150
	Staff Professional Memberships	754	844
	Superannuation Contributions	27,603	25,321
	Training	2,667	1,924
	Workers' Compensation	966	988
	Miscellaneous Expenses	2,917	1,445
	Photocopier Costs	10,508	10,406
	PLEAS - Costs	4,777	3,231
		<hr/>	<hr/>
		1,226,431	1,101,564
		<hr/>	<hr/>



**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2007**

**17 Income from State Government**

<b>Resources received free of charge</b>	<b><u>2008</u></b>	<b><u>2007</u></b>
	\$	\$
Determined on the basis of the following estimates provided by the Department of the Attorney General:		
<b>Office space rental</b>	337,819	331,204

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><u>2008</u></b>	<b><u>2007</u></b>
	\$	\$
Current (note 8)	356,471	279,089
Non-current (note 10)	73,375	101,868
	<hr/>	<hr/>
	429,846	380,957
	<hr/>	<hr/>
	<b>No.</b>	<b>No.</b>
Number of employees at end of financial year	43	45

**19 Notes to the cash flow statement**

<b><u>2008</u></b>	<b><u>2007</u></b>
\$	\$

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

For the purposes of the cash flow statement, 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 cash flow statement is reconciled to the related items in the balance sheet as follows:

Cash and cash equivalents	6,791,377	6,466,853
	<hr/>	<hr/>
	6,791,377	6,466,853

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

	<b><u>2008</u></b>	<b><u>2007</u></b>
	\$	\$
Profit for the period	395,298	497,021
Loss on sale or disposal of non-current assets	3,738	4,076
Depreciation and amortisation of non-current assets	146,731	109,853

**LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA**

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDING 30 JUNE 2008**

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

<b>Changes in net assets and liabilities:</b>	<b><u>2008</u></b>	<b><u>2007</u></b>
	<b>\$</b>	<b>\$</b>
(Increase)/decrease in assets:		
Current receivables	(628)	88,773
Other current assets	(797)	(94,306)
Increase/(decrease) in liabilities:		
Current payables	506,264	(20,337)
Current provisions	77,382	655
Income in advance	93,844	266,543
Non-current provisions	(28,493)	10,800
<b>Net cash from operating activities</b>	<b><u>1,193,339</u></b>	<b><u>863,078</u></b>

**20 Subsequent events**

To the best of our knowledge there are no subsequent events that require disclosure or adjustment to the accounts at balance sheet date.

**21 Additional Company Information**

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

*Registered Office*

*Principal Place of Business*

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

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

**22 Commitments for Expenditure**

	<b><u>2008</u></b>	<b><u>2007</u></b>
	<b>\$</b>	<b>\$</b>
Operating Lease Commitments		
Not longer than 1 year	27,311	-
Longer than 1 year and not longer than 5 years	169,865	291,564
Longer than 5 years	-	-
	<b><u>197,176</u></b>	<b><u>291,564</u></b>

**23 Contingent liabilities**

To the best of our knowledge there are no contingent liabilities that require disclosure or adjustment to the accounts at balance sheet date.