

ANNUAL REPORT 2020-2021



LEGAL PRACTICE BOARD
OF WESTERN AUSTRALIA



Legal Practice Board of Western Australia

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STATEMENT OF COMPLIANCE

FOR THE YEAR ENDED 30 JUNE 2021

The Hon. John R Quigley LLB JP MLA
Attorney General and Minister for Commerce

In accordance with Section 551 of the *Legal Profession Act 2008*, we hereby submit for your information and presentation to Parliament the Annual Report for the Legal Practice Board of Western Australia for the financial year ended 30 June 2021.

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



John Fiocco
Chair
Legal Practice Board WA



Libby Fulham
Executive Director
Legal Practice Board WA

7 December 2021

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Introduction

This year again has seen the continued implementation of changes to the operations and functions of the Legal Practice Board (**Board**).

The changes that occurred in the reporting period, and continue to be managed, include the following:

- The government's commitment to introducing into Western Australia the uniform legal profession legislation currently operational in NSW and Victoria. The Legal Profession Uniform Law Application Bill (**Application Bill**) to establish the bodies to perform the duties and functions under the *Legal Profession Uniform Law (Uniform Law)* was introduced into parliament on 18 March 2020, but lapsed as parliament prorogued at the end of the 2020 session. The Application Bill was re-introduced to parliament on 23 June 2021 and it is currently in the Legislative Council awaiting agreement of the second reading, following the tabling of the report from the Standing Committee on Uniform Legislation and Statutes Review on 12 October 2021. It is anticipated that the Application Bill will be approved by parliament with a commencement date on or before 1 July 2022.
- The conclusion of the fifth year since the introduction of a condition on practising certificates requiring the successful completion of a practice management course before practitioners can practise as a Principal;
- The completion of the fourth year of the consolidation of the separate premises of the Board office and the office of the LPCC;
- The development and implementation of online platforms for the management of Admissions and CPD, and a case management system;
- The implementation of a new strategic direction; and
- The ongoing management of the COVID-19 pandemic.

I have been impressed by the work of the staff of the Board. In many cases the staff deal with difficult and complex issues but they invariably deal with them in a professional, timely and appropriate manner.

Practising Certificate Application Fees

From 1 July 2016 the Board has been responsible for meeting all of its accommodation and associated costs, as well as all of its usual operational costs. Despite these significant cost increases, the Board decided not to increase the fee accompanying practising certificate applications, and that fee has been maintained at \$1,250 per annum.

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

The introduction of the Uniform Law will see an additional contribution by members of the profession to cover the costs of the Legal Services Council, which oversees the implementation and operation of the Uniform Law. The cost is likely to be in the vicinity of \$30 per practitioner, commencing 1 July 2022, assuming the Uniform Law is introduced by that date.

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

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

Accommodation Funding and Leasing

Since 24 July 2017 the offices of the Board and the LPCC have been consolidated in new premises on Level 6, 111 St Georges Terrace, Perth. All Board and LPCC meetings have taken place at these premises. I believe the co-location of the Board and LPCC has meant enhanced complementary systems and performance of most activities where the two bodies are required to work together.

COVID-19 has resulted in periodic closure of the Board's office during periods of lockdown. During these times all meetings were held via telephone and video conference. Even with the return to the office and face-to-face meetings telephone and video conference options continue and it is pleasing that this method of flexibility has been maintained.

Legislative Reform

National Uniform Law

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

On 23 June 2021 the Legal Profession Uniform Law Application Bill 2021 was introduced into Parliament and it is currently in the Legislative Council awaiting agreement of the second reading, following the tabling of the report from the Standing Committee on Uniform Legislation and Statutes Review on 12 October 2021. It is anticipated that the Application Act will be passed by parliament with a commencement date on or before 1 July 2022.

From the date of commencement, the Legal Services Council, which oversees the implementation and operation of the Uniform Law, will be expanded to seven and include at least one member from Western Australia.

The three major bodies under the Uniform Law scheme are the Standing Committee, the Legal Services Council, and the Legal Services Commissioner.

The role and responsibilities of the Standing Committee are to develop and ensure consistent policy for the regulation of the legal profession and to perform the functions allocated to it under the Uniform Law.

The Legal Services Council makes Uniform Rules and monitors their implementation to ensure consistency across participating jurisdictions.

The Legal Services Commissioner is responsible for the operation of the Legal Services Commission. The Commissioner has the objectives of promoting compliance with the requirements of the Uniform Law and the Uniform Rules, ensuring the consistent and effective implementation of the Uniform Law and the Uniform Rules, and raising awareness of the Uniform Law scheme.

The funding of the Uniform Law scheme is subject to the control of the Standing

Committee and must be unanimously approved by the Standing Committee. The obligation of parties to the Uniform Law scheme to make a funding contribution is in proportion to the total number of legal practitioners within the participating jurisdiction.

At the end of June 2021 the Board had issued 6,757 practising certificates, and 21 practising certificates continued to be in force. The Board also held records of 562 WA government lawyers who are taken to be local legal practitioners.

There will be a cost per practitioner per annum payable to the Legal Services Council, which, as already stated, is expected to be no more than \$30 per practitioner.

Under the Uniform Law WA government lawyers will hold practising certificates and the Board will be responsible for exemptions to professional indemnity insurance.

The Board will be the designated local regulatory authority and will delegate to the LPCC, as a committee of the Board, functions under the Uniform Law pursuant to section 406 of the Uniform Law.

Practice Management Course Condition

As noted in past reports, a high proportion of conduct breaches on the part of legal practitioners that are brought to the attention of the Board arise from poor practice management skills and a lack of understanding and capability on the part of practitioners in how to properly manage a legal practice. The identified issues involve various matters including failure to communicate effectively with clients, failure to meet statutory obligations (both legal and business), failure to properly operate trust accounts, and failure to appropriately observe rules relating to the protection of the public and the maintenance of the reputation of the profession.

The Board requested its Professional Development Committee to address these matters which led to the development of a curriculum for a practice management course and the introduction and imposition of a practice management condition on practising certificates. That condition was first introduced for practising certificates in the 2016-2017 practising year and requires practitioners to successfully complete the practice management course before removal of the condition and becoming entitled to practise as a Principal.

The Report from the Professional Development Committee provides more detail on the application and administration of the practice management course condition.

Government Officers' Salaries, Allowances and Conditions Award 1989

On 21 December 2018 the Board was named a respondent to the *Government Officers' Salaries, Allowances and Conditions Award 1989*, the main differences being a change in long service leave provisions and annual leave loading.

Strategic Direction

Notwithstanding the introduction of the Uniform Law, it is important that the Board articulates a direction and priorities are established for the Board. A new Strategic Direction has been published that will enable the Board to set aims and articulate how those aims will be achieved. Setting the right goals and targets will help everyone work together and focus efforts to meeting those goals and targets.

The Strategic Direction is also a part of the consideration of an organisation wide Service Model Review. There is more on the Strategic Direction and Service Model Review in the reports from the Executive Director and the Management Committee.

COVID-19

As I have already mentioned, the impact on the profession of COVID-19 appears to be relatively small. There were a number of measures put in place to assist the profession to comply with regulatory requirements during the previous reporting period. In this reporting period there were no concessions made, and notwithstanding it is pleasing to see that approximately 96% of practising certificate renewals were made within the standard renewal period from 1 to 31 May 2021.

There were no allowances made with CPD compliance, variations to the PMC Condition, and allowing extra time to submit annual external examiner reports as there were in the previous reporting period. However, the access to virtual learning platforms has provided easy and ready access to the profession to complete these essential statutory requirements.

Online Platforms

In the last report the then Chair, Matt Zilko SC, advised it had been identified that the Board needs a more efficient means of managing matters (suitability and disciplinary investigations, file management, case management, and compliance management), including the statistical data associated with matters, the progress of matters and other general information which is relevant to investigating matters.

As already mentioned one part of the Board's progress in this regard is an online CPD management system. The Board has used its existing database to build a 'responsive' site to manage CPD. The system allows providers of CPD to upload into the Board's database, records of all CPD activities delivered and the record of attendance by WA practitioners. Practitioners are able to view their centralised CPD record by logging into their records in the database. The system will assist the Board to monitor CPD compliance and identify activities or practitioners for audit purposes. This is a significant step in WA and will serve as a benchmark tool for strengthening collaborative approaches on the quality and suitability of continuous legal education and managing CPD compliance.

Another initiative is the Admissions Online project that allows applicants for admission to make their applications completely online. The Admissions applications are lengthy and require a number of attachments. This system will streamline the application process and reduce manual handling of hard copy applications.

A third project being implemented, and still a work in progress, is a case management system that will support internal workflows and processing of forms, manage and assist with assessments and auditing, manage approvals, escalation and committee outcomes; automate correspondence, reminders and actions; and provide statistical dashboards and automated regular reporting.

Business of the Board

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

The full Board met formally on 3 occasions in the reporting year and conducted 6 electronic meetings. Among other things it passed resolutions regarding:

- The Legal Profession Uniform Law Application Bill.

- Appointment of returning officers for the Board membership elections.
- Confirmation of membership of elected members to the Board.
- Confirmation or election of the appointment of members to the Board's delegated committees and to the LPCC.
- Confirmation or election of the appointment of Convenors and Deputy Convenors for each of the Board's delegated committees.
- Election of the Chair and Deputy Chair.
- Filling of a casual vacancy of an elected member of the Board
- Appointment of the Board's nominated member of the Theodore & Isabella Wearne Charitable Trust Incorporated.

Membership of the Board

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

At the end of the year under review the Board had a total of 51 members which is indicative of the obligation and responsibility many senior members of the profession accept in order to maintain a high level of professional standards and to ensure the ongoing protection of the public. Since July 2020, and up to 1 July 2021, 4 new Senior Counsel nominated for membership of the Board.

The Board greatly values the *pro bono* contribution given by its members and the vast knowledge, experience and expertise they bring to its considerations. However, due to the very high calibre of its members, the Board invariably loses valued members when they are appointed to the bench, retire or are not re-elected.

During the year under review:

- Her Honour Judge Karen Shepherd resigned from the Board on 2 August 2020 following her appointment to the District Court. Congratulations are extended to Judge Shepherd.
- Theo Lampropoulos SC resigned from the Board on 7 September 2020.
- James Thomson SC retired and he resigned from the Board on 5 October 2020.
- Simon Freitag SC resigned from the Board on 11 December 2020 following an appointment to the District Court. Mr Freitag SC has since resigned from the District Court.
- Her Honour Judge Carmel Barbagallo SC resigned from the Board on 2 February 2021 following her appointment to the District Court. Congratulations are extended to Judge Barbagallo SC.
- The Honourable John Gilmour QC passed away on 6 February 2021, and condolences are extended to his family.
- Natalie Dimmock did not stand for re-election and her term ended on 7 April 2021.
- Chris Zelestis QC resigned from the Board on 12 May 2021.

Membership of the Board as at 30 June 2021 was as follows:

Attorney-General	Solicitor-General	Chair	Deputy Chair
The Hon. Mr JR Quigley MLC	Mr Joshua A Thomson SC	Mr JGM Fiocco	Ms SM Schlink

Queens Counsel in alphabetical order (not in order of seniority):	Senior Counsel	Elected Members
The Hon. Mr J Gilmour QC (deceased 6 February 2021)	Ms C Barbagallo SC (resigned 2 February 2021 for appointment to the District Court)	Ms A Ciffolilli
Mr RK O'Connor QC	Mr MR Berry SC	Ms ML Coulson
Mr S Owen-Conway QC	Mr JB Blackburn SC	Ms NB Dimmock (did not stand for re-election)
Mr TF Percy QC	Ms LE Christian SC	Ms P Femia (filling a casual vacancy and then elected)
Mr CL Zelestis QC (resigned 12 May 2021)	Mr GD Cobby SC	
	Mr MD Cuerden SC	Mr JGM Fiocco (Chair of the Board)
	Mr M Curwood SC	
	Mr SM Davies SC	Ms RT Heath
	Mr B Dharmananda SC (Deputy Chair of the LPCC)	Dr JJ Hockley
	Mr SK Dharmananda SC	Ms AM Liscia
	The Hon. Mr PM Dowding SC	Mr GN Mack
	Ms KJ Farley SC	Ms AL Pascoe
	Mr MJ Feutrill SC	Ms SM Schlink (Deputy Chair of the Board)
	Ms AL Forrester SC	
	Mr LM Fox SC	
	Mr SD Freitag SC (Resigned 11 December 2020 for appointment to the District Court)	Ms KA Shepherd (resigned 2 August 2020 for appointment to the District Court)
	Mr J Garas SC	Mr JG Syminton
	Mr JB Hedges SC	
	Mr RS Hooper SC	Mr RG Wilson
	Mr MD Howard SC	
	Mr HH Jackson SC	
	Mr T Lampropoulos SC (resigned 7 September 2020)	
	Ms KR Lendich SC	
	Mr JRB Ley SC (Chair of the LPCC)	
	Mr JD MacLaurin SC	
	Mr GMG McIntyre SC	
	Mr AJ Musikanth SC	
	Mr KM Pettit SC	
	Mr MT Ritter SC	

	Mr AJ Sefton SC	
	Mr CP Shanahan SC	
	Mr MN Solomon SC (resigned 4 August 2021 for appointment to the Supreme Court)	
	Ms CJ Thatcher SC	
	Mr James A Thomson SC (resigned 5 October 2020)	
	Mr S Vandongen SC	
	Mr JC Whalley SC	
	Mr SJ Wright SC	
	Mr PD Yovich SC	
	Mr MH Zilko SC	

Acknowledgements

I would like to extend a special vote of thanks to Sabina Schlink who has been Deputy Chair of the Board since April 2021 and who continues to be the Convenor of the Admissions & Registration Committee. Sabina's support and dedicated contribution to the Board's activities is greatly appreciated.

Special thanks are also extended to Anna Liscia (Convenor of the Management Committee), John Ley SC (Chair of the LPCC), Brahma Dharmananda SC (Deputy Chair of the LPCC), and John Syminton (Convenor of the Professional Development Committee) for their leadership and guidance of these committees. Thanks also to the Deputy Convenors for their support and to all members of the Board who selflessly give their time throughout the year.

Thank you also to the Board staff across all divisions, particularly our very hard-working Executive Director, Libby Fulham, for their dedicated work without which the Board and its committees could not operate as effectively and efficiently as they do.

John Fiocco

Chair

Legal Practice Board

December 2021

REPORT FROM THE EXECUTIVE DIRECTOR

Position of Executive Director

This is my fourth annual report in this position as I enter my fifth year as the Executive Director.

Four years ago I began my report, like most reports, saying how the business of the Board continues through the steady flow of admissions and the very busy peak periods between March and June with regard to the scrutiny of external examiners reports, the end of the CPD year and the renewal of practising certificates. That statement is still correct, as it is likely to be for many years to come, however this year the climate has changed with disease and direction being matters that were front and centre.

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

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

The regular statutory operations of the Board include:

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

As has been set out in past reports, I would again like to note that whilst the Executive Director holds overarching responsibility for the delivery of the Board's obligations and statutory services, and operations of the Board, these can only be delivered through operational and staffing structures that facilitate those services. In this regard I once again acknowledge that my work colleagues across the entire office, are of the highest calibre, thus making delivery of my responsibilities both manageable and enjoyable.

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

In addition to the regular management of the human, physical and financial resources

of the Board, during the reporting year I oversaw the administration relating to the following matters:

- The extended introduction of the Legal Profession Uniform Law Scheme (**Uniform Law**) anticipated to be from or before 1 July 2022.
- The completion of the fifth year of a condition on practising certificates requiring the successful completion of a practice management course before practitioners can practice as a Principal of a law practice.
- The development of the online CPD management system.
- Enhancing the Board's physical and technological resources.
- Working with the Trust Account Inspectors to conduct the trust account work to meet strategic targets.
- Managing the Board's employment terms and conditions, under the current legislation, the Award, and within the Public Sector.
- Managing the impact of COVID-19 on all staff and operations.
- Implementing appropriate responses and resources around matters of sexual harassment and the continuing rise of mental health issues in the profession.

Many of these matters are covered in more detail in the reports of the Chair, the Convenor of the Management Committee, the Professional Development Committee, Information Technology, and Trust Accounts, and I will not therefore duplicate all that detail.

However, I will focus on the relentless grip of COVID-19 on our community, the ground swell movement in relation to tackling sexual harassment in our profession, a critical review into the delivery of our functions, and the ever imminent introduction of the Uniform Law scheme in WA, which have all led to the revitalisation of our strategic direction and re-focus on the delivery of our regulatory services.

COVID-19

During the initial phases of working through the lock-down periods relating to COVID-19 I revamped our senior leadership group, or SLG as I call it, that consisted of myself, the Law Complaints Officer Russell Daily, the Deputy Executive Director Denis Barich, the Admissions & Registration Coordinator Deb MacDonald, the Corporate Support Officer Deb Shahar, and the IT & Information Manager Analisa Zainal. The SLG worked tirelessly with me through the various iterations of being in and out of the office and managing our valuable staff and delivery of services.

It is important to recognise that the overall outcome of the pandemic, whilst not as active in WA as in other jurisdictions, has had an impact on the WA legal profession. However, our staff have continued to discharge their responsibilities throughout the year despite the various disruptions, and I again recognise that even in a crisis the regulation of the profession is as important as ever and does not cease for disaster or disease.

Strategic Direction

The development, endorsement, and release of our new strategic direction was one critical achievement of the SLG. Born from an approach that focuses on a proportionate response to possible harm, the new direction espouses the values of empathic engagement, integrity, and competence. Our three aims are to have an engaged, active, competent and ethical legal profession; to be a trusted, relevant, innovative, and expert public body; and to have an efficient and effective administration.

During the reporting year we have undergone extensive consultation and review of the delivery of our services. I anticipate that the next reporting year will see the realignment of our resources to better discharge our functions.

Uniform Law

On 23 June 2021 the *Legal Profession Uniform Law Application Bill 2021* was introduced into Parliament and it is currently in the Legislative Council awaiting agreement of the second reading, following the tabling of the report from the Standing Committee on Uniform Legislation and Statutes Review on 12 October 2021.

The Bill applies the Legal Profession Uniform Law, the uniform regulations and uniform rules as laws of Western Australia. The Bill also specifies the designated local regulatory authorities and the designated tribunals for the purposes of the Legal Profession Uniform Law.

The Legal Practice Board is the primary designated local regulatory authority.

The Bill's second reading speech in the Legislative Council took place on 4 August 2021. The debate was adjourned and the Bill referred to the Standing Committee on Uniform Legislation and Statutes Review.

On 12 October 2021 the Standing Committee on Uniform Legislation and Statutes Review submitted its report on the Bill to the Legislative Council. The report recommended amendments to the Bill, mainly concerning the use of Henry VIII clauses in the Bill.

I continue to work closely with the government by providing consultation on the Bill and the development of local regulations and. This has included work to manage the anticipated changes under the Uniform Law, and providing education material and seminars to the profession.

Sexual Harassment

The challenge of providing a proportionate approach to the issue of sexual harassment in our profession continues. As the regulator of the legal profession in Western Australia the part the Board has to play is more than simply being reactive to individual complaints, and there are clear steps the Board can take when it comes to proactive engagement with a view to long term behavioural change.

The Board's purpose is to protect the public and advance the administration of justice by regulating the competence and behaviour of legal practitioners and importantly by promoting the integrity of the Board and its Committees.

Sexual harassment in the profession is behaviour not to be tolerated. If a matter of this kind comes before the Board it will be considered and addressed, and where appropriate investigated as to whether there should be a disciplinary response.

Where possible we are trying to take the onus from the individual as a complainant and make the universal problem one that the wider profession can own and be instrumental in the solution. Staff are being proactive in:

1. Calling out sexual harassment as an embedded issue in our profession, and not an individual's problem.
2. Improving awareness of sexual harassment – what it is, how it can be identified, and action to take when it is identified.
3. Promoting the utmost ethical and professional responsibilities of members of the profession.

4. Providing resources to practitioners to understand the issues surrounding sexual harassment and other inequality behaviours.
5. Promoting best practice policy and procedure to support the prevention, identification, reporting, and resolution of sexual harassment complaints.
6. Promoting cultural excellence in stamping out sexual harassment in our profession. Calling perpetrators out goes a long way to ensuring that as a profession we are united in upholding our professional obligations.
7. Promoting our credibility as a regulator so the profession is confident in our capability to equip them with an appropriate response to this issue and with the means to bring about effective change.
8. Working with other regulators in this jurisdiction and nationally to challenge accepted bad behaviours in the legal profession.

In part, to meet the above, the following actions have been taken:

- The establishment of a dedicated hub with an email address harassmentreport@lpbwa.com accessible through our website so harassment reports can be made, anonymously or otherwise, and showing we are 'open for business' and can provide guidance through the complaint process.
- A collaboration with the Law Society of WA and the College of Law developing and delivering a dedicated CPD activity using the platform of experiential learning.
- Training staff to take information about, address and where appropriate investigate this conduct, and to be active in the education and promotion of cultural change.

The Uniform Law will also assist by allowing the Board to consider the management of a law practice and issue management system directives, which not only require remedial action but include regular review and education to reinforce positive culture.

The ongoing focus will be on long term behavioural change and strengthening the profession by promoting excellence in standards and expectations on equality.

Board staff have established a working group with objectives, also serving as its Terms of Reference that include providing informative recommendations and draft documents to the staff's SLG in relation to –

- A clear public statement of the Board's position in relation to sexual harassment in the legal profession, that can include pre-admission conduct
- Information about what to expect when someone makes a complaint or seeks information (informal and formal reporting, potential repercussions – like NDAs, FOI, Defamation action)
- Information about what to expect if you are the subject of a complaint or have been anonymously attributed to sexual harassment
- Training of staff (including Board members) and members of the profession
- How to include this in ongoing educational training (incentives, sanctions, management directions, and so on).
- Links to extrinsic materials and bodies that can also provide advice and assistance to victims, employers, bystanders (local and national legislation, EOC, WorkSafe, best practice policy, and so on).

I have been front and centre to represent the Board in seminars, conferences, and sitting on committees facilitated by the Law Council of Australia, the Piddington Society,

the Law Society of WA, and the Professional Standards Authority. It is important that the profession commits to changing the attitudes towards women in the work place and society and altering structures that act as barriers towards gender equality and support of women in the profession having successful and fulfilling careers.

Staffing

The staffing levels remain relatively consistent. There has been an increase in salary costs due to the filling of a number of vacancies.

As anticipated the introduction of the Uniform Law has required that we build in resources to design, plan and implement the necessary changes.

The attitudes and dedication displayed by the staff also during this time is to be applauded. The staff demonstrated complete support during the year towards getting the job done and carrying it out with a 'can do' attitude. I recognise that feelings of insecurity and uncertainty come to the surface when faced with difficult and challenging experiences. So dealing with a global pandemic and the imminent introduction of a new legislative framework has the potential to double those feelings and the ongoing support of the health and well-being of the staff will be carefully managed on an ongoing basis.

Vote of Thanks

During the reporting year Matt Zilko SC stood down as Chair in November 2020 to take up the position of Parliamentary Inspector. John Fiocco took over as Acting Chair and was elected to the position by the full Board in April 2021. John Fiocco also remains the Convenor of the Professional Affairs Committee. The role of Deputy Chair went to Sabina Schlink, who also remains the Convenor of the Admissions & Registration Committee. The support provided to me from all three has been significant and I am sincerely grateful to have the opportunity to work so closely with these senior members of the profession.

I also extend my sincere gratitude to Anna Liscia, the Convenor of the Management Committee, John Syminton, Convenor of the Professional Development Committee, Denis Barich, my Deputy Executive Director, and Russell Daily, the Law Complaints Officer. Their trust, assistance and support has been extremely valuable and greatly appreciated.

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

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

It is also abundantly clear that the Board staff retain the trust and support of the Board members and they have assisted me in meeting all the challenges arising during the reporting period.

Thank you also to the leaders of each of the Board's divisions – Russell Daily the Legal Law Complaints Officer; Deb MacDonald in Admissions, Denis Barich in Professional Affairs, Deb Shahar and Maisharah Ibrahim in Corporate Support, Analisa Zainal and Jodie Bowen in Information and Technology, Anna Young in Trust Account Inspectors,

Lisa Franca in Practising Certificate Administration, and our ever hard working CPD team (Viola and Stephanie) – for working with me towards the delivery of the best service possible to the Board, the profession and the public.

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

Libby Fulham

Executive Director

Legal Practice Board

December 2021

PROFILE OF THE CURRENT WA LEGAL PROFESSION

Renewal of a Local Practising Certificate

The timing of the renewal of a local practising certificate is set out under section 44 of the *Legal Profession Act 2008 (Act)* and rule 5 of the *Legal Profession Rules 2009 (Rules)*.

A practitioner holding a local practising certificate must apply for the renewal of the local practising certificate during the standard renewal period, or the late fee period, as prescribed by the Rules.

The Rules prescribe that the standard renewal period is 1 May to 31 May, each year, and the late fee period is 1 June to 30 June, each year. An application received during the late fee period is subject to a 25% penalty surcharge [item 2 of Schedule 1 – Fees of the Rules]. An application for the renewal of a local practising certificate made during the standard renewal period or the late fee period will be renewed from 1 July.

Pursuant to section 44(4) of the Act, the Board may reject an application for the renewal of a local practising certificate made during the late fee period, and must reject an application for renewal made outside of the renewal periods [i.e. after 30 June].

However, pursuant to section 44(5) of the Act the Board may accept an application made outside of the late fee period if it is made within 6 months after the end of the late fee period, and the Board is satisfied that the delay was caused by reasons beyond the control of the applicant or other special circumstances warranting acceptance of the application.

During the reporting period, the Board received a total of seventy-four (74) applications for the renewal of a local practising certificate after 1 July 2020. All seventy-four (74) applications were considered and accepted. Information on late applications under the Professional Affairs Committee report can be found at page 47.

On 30 April 2021, the online renewal form for an application for a local practising certificate effective 1 July 2021, was made available through the Board's website. Table 1 below sets out the number of renewal and grant applications received during the standard and late fee renewal periods.

Table 1

Renewal applications received during 2020/2021 for the 2021/2022 practising certificate	Online application	Paper applications	Total applications	Non-renewal notices
Standard renewal period	6213	117	6336	196
Late fee period	179	23	211	70
Totals	6392	155	6547	266

96.8% of all renewal applications received by the Board were received during the standard renewal period, representing an increase by 1.2% compared to last year. However, the total number of renewal applications received by the Board during the renewal periods increased by 7.5%.

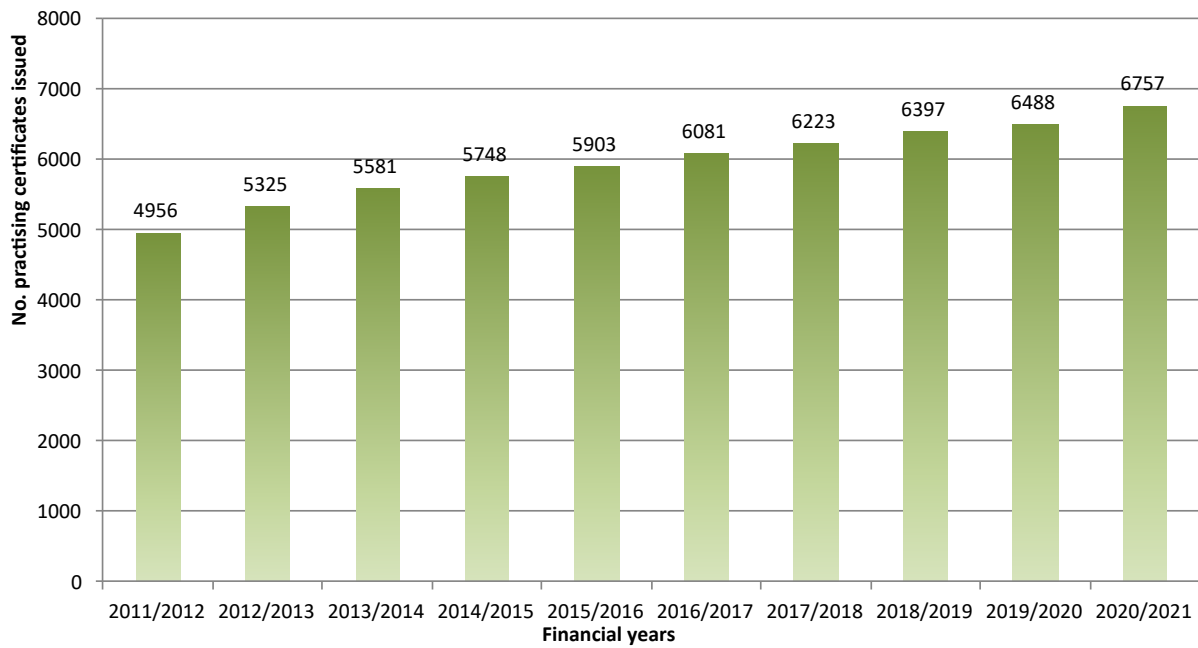
The number of practising certificates issued between 1 July 2020 and 30 June 2021 was six thousand, seven hundred and fifty seven (6757), which represents a 4.14%

increase in the number of local practising certificates issued in the previous period [see Graph 1].

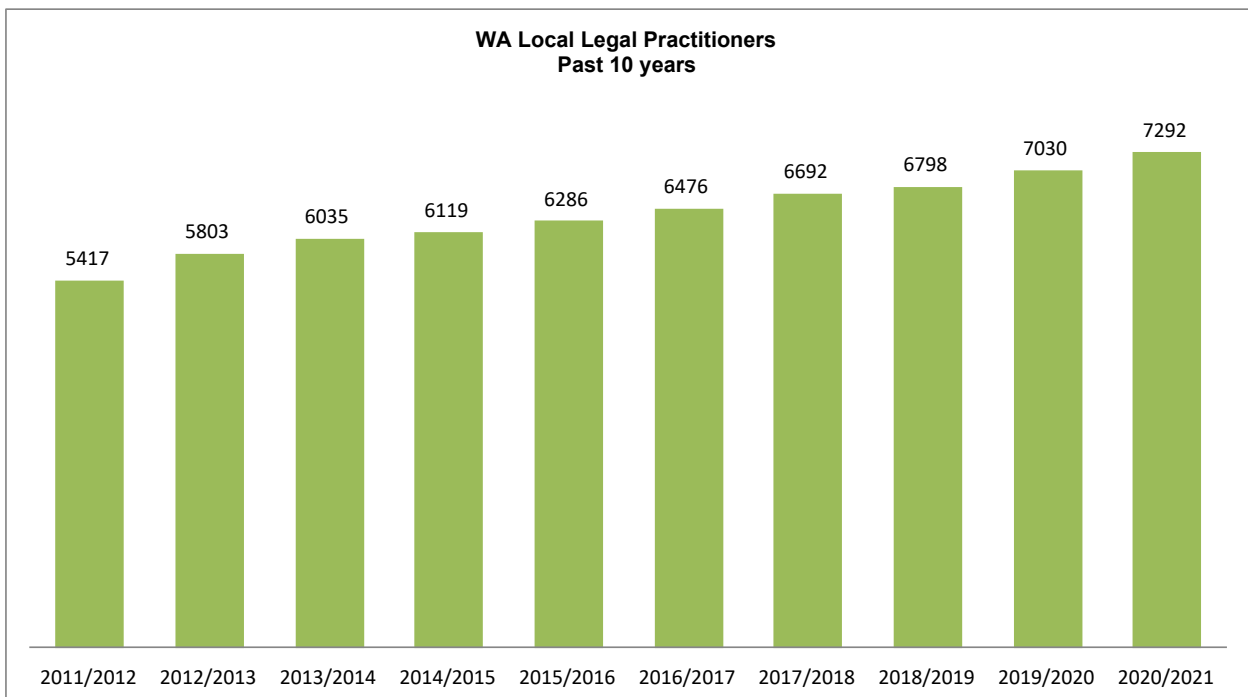
Composition of WA Local Legal Practitioners	Resident Females	Non-Resident Females	Resident Males	Non-Resident Males	Totals
Barristers	67	2	204	1	274
Commonwealth Government	66	1	33	2	102
Consultants	4	0	11	0	15
Director	243	0	551	3	797
Employees	1891	30	1166	14	3101
Equity Partner	41	2	178	11	232
Fixed Profit-share Partner	25	1	26	2	54
Inhouse	464	32	342	26	864
Lay Associate	0	0	0	0	0
Locum	0	0	0	0	0
Legal Practitioner Partner	19	1	73	5	98
Not practising (certificated)	352	16	188	6	562
Salaried Partner	19	1	39	8	67
Sole Practitioners	151	5	265	6	427
Judiciary [^]	5	0	3	0	8
Deceased [^]	1	1	4	0	6
Struck Off [^]	0	0	0	0	0
Suspended [^]	0	0	1	0	1
State Government*	45	1	29	1	76
Volunteer/Pro Bono	14	0	11	0	25
Practising Certificates Cancelled	29	1	18	0	48
Practising Certificates ISSUED	3436	94	3142	85	6757
S.36 Practitioners					
State Solicitor's Office**	108	0	51	2	161
Director of Public Prosecutions (State)**	68	1	62	1	132
Other Departments**	180	4	84	1	269
S.39(3) Practitioners ***	2	1	18	0	21
TOTAL PRACTITIONERS	3765	99	3339	89	7292
[^] held a practising certificate during 2020/2021 however by 30 June 2021, were appointed judiciary/deceased/struck off/suspended. * State Government employees who held a local practising certificate during 2020/2021 ** State Government employees taken to be certificated pursuant to Section 36 of the Legal Profession Act 2008 *** Practitioners whose certificate remains in force pursuant to Section 39(3) of the Legal Profession Act 2008					

Graph 1

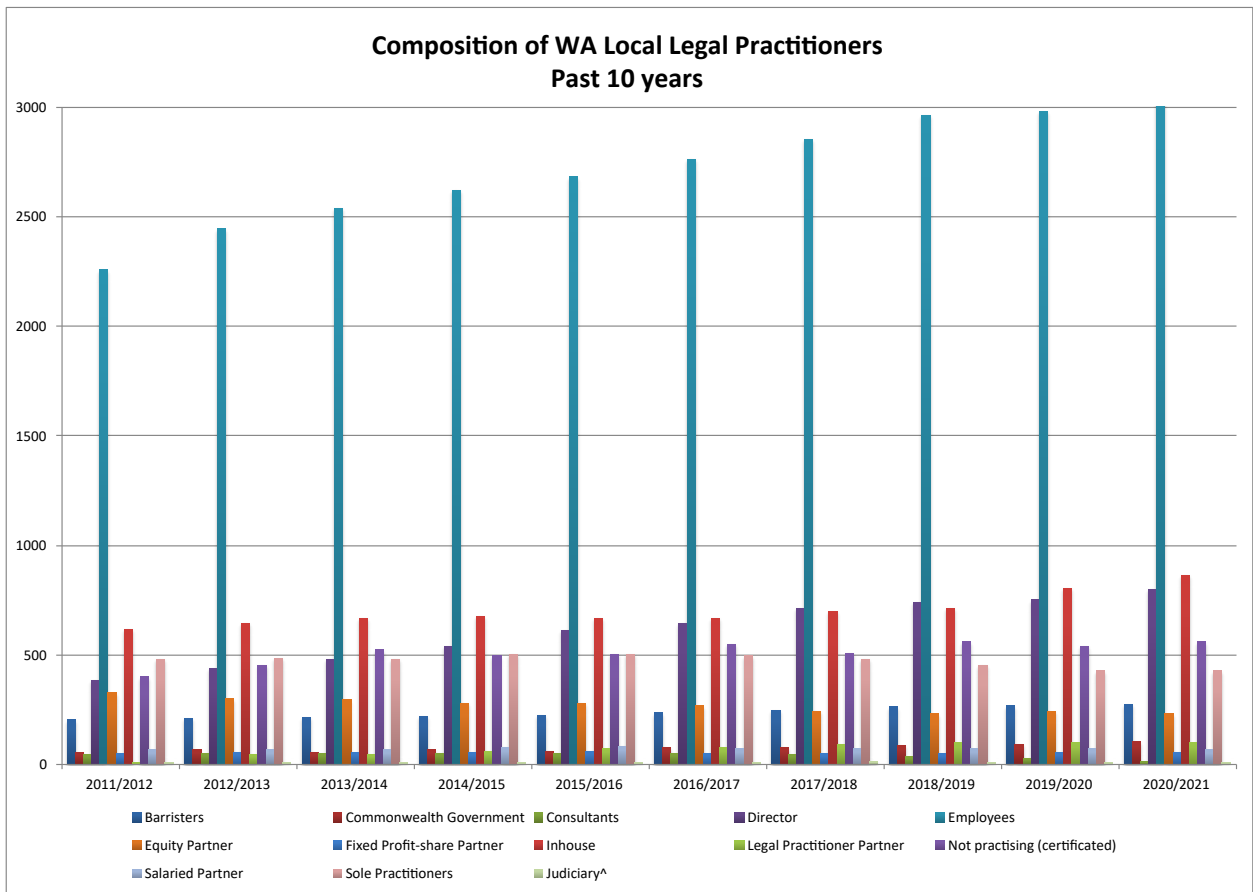
10 year comparison of the number of certificates issued during the reporting years



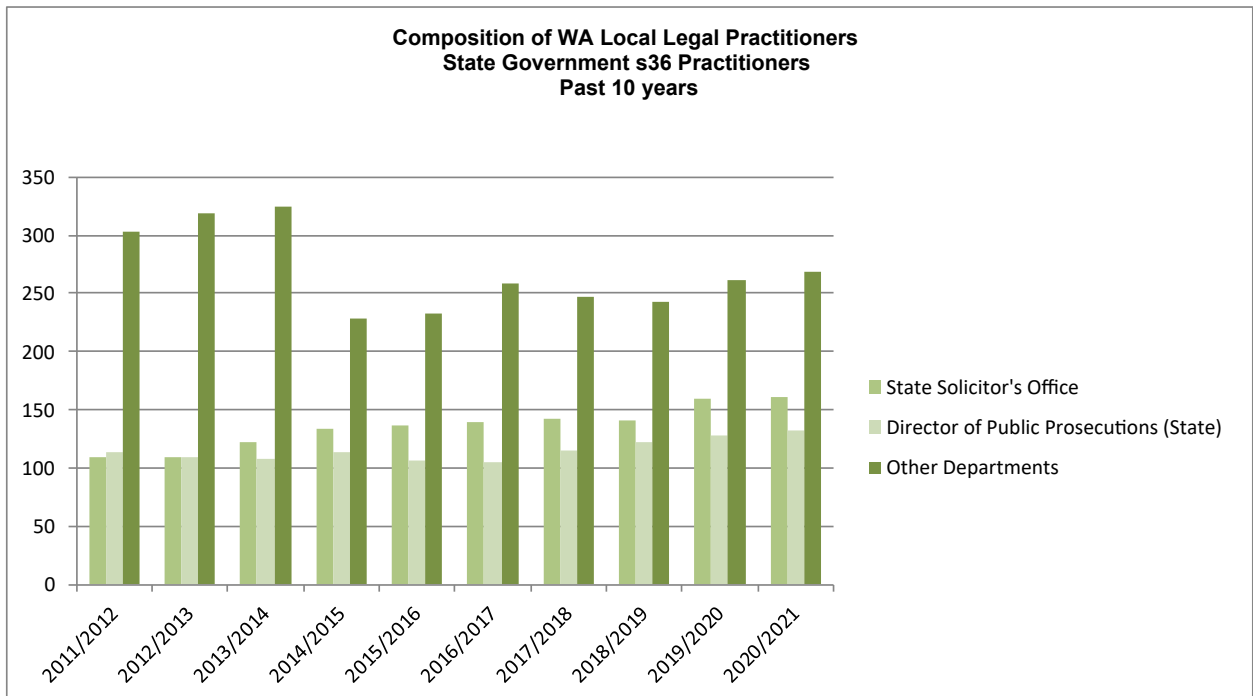
Graph 2



Graph 3

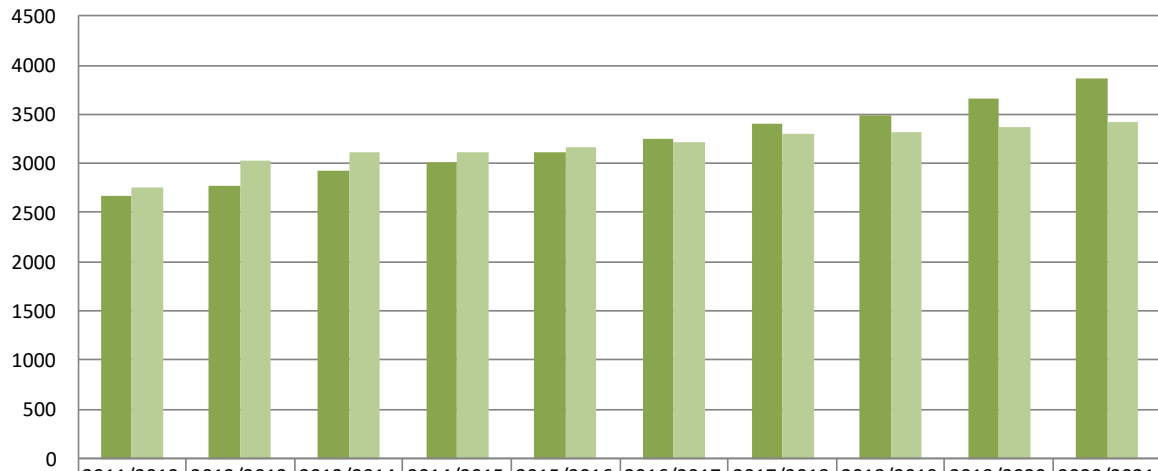


Graph 4



Graph 5

**WA Local Legal Practitioners
Males and Females
Past 10 years**



	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021
Females	2663	2771	2928	3004	3117	3257	3395	3488	3659	3864
Males	2754	3032	3107	3115	3169	3219	3297	3310	3371	3428

OFFICE OF THE BOARD

The Office of the Board provides administrative and executive support to the Legal Practice Board (**Board**) and its Committees as well as undertaking other core regulatory functions of the Board as provided for in the *Legal Profession Act 2008 (Act)*. The Office of the Board also ensures the Board complies with considerable additional legislation applicable to the Board as an organisation and a public regulatory authority.

Accordingly, key responsibilities of the Office of the Board include, but are not limited to:

- executive and legal 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;
- maintenance of a disciplinary register;
- processing of admission and registration applications;
- issue and renewal of annual practising certificates and the administration of other practitioner compliance matters;
- management of continuing professional development requirements;
- management of practice management requirements;
- regulation and investigation of trust accounts;
- conducting the Board's annual election; and
- management of the Board's human, technological, financial and physical resources.

LEGAL PROFESSION COMPLAINTS COMMITTEE

The Legal Profession Complaints Committee (**LPCC**) is responsible for supervising the conduct of legal practitioners and the practice of law. Pursuant to the Act, the LPCC has investigative and conciliation powers, and also initiates disciplinary proceedings.

The LPCC is comprised of members of the Board and 2 community representatives. Pursuant to section 571 of the Act, the LPCC provides to the Attorney General a separate annual report in relation to its activities.

Staff

As at 30 June 2021, the following numbers of staff were in full-time, part-time or contract employment with the Board:

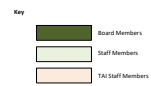
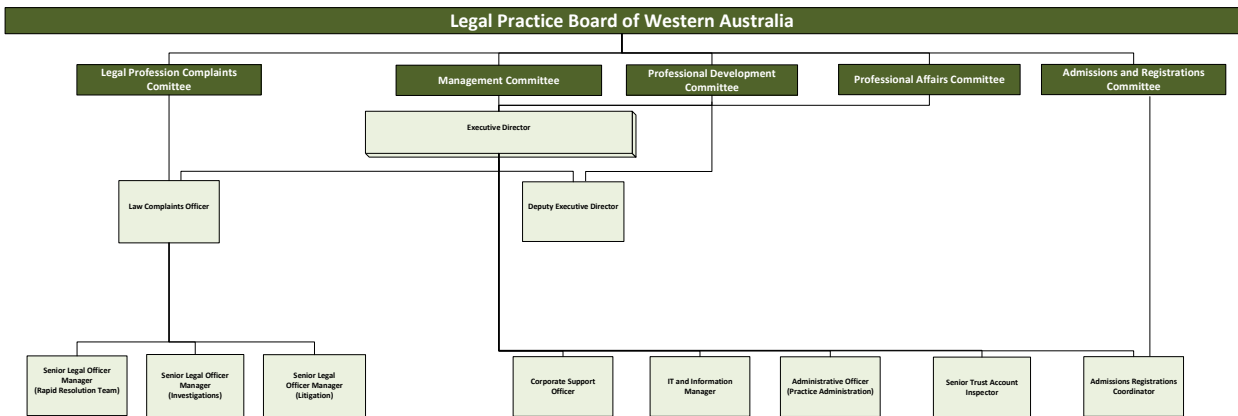
Divisions	No of Staff
Office of the Board	25
LPCC	23
Trust Account Inspector	2
Chairperson	1

The FTE count as at 30 June 2021 is 43 FTE's (excluding Chairperson).

Difference between the salary costs from 30 June 2019 as compared to 30 June 2020.

Division	June 2021	June 2020	June 2019 (New figures)
Office of the Board including Chairman	\$2,275,350.69	\$2 048 682.28	\$2 001 076.63
LPCC	\$2,472,428.84	\$2 527 128.81	\$2 623 668.27
Trust Account Inspector	\$278,681.00	\$ 369 130.81	\$ 506 287.79
TOTAL:	\$5,026,460.53	\$4 944 941.90	\$5 131 032.69

Legal Practice Board Organisational Chart - Supervisory Roles



The Role of the Management Committee

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

Committee Process

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

When the need arises to address a pressing issue, either a special meeting is called, or a resolution is determined by electronic quorum. The Management Committee's primary focus is on the strategic direction of the Board, resource and financial management issues and the implementation, corporate governance of, and maintenance of appropriate policies, systems and processes.

The Management Committee met formally on 6 occasions during the reporting year and held 3 electronic meetings.

Funding of the Board

The Board is self-funded through fees paid by the profession by way of the annual practising certificate fees and those seeking admission as legal practitioners, as well as fees generated by the assessment and approval of continuing professional development providers and individual CPD events.

Since 1 July 2016 no Government funding has been provided to the Board, and it is wholly responsible for meeting all of its accommodation and associated costs, as well as its normal operational expenses.

Practising Certificate Fees

The Management Committee has not recommended a change to the fee required to accompany a practising certificate application since 1 July 2015. The current fee is \$1,250 per annum.

The Management Committee is closely monitoring the Board's expenditure to ensure the current high standards of regulatory oversight that is rightly expected by the public and the profession is maintained, whilst endeavouring to keep the costs of legal regulation as low as possible.

It is also of note that Western Australia is set to adopt the *Legal Profession Uniform Law (Uniform Law Scheme)*, and though the date of commencement is not known, it is unlikely to be before 1 July 2022.

Convenor:

Ms AM Liscia

Deputy Convenor:

Mr JG Syminton

Members:

Mr MH Zilko SC*

Mr SK Dharmananda SC

Mr MD Howard SC*

Mr JRB Ley SC

Mr J Garas SC

Dr JJ Hockley

Ms SM Schlink

Mr JGM Fiocco

Ms A Ciffolli

Mr GN Mack

* *Part year*

When joining the Uniform Law Scheme, each participating jurisdiction agrees to pay a fee to assist in funding the oversight body, known as the Legal Services Council. Those fees are subject to the control of a Standing Committee, comprised of members from each jurisdiction that is a participant of the Uniform Law Scheme, currently NSW and Victoria, with WA to join in 2022.

The obligation of parties to the Uniform Law Scheme to make a financial contribution is in proportion to the total number of legal practitioners within the participating jurisdiction.

Western Australia has approximately 6,757 certificated legal practitioners, and approximately 562 government lawyers who are taken to be local legal practitioners.

There will be a cost per practitioner per annum payable to the Legal Services Council, which is likely to be in the vicinity of \$30 per practitioner, commencing 1 July 2022, amounting to an initial cost of around \$202,710. The Board will need to consider how to fund that cost and it may be necessary to increase practising certificate fees to be able to do so.

This is a matter that the Management Committee will be reviewing and considering once a commencement date for the Uniform Law Scheme is known.

The Law Library

Since 2016, the Law Library has been owned and operated by the Department of Justice, with members of the profession having a right to use the Library.

The Board remains required by legislation to pay a yearly amount of \$600,000 to assist with the running costs of the Law Library. This amount can be reviewed by the Department at any time in consultation with the Board, however it is anticipated the sum will not vary into the 2022/2023 period.

Human Resources

The Management Committee determines policy in relation to the appointment and management of Board staff, including those working within the Legal Profession Complaints Committee.

On 21 December 2018 the Board was named as a respondent to the *Government Officers' Salaries, Allowances and Conditions Award 1989*.

The Board undertook a Service Model Review in early 2021 and we await the final outcome of that review as to how it may influence the organisational structure of the Board and the Legal Profession Complaints Committee.

The reporting year saw the number of staff remained at 43 full time equivalents.

The overall cost for staff increased by \$81,518, with the increase being due to the filling of vacancies in various positions.

Physical Resources

The Management Committee has responsibility for the physical resources of the Board, such as accommodation, information technology, etc.

The Management Committee committed resources towards the development and implementation of online platforms for suitability and disciplinary investigations for both the Professional Affairs Committee and the Legal Profession Complaints Committee, including all aspects of matter management and statistical reporting of data.

In addition, the Board has developed and implemented online resources for the management of the CPD system and for Admission applications.

The Management Committee continues to work towards the reduction of a paper based administration, moving towards a 'paper-lite' environment.

COVID-19

COVID-19 continues to have a presence in our day-to-day lives. However, the renewal process returned to normal for the 2020/2021 renewal period, with a successful 96% of renewals within the standard renewal.

It is noted that periodically the Board's office closed its doors during government mandated lock-downs, with all staff transitioned into working remotely. The continuing and sudden transitions to remote working arrangements involve a significant undertaking by the staff to provide the necessary resources to enable the continuation of a productive and effective working environment, whilst still being available to the profession and the public.

Uniform Law Scheme

As mentioned above, the imminent introduction of the Uniform Law Scheme will require the Management Committee to consider resourcing issues to enable the Board to meet its obligations under the new law.

At a very basic level, changes will be required to update forms and documents to reflect the new legislative provisions, as well as the introduction of new policies and procedures.

This has been considered within the scope of the Service Model Review mentioned above, but will also be taken into account in relation to the Board's financial needs.

Strategic Direction

There has been an enthusiastic approach to the implementation of the Board's strategic direction to operate as an effective, efficient, and innovative leader in the regulation of legal services in Western Australia.

The Board is constantly considering the approach taken to regulatory matters, its values, and the effectiveness of its governance models and will continue to do so in the coming years.

Acknowledgements

I would like to acknowledge the support and assistance of my Deputy Convenor, John Syminton, especially during my medical leave of absence, and the dedication of my fellow committee members for their conscientious preparation for and consideration of the many complex issues dealt with during the reporting period.

Thanks are extended to all of the Board's employees for their efforts during the year, and to the Executive Director, Ms Libby Fulham, and now former Corporate Support Officer, Ms Deb Shahr, for their implementation of the Management Committee's policies and directives and the provision of support to the Management Committee.

Anna Liscia

Convenor

Management Committee

ADMISSIONS AND REGISTRATION COMMITTEE

Convenor:

Ms Ms Sabina Schlink

Deputy Convenor:

Mr Robert Wilson
(appointed 24 November 2020)

New members:

Mr Henry Jackson SC
(appointed on 8 September 2020)

Ongoing members:

Ms Laura Christian SC
Mr John Fiocco
Mr Michael Feutrill SC
Ms Rebecca Heath
Mr John Hedges SC
Dr John Hockley
Mr John Ley SC
Ms Anna Liscia
Mr Sam Vandongen SC

Ceased members:

Mr Jim Thomson SC,
appointed in April 2012,
resigned on 5 October 2020.

Mr Matt Zilko SC,
appointed 4 July 2018, and
was the Deputy Convenor
from 14 November 2018,
resigned on 13 November
2020.

Mr Simon Freitag SC,
appointed 17 January 2018,
resigned on 30 November
2020.

The Hon John Gilmour QC,
appointed on 25 January
2019, sadly passed away in
early February 2021.

The work of the Admissions Committee

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

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

Some of the functions and powers related to the above matters have been delegated by the Full Board to the Executive Director and/or Deputy Executive Director of the Board. Under those policies, and in the year ended 30 June 2021, the Executive Director or Deputy Executive Director:

- Gave approval for 11 assessed overseas applicants to complete their academic study at Australian law schools outside of Western Australia;
- Approved the suitability of 101 applicants for admission who disclosed matters that were minor in nature; and
- Approved 79 applications that complied with the Board's policies relevant to supervised legal practice, including part-time arrangements and remote supervision arrangements.
- to approve supervised legal practice arrangements, including part-time arrangements, remote supervision arrangements, and reductions in the required period in circumstances where a practitioner has more than 2 years recent experience overseas in a common law jurisdiction.

The effect of the COVID-19 pandemic

The ongoing COVID-19 pandemic affected admission and supervised legal practice requirements as follows:

- Approvals were provided to allow providers of approved academic and practical legal training

courses to make arrangements to accommodate the effects of the pandemic and the resulting lockdowns were continued.

- In August 2020 the Supreme Court held ceremonies for those applicants who had been required to defer their admissions scheduled for earlier in the year due to lockdowns.
- Personal attendance remained a requirement for admission in Western Australia. A few applicants who live overseas or interstate have been required to defer admission until they can travel to Western Australia. A minority have discontinued their admission applications in Western Australia in favour of applying for admission in New South Wales or Victoria where it has been possible for them to be admitted without personal attendance.
- Interim arrangements to allow restricted practitioners to work from home during lockdowns have continued.

Policies under the Board's Instrument of Delegation:

The Admissions Committee is responsible for approving and reviewing the following policies under which the Executive Director or Deputy Executive Director can exercise powers and duties under the Board's instrument of delegation:

- to consider applications for admission and issue compliance certificates;
- to consider the suitability of a person to be admitted to practice; and
- to approve supervised legal practice arrangements, including part-time arrangements, remote supervision arrangements, and reductions in the required period in circumstances where a practitioner has more than 2 years recent experience overseas in a common law jurisdiction.

There were no changes to the existing policies in the year under review.

Forms and Guidelines:

The Admissions Committee is responsible for approving and reviewing the forms and guidelines related to the functions and powers under the Act that fall within its delegated responsibility.

There were no changes to the existing forms and guidelines during the year under the review, other than those requirements that were reviewed as part of the on-line admission application project. As that project continued and the on-line admission application was developed, consideration was given to current requirements under the Act and expected requirements under the Uniform Law which is expected to commence in Western Australia once legislated. The aim was to achieve compliance with the current legislation while minimising the number of amendments that might need to be made to the on-line application once the Uniform Law commences.

As part of this process the Admissions Committee agreed to change some of the documentation requirements for admission. Applicants are now required to arrange for most documents, such as academic transcripts and certificates of good standing, to come directly to the Board from the provider, most often by email, rather than have the applicant post or deliver original documents to the Board. Not only does this avoid delays in the Board receiving documentation relevant to the application, particularly given that the COVID-19 pandemic has resulted in delays to many postal services, but more importantly lowers the likelihood that fraudulent documentation could be lodged.

Further, Australian admission boards now maintain a register of the units at Australian law schools that are approved as meeting the Priestley 11 subject requirements. Therefore, applicants for admission who obtained their law degree outside of Western Australia are no longer required to provide a “Dean’s Certificate” evidencing how the graduate has satisfied the Priestley 11 requirements.

The on-line admission application project was delayed due to reasons outside of the Admission Committee’s control, but was finally launched on 12 April 2021. There were some significant implementation issues, but the on-line application is now providing some significant benefits, both in processing and reporting areas. All applications for a compliance certificate must now be made on-line.

Approval and re-accreditation of academic and practical legal training courses

The Admission Committee is responsible for approving and reviewing the academic qualifications and practical legal training (PLT) required for admission.

Currently approved academic qualifications are offered by:

- The University of Western Australia;
- Murdoch University;
- The University of Notre Dame;
- Edith Cowan University; and
- Curtin University.

The following providers offer approved PLT courses for admission:

- The College of Law – Western Australia;
- The Leo Cussen Centre for Law – Western Australia;
- The Piddington Society Inc; and
- Curtin University.

As at 30 June 2020, the Admissions Committee was part-way through the five-year re-accreditation review of the Edith Cowan University’s Bachelor of Laws degree courses. The courses were re-accredited on 7 October 2020.

The five-yearly re-accreditation reviews of the law degrees offered by Curtin University and The University of Western Australia were due in July 2020 and October 2020, respectively. These reviews were postponed until 2021. Terms of reference for the reviews were approved on 3 February 2021, with the materials for the reviews due to be submitted by July 2021. Materials have now been received and both reviews are underway.

Some of the law schools and PLT providers who have been forced to teach and assess in the on-line space during the COVID-19 pandemic have identified advantages arising from this and are therefore seeking to alter their substantial course approvals to offer more of their courses on-line once the temporary COVID-19-related approvals are withdrawn. The Admissions Committee has advised all providers that such proposals will be treated as a course re-accreditation, requiring the provider to submit comprehensive materials to the Admissions Committee for review.

One of the approved PLT providers has an application for a redesigned course currently before the Admissions Committee.

Proposals for minor changes to some of the approved courses have been considered during the year.

An application for approval of a new law degree course for admission in Western Australia was received by the Admissions Committee on 2 November 2020. Substantial work was undertaken by the Admissions Committee, including a review of the initial materials provided for the Priestley 11 subjects however this review has been halted pending preliminary approval of the course by the Tertiary Education Quality and Standards Agency.

The approval, review and re-accreditation of academic qualifications and practical legal training courses places a continued and increasing load on the Admissions Committee and Board staff. In February 2021, the Admissions Committee canvassed all Board members with the aim of forming a pool of Board members who could be called upon to review course materials for Priestley 11 subjects that fall within their areas of their respective expertise and practice. As the Convenor of the Admissions Committee I sincerely thank the following Board members who do not sit on the Admissions Committee but who have kindly volunteered their services to review course materials during the year:

- Ms Karen Farley SC
- Ms Carolyn Thatcher SC
- Mr Greg McIntyre SC

I also wish to acknowledge the contribution of the past and present members of the Admissions Committee who have reviewed course materials and/or sat on Review Panels for the approval and re-accreditation of courses in the year under review.

I especially thank Professor Anthony Gray, a senior legal academic at the University of Southern Queensland, for his assistance and input during the year.

Consideration of academic and PLT qualifications held by individuals and the assessment of overseas qualified applicants for admission.

The Admissions Committee considered:

- Stale law degrees (i.e. those that will be more than 5 years old when the person applies for admission).
- Enquiries from applicants and local law schools relating to whether an academic qualification will be accepted for the purposes of admission, if credit is given towards Priestley 11 subjects based on study completed at other Australian law schools.
- Requests for extensions to commence and complete study from persons previously assessed by the Admissions Committee.
- 86 applications for the assessment of overseas qualifications and practical legal training.

Under the Law Admissions Consultative Committee (**LACC**) recommendations, early commencement of PLT may be approved if the law student has completed all 11 required academic subjects and has only one or two elective units remaining to complete their law degree. The Admissions Committee will also consider approving the commencement of PLT if all assessments for the degree have been submitted, but before results are available.

The Admissions Committee approved 32 applications for early commencement of PLT in the year under review.

English language proficiency

English language proficiency is relevant when considering an applicant's suitability to be admitted.

The Admissions Committee applies the LACC English language proficiency requirements. Applicants for admission who have not completed their primary and secondary education and their legal qualification in a "recognised country" must achieve no less than minimum scores in the IELTS Academic test or TOEFL iBT test, although the Board retains a general discretion to exempt certain applicants where there is merit in doing so, on a case by case basis.

During the year, the Admission Committee agreed to accept the TOEFL iBT Home Edition Test in circumstances where the applicant was unable to attend a testing centre due to COVID-19.

During the review period the Admission Committee:

- exempted 52 applicants from English language testing; and
- refused to grant exemptions to 17 applications.

The Committee noted an anomaly in the LACC English proficiency requirements and continued to be concerned as to whether the IELTS and TOEFL iBT testing scores are set at the correct level. Information received from IDP about the IELTS testing scores was noted. The Committee identified the need for a review of the LACC English proficiency requirements.

Applications for an early declaration of suitability

It was noted in the last LPB Annual Report that the Admissions Committee was considering a second application for an early declaration of suitability to be re-admitted from a person who had previously been struck-off the roll. In relation to that matter the Admissions Committee refused to give the declaration.

The Admissions Committee also refused to give an early declaration of suitability to an applicant who was the subject of pending charges for aggravated assault occasioning bodily harm and unlawful trespass. The applicant subsequently applied for admission providing evidence that the charges were dismissed for want of prosecution. The applicant has since been admitted.

The Admissions Committee gave early declarations of suitability to two applicants:

- One disclosed drug, alcohol and traffic offences between 2009 and 2013. The Admissions Committee was satisfied as to the applicant's remorse, insight and reform.
- The other disclosed a 2014 conviction for careless driving. The applicant had not incurred any traffic infringements or convictions since the accident.

Consideration of applications for admission, including suitability to be admitted

There were no applications for re-admission lodged in the year under review.

The Board was taken to have refused to issue a compliance certificate in several applications that had not been completed within six months of the person applying for admission. The reasons for not having completed the application included:

- The applicant was finding it difficult to meet the English testing requirements;
- COVID-19 restrictions prevented the applicant travelling to Perth to personally attend a ceremony;
- Delayed completion of PLT;
- Personal and health reasons; and
- Unexplained delay, including non-response to communications from the Board.

Some applicants filed a notice of discontinuance of their application in the Supreme Court of Western Australia, with the intention of applying for admission in other Australian jurisdictions where they could be admitted without personal attendance or where they were not subject to English language testing requirements.

The suitability of 99 applicants for admission who disclosed various minor matters was approved by the Executive Director/Deputy Executive Director under the Board's Instrument of Delegation.

The Admissions Committee considered and approved the suitability of a further 61 applicants for admission who had disclosed matters to the Board.

Of the 61 applications considered by the Admissions Committee, 11 applicants were required to meet with two members of the Admissions Committee before the application was determined, and the remaining applications were decided on the papers.

Matters disclosed by the 61 applicants included one or more of the following:

- Academic Misconduct;
- Assault;
- Bankruptcy;
- Restraining Order;
- Driving with BAC in excess of .08%;
- Careless Driving;
- Unlicensed driving and/or unregistered vehicles;
- Providing false documents;
- Speeding and other traffic infringements;
- Drug-related offences;
- Firearms Charges;
- Parking infringements or unpaid fines;
- Disciplinary or conduct matters in previous employment and occupations;
- Centrelink Overpayments;
- Spent Convictions – including failing to comply with order to leave, possession of MDMA or cannabis, careless driving causing bodily harm, shoplifting;
- Health and capacity matters including unexplained delay and mental health issues; Board investigations relating to the applicant using titles that might give rise to a presumption of entitlement to practice.

The Admissions Committee refused to issue a compliance certificate to an applicant who had completed an Australian law degree in 2007 that did not cover all of the 11 Priestley subjects. She was required to complete approved units for Equity and

Administrative Law before she could make a fresh application for admission. The application was refused, rather than deferred, due to uncertainty about the status of her application if the Uniform Law commenced before she had completed the extra study.

The Admissions Committee also refused to issue a compliance certificate to an applicant who was the subject of pending charges for aggravated assault occasioning bodily harm and unlawful trespass arising from an incident with a former partner. The charges were subsequently dismissed and the applicant has since been admitted.

Applications for Review of Decisions of the Admissions Committee

It was noted in last year's Annual Report that in June 2019 the State Administrative Tribunal (**Tribunal**) upheld the decision of the Admissions Committee to refuse to give a compliance certificate to an applicant for re-admission. The applicant had been struck off in April 2013 for professional misconduct, including misleading the Magistrates' Court during proceedings and persistent discourteous and offensive behaviour.

The applicant then appealed the Tribunal's decision in the Court of Appeal of the Supreme Court of Western Australia in July 2019. The matter was ongoing as at 30 June 2020.

The hearing was delayed at the request of the applicant for various reasons, with the applicant filing a notice of discontinuance in June 2021. As there was little prospect of recovery, the Board did not claim costs. The Board incurred legal costs of approximately \$90,000 in the Tribunal matter, and a further \$33,000 in the Court of Appeal matter.

It was also noted in last year's Annual Report that in January 2019, an applicant for admission sought leave to appeal a decision of the Tribunal in the Supreme Court of Western Australia Court of Appeal (**Court of Appeal**). The appeal related to a December 2018 decision made by the Tribunal to uphold a decision of the Admissions Committee made in February 2017, to refuse to give a compliance certificate to an applicant who, amongst other things, had been disbarred in the United States in 1991.

The applicant completed filing his case in the Court of Appeal in August 2019. In January 2020 the Board was informed that the applicant had left the country. A hearing was set for August 2020. In July 2020, the applicant contacted the Board's solicitor proposing that the appeal be dismissed by way of consent order with no order as to costs. The Board agreed and the appeal was dismissed. The Board incurred legal costs of more than \$90,000 in the case before the Tribunal and an additional \$40,000 in the Court of Appeal matter.

Grant of practising certificates and compliance with conditions

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

During the past year, 38 applications for the grant of a practising certificate were approved by the Admissions Committee.

The Admissions Committee refused to grant a practising certificate to a former practitioner on the grounds that the applicant was not currently of good fame and character in that he had sent derogatory, offensive, undisciplined, disrespectful and discourteous correspondence to the Board and another regulatory authority, directed

towards the judicial system, the Board, and other regulatory authorities. The applicant has subsequently applied to the Tribunal for a review of the decision.

The Admissions Committee also monitors compliance with conditions that it has previously imposed on the grant of a practising certificate. During the year the Admissions Committee:

- Monitored a practitioner's continued compliance with a condition requiring regular psychiatric reports. The Admissions Committee considered and refused a request from the practitioner for the revocation of some of the conditions on their practising certificate.
- Monitored compliance with a condition requiring a restricted practitioner to provide regular reports from her supervisor, and subsequently revoked the condition at the practitioner's request.
- Approved three further requests for revocation of conditions previously imposed.
- Refused one request for the revocation of a condition.
- Approved a practitioner's request for the variation of a condition.

Matters related to supervised legal practice

The Admissions Committee develops policy and considers submissions relevant to restricted practice and supervised legal practice.

The Admissions Committee considered 57 submissions related to supervision arrangements.

They included:

- whether employment could be counted towards the required experience;
- approvals of part-time arrangements;
- remote supervision arrangements;
- whether the supervision was adequate; and
- whether the required period had been completed.

The Admissions Committee also considered 22 applications made under s.50(7) of the Act for a reduction in, or exemption from, the required period of supervised legal practice.

REPRESENTATION AT MEETINGS AND CONFERENCES:

Legal Services Council Admissions Committee – Uniform Law in NSW and Victoria

Since December 2019, the Hon. Justice Le Miere has been nominated by the Attorney General of Western Australia as an observer on the Legal Services Council Admissions Committee (LSC), in anticipation of Western Australia joining the Uniform Law Scheme. The Admissions Committee provides the Hon. Justice Le Miere with copies of agendas for the Admissions Committee meetings and has issued invitations to him to attend meetings to discuss matters that are under consideration by the LSC Admissions Committee.

The Admissions Committee considered the following matters raised by the LSC and LSC Admissions Committee during the year:

- the hosting of historical LACC documents on the Law Council of Australia website;
- Recommendation 77 of the Royal Commission in to the Management of Police Informants;
- the conditional admission of foreign lawyers under s.20 of the *Legal Profession Uniform Law 2015 (NSW)*;
- the work of the LSC Admissions Committee Foreign Lawyers Working Group and proposed amendments to the *Legal Profession Uniform Admission Rules 2015 (NSW)* relevant to admission requirements for foreign lawyers; and
- the definition of “Board” in the Uniform Admission Rules.

In February 2021 and March 2021, Legal Practice Board staff attended on-line meetings with representatives of the LSC, the Victorian Legal Admissions Board and the NSW Legal Profession Admissions Board regarding the assessment and admission of foreign lawyers.

Law Admissions Consultative Committee (LACC)

The LACC is a consultative committee appointed by the Chief Justices of the Supreme Court in each Australian jurisdiction, that provides recommendations to Australian admitting authorities and admissions boards, with the aim of achieving uniformity of admission requirements in Australia.

The Chief Justice of the Supreme Court of Western Australia appointed The Hon. Justice Le Miere as his representative on the LACC in December 2019.

During the year the LACC consulted with the jurisdictions about:

- Admission requirements for foreign lawyers; and
- The possible re-drafting of the academic requirements for admission.

Administrators of Australasian Law Admitting Authorities (AALAA)

The AALAA meets annually, on the day preceding the annual Conference of Regulatory Officers (**CORO**). The CORO is attended by a number of Board staff and addresses all aspects of the regulation of the legal profession. The AALAA meets to discuss matters of mutual interest, and to exchange information about admission policies and practices in the various Australian jurisdictions, and in New Zealand.

Both the CORO and annual AALAA meeting were cancelled in 2020 due to the effect of the COVID-19 pandemic.

University of Western Australia Advisory Board for the Faculty of Law

Mr Zilko SC, the former Chair of the Board, has sat on the University of Western Australia Advisory Board for the Faculty of Law since late 2018. Mr Zilko SC has not needed to report to or consult with the Committee on any matters before the UWA Advisory Board in the year under review.

As Convenor of the Admissions Committee I wish to extend my genuine thanks to all of the members of the Admissions Committee for their attendance and contributions at meetings over the past year. I appreciate that this has been a challenging year for all and therefore am especially grateful for the support received from the Committee members and the Committees support staff who have ensured the seamless operation of the Committee over this time.

I also thank those members who have been willing to meet with applicants for admission, draft reasons for decisions, instruct counsel, and review course materials. Their respective contributions have been invaluable.

As usual, I also extend my sincere thanks to the Board staff for their dedication and support to the Admissions Committee.

I would also extend my thanks to the members of the legal profession who have provided support to the Admissions Committee over the past year.

Statistics for the period 1 July 2020 to 30 June 2021

Assessment of Foreign Qualifications

The number of applications for assessments of foreign qualifications received remained consistent, with approximately 86 applications per year since the year ended 30 June 2018. Of the 86 foreign qualified applicants assessed, 51 were previously admitted overseas and 35 were overseas law graduates.

Assessment of Qualifications		
Qualified	Admitted	No.
Australia	Hong Kong - UK	1
Australia	Bangladesh	1
Africa - Nigeria	Africa - Nigeria	3
Africa – Zimbabwe	Africa – Zimbabwe	2
Africa – Kenya	Not admitted	1
Bangladesh	Bangladesh	1
Colombia	Colombia	2
Colombia	Not admitted	1
England & Wales	England & Wales	10
England & Wales	Malaysia	1
England & Wales	UK/Malaysia	1
England & Wales	Sri Lanka	2
England & Wales	Hong Kong	1
England & Wales	Not admitted	21
France	Not admitted	2
Hong Kong	Hong Kong	4
Hong Kong	Not admitted	1
India	India	4
India	Not admitted	1
Ireland	Ireland – UK - USA	1
Ireland	Not admitted	3
Israel	Israel	1
Russia	Russia	1
Scotland	Scotland	1
Scotland	Not admitted	1
South Africa	South Africa	8
South Africa	Zimbabwe	1
South Africa	Not admitted	3
Spain	Spain	2
Sweden	Sweden	1
United States	United States	2
United States	Not admitted	1
Total assessments		86

Admissions Including Mutual Recognition

Admitted pursuant to s26 of the <i>Legal Profession Act 2008</i>	483
Admitted pursuant to the <i>Mutual Recognition (WA) Act 2010</i>	1
Admitted pursuant to the <i>Trans-Tasman Mutual Recognition (WA) Act 1997</i>	3
Total Admissions	487

There were 483 lawyers admitted pursuant to the Act in the current year, 98 more than in the previous year.

As foreshadowed in the last annual report, this would have been due to the Supreme Court postponing the admission of applicants who had been scheduled for admission in April, May and June 2020 due to the COVID-19 situation. By comparison, there were 442 admissions under the Act in the 2018/2019 year and 506 in the 2017/2018 year.

Of the 483 lawyers admitted under the Act this year, 184 were male and 299 were female, and they were qualified as follows:

Academic Qualifications:

University of Western Australia	119
Murdoch University	133
University of Notre Dame	79
Edith Cowan University	36
Curtin University	60
Corresponding Australian Law Schools	47
Overseas qualified	19*
Total Admitted:	483

Of the 19 overseas qualified persons admitted, **16 had previously been admitted overseas:

Israel and Canada	1
Singapore	1
South Africa	1
Hong Kong	1
Scotland	1
Sri Lanka	5
England and Wales	4
England and Wales and Scotland	1
England and Wales and Kenya	1
Total Previous Admitted Overseas	16

Practical legal training:	
WA College of Law	381
WA Leo Cussen PLT	23
Curtin University GDLP	13
Piddington PLT Course	24
Corresponding: - ANU	14
Corresponding: - Other	12
PLT as assessed by the Board (overseas)	16
Total Admitted	483

Registered Foreign Lawyers

As at 30 June 2020 there were ten registered foreign lawyers.

One of the ten, who was entitled to practise the law of England and Wales, did not renew for the 2020/2021 year as he had returned to the UK.

The remaining nine renewed registration for the 2020/2021 year.

One of the registered foreign lawyers, entitled to practice the law of Scotland and Wales, was admitted during the year and her registration automatically ceased when she was granted a local practising certificate.

During the year there were 2 new registrations, one to practice the law of England and Wales and one to practise the law of Israel.

As at 30 June 2021, there were 10 registered foreign lawyers

Germany	1
England and Wales & Scotland	1
England and Wales & France	1
England and Wales	4
Israel	1
Poland	1
United States of America	1

SABINA SCHLINK

Convenor

PROFESSIONAL AFFAIRS COMMITTEE

Convenor:

Mr JGM Fiocco

Deputy Convenor:

Mr GN Mack

Members:

Mr MH Zilko SC*

Mr GMG McIntyre SC

Mr RS Hooper SC

Mr MN Solomon SC

Ms AL Forrester SC

Mr AJ Musikanth SC

Mr Lindsay Fox SC*

Ms NB Dimmock*

Ms KA Shepherd*

Ms Maria-Luisa Coulson

Ms Amy Pascoe

* *Part year*

The Professional Affairs Committee (**PAC**) convened on 22 occasions between 1 July 2020 and 30 June 2021. This included twelve (12) scheduled meetings and the PAC passing electronic resolutions without meeting on ten (10) occasions.

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

- the grant and renewal of local practising certificates, subject to conditions in certain circumstances;
- regulation of interstate practitioners practising in Western Australia;
- regulation of local practising certificates, including:
 - monitoring of compliance with conditions imposed on practising certificates; including the variation and revocation of conditions.
- the amendment, suspension or cancellation of local practising certificates.
- the regulation of business structures operating legal practices, including incorporated legal practices and the legal practitioner directors who control and manage these legal practices;
- the regulation of the administration and management of trust accounts;
- external intervention in respect of law practices; and
- the reservation of legal work and related matters, including the prosecution of persons engaging in unqualified practice and approval of lay associates.

Prior to November 2013 the PAC was also responsible, on behalf of the Legal Practice Board (**Board**), for monitoring compliance with

Continuous Professional Development (**CPD**) requirements. At its meeting held on 27 November 2013 the full Board approved the establishment of a Professional Development Committee (**PDC**). The PDC has been established to exercise delegated powers of the Board in the area of professional development (including professional education and CPD). The PAC retains delegated power in relation to compliance with professional development, but it will not be exercising that delegated power unless it is in relation to conditions imposed by the PAC and where there are other matters before the PAC that require it to exercise that delegated power. Further information on the PDC can be found at page 62.

Practising Certificates - Suitability Matters

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

- must not grant a local practising certificate unless it is satisfied that the applicant is a “fit and proper person” to hold the certificate [s 45(4)(b) of the *Legal Profession Act 2008 (Act)*].
- must not renew a local practising certificate if it is satisfied that the applicant is not a “fit and proper person” to continue to hold the certificate [s 45(5)(b) of the Act].

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

Suitability Matters (s 8 of the Act)

Whether a person:

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

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

Include whether a person:

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

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

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

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

During the 2020-2021 year, three hundred and nineteen (319) separate “*suitability matters*” were considered by the PAC or by the Executive Director, or Deputy Executive Director, under delegation of power. This is a decrease from the 356 suitability matters considered in the previous reporting period.

Conditions on Practising Certificates

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

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

Between 1 July 2020 and 30 June 2021, conditions were imposed on practising certificates on sixteen (16) occasions, and conditions were removed from practising certificates on eight (8) occasions (these figures do not include the ‘*Barrister only*’ or ‘*Volunteer or pro bono only*’ conditions). These figures indicate no significant difference in the numbers from the previous reporting period. There was a decrease in the number of practitioners being the subject of an unresolved complaint at the Legal Profession Complaints Committee (**LPCC**) or another jurisdiction (from 104 to 84), no discernible difference in the number of practitioners disclosing traffic offences (including drink driving offences), and no difference in the number of practitioners being convicted of an offence or charged with a serious offence. There has been a decrease in conditions

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

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

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

The PAC is responsible for considering requests for the imposition and removal of the *'Barrister only'* condition on local practising certificates. During the 2020-2021 year, the Board received twenty three (23) requests to impose the condition. The Board's Executive Director, or Deputy Executive Director, imposed all the conditions under delegated authority. There were no (0) applications to have the *'Barrister only'* condition removed during the year.

***'Volunteer or pro bono only'* Condition**

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

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

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

- 1 *receive remuneration via a costs order in a matter if the holder has accepted a referral to act in that matter under Order 4.14 of the Federal Court of Australia Rules 2011 or under Order 12 of the Federal Circuit Court of Australia Rules 2001;*
- 2 *recover from a person any out of pocket disbursements reasonably paid by the holder on behalf of a person.*

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

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

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

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

The *'Volunteer or pro bono only'* condition can only be imposed on a practitioner's local practising certificate with the agreement of the holder, pursuant to s 47(3)(i) of the Act. The PAC, the Board's Executive Director, or Deputy Executive Director, exercise delegated power in considering requests for the imposition and removal of the *'Volunteer or pro bono only'* condition on local practising certificates.

Since 1 July 2019, the Board has imposed the “*Volunteer or pro bono only*” condition on eighteen (18) local practising certificates with no requests being refused. This represents a significant decrease in the number of ‘*Volunteer or pro bono only*’ conditions imposed (from 40 to 18). There have been no (0) applications to have the ‘*Volunteer or pro bono only*’ condition removed (a decrease from the last reporting period, being 13), which were accepted by the Board’s Executive Director, or Deputy Executive Director, under delegated authority. This represents a significant increase in the number of ‘*Volunteer or pro bono only*’ conditions removed (from 13 to 0).

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

Further information on the ARC can be found in the overall report at page 24.

Disclosure of suitability matters

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

- Informing applicants and practitioners that the Board places a duty and onus on each applicant and practitioner to disclose any matter that could influence the Board’s decision whether the person is “*currently of good fame and character*” and a “*fit and proper person*”; and
- Informing applicants and practitioners that failure to do so, if subsequently discovered, can have serious consequences for an applicant or practitioner as they might be suspended or struck off the roll of practitioners, or have an application for the grant or renewal of a local practising certificate refused, if they have not made full disclosure; and
- Providing guidance to the PAC on its considerations of whether the person is “*currently of good fame and character*” and a “*fit and proper person*”, and PAC’s management of process in that regard.

Spent Convictions

The disclosure of a spent conviction is necessary in order to assist the Board assessing whether the person is a “*fit and proper person*” to hold a local practising certificate.

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

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

Matters considered in relation to practising certificates

The following table sets out the matters considered by the Board during the reporting period and the outcome of that consideration, including the consideration of suitability

matters, and the imposition and removal of conditions on local practising certificates. The table also includes the 'Barrister only' and 'Volunteer or pro bono only' conditions imposed on local practising certificates during the reporting period.

Matter	Outcome	No
Pending disciplinary matter before the LPCC / interstate disciplinary tribunal	<p>Local practising certificate issued notwithstanding the pending complaint and reservation of the Board's rights (65).</p> <p>Application for renewal deferred pending further information (13).</p> <p>Complaint in another Australian jurisdiction, practising certificate issued, keep the Board informed of any material change (6)</p>	84 (including 9 who had failed to disclose the pending complaint)
Failure to disclose suitability matter	Explanation provided, no further action	1
Failure to provide information to accompany application for a practising certificate	Explanation provided, no further action	16
Traffic offences, including drink driving	<p>With details provided, no further action and local practising certificate issued (4).</p> <p>Local practising certificate issued subject to conditions (1)</p> <p>Matter deferred pending outcome of proceedings (1)</p> <p>Convicted of DUI, explanation provided, no further action (8)</p> <p>Convicted DUI, conditions imposed including periodic reporting (1)</p> <p>Careless driving causing death, grievous bodily harm or bodily harm, deferred until charges concluded (1)</p>	16
Convicted of a tax offence	Local practising certificate issued with explanation no further action (1)	1

Matter	Outcome	No
Charged or convicted of an offence	Convicted – explanation provided, local practising certificate issued (4)	4
Charged with a serious offence	<p>Conditions imposed by consent and undertaking provided to be supervised, practitioner required to keep Board informed of progress of charges, reservation of rights to consider if fit and proper (2)</p> <p>Practising certificate cancelled following conviction (2), including 1 struck from roll</p> <p>Practising certificate issued with conditions (1)</p> <p>Consideration of issue of practising certificate deferred until outcome of charge (4)</p> <p>Consideration of explanation and no further action taken (1)</p> <p>Renewal application deferred pending outcome of charges. Agreed to imposition of conditions that practitioner provide periodic reports from psychiatrist (1)</p> <p>Charges yet to be established. Local practising certificate issued on condition practitioner notifies Board of progress of charges (2)</p> <p>Tax offence, explanation provided, no further action (2)</p>	15
Name removed from foreign roll, eligible to be reinstated on payment of fee.	Local practising certificate issued. Explanation provided and noted, no action taken.	1
Contravened a condition on a practising certificate	Breach of the CPD condition, practising certificate cancelled (1)	1

Matter	Outcome	No
Contravened a law about trust money or trust accounts	<p>Trust account defalcation. Manager or Supervisor appointed. Practising certificate issued pending outcome of complaint (2)</p> <p>Breach of trust account requirements, practising certificate cancelled (1)</p> <p>Inadvertent trust account irregularity. Practising certificate issued and no further action taken (2)</p> <p>Trust account investigation, health matters to address, practising certificate deferred pending outcome (1)</p>	6
Health condition	<p>Trust account investigation, health matters to address, practising certificate deferred pending outcome (1)</p> <p>Local practising certificate application not considered until medical report received (1)</p> <p>Local practising certificate issued with conditions requiring periodic reporting (3), including conditions relating to employment (1) and supervision and a mentor (2)</p> <p>No further action (1)</p>	6
Is or has become bankrupt	No further action	1
Served with a Creditor's Petition	Explanation provided, petition dismissed, and practising certificate issued.	2
Insolvent law practice	Ceased trading, Manager appointed, suitability still under consideration.	1
Employee of law practice with appointment of a Manager	Former employee of law practice under Management. Explanation provided. Local practising certificate issued.	1
Failure to comply with professional indemnity insurance requirements	Refused to renew practising certificate. SAT review proceedings. Referred to LPCC (1)	1

Matter	Outcome	No
Failure to respond to Board's requests	Practising certificate previously cancelled. Unqualified legal practice prosecution commenced (1)	1
Contravened the Act	<p>Failure to obtain PII. Refused to renew and referred to the LPCC (1)</p> <p>Provided incorrect advice. No further action taken (1)</p> <p>Failure to obtain approval to be employed as a lay associate of a law practice. With explanation, no further action taken (20)</p> <p>Failure to give notice of commencement of an incorporated legal practice, 2 where the incorporated legal practice wrote to all affected clients, 5 where no action was taken on the breach, 4 remain unresolved (11)</p> <p>Failure to give notice of an incorporated legal practice ceasing (3)</p> <p>Failure by interstate practitioner to notify commencement of practice in WA (14)</p>	50
Failure to comply with order of a court or tribunal	<p>Breach of a VRO, 1 ongoing, 1 no further action (2)</p> <p>Practising certificate cancelled, referred to LPCC (1)</p>	3
Engaged in legal practice unlawfully	<p>Breach of ss 12(2) and 13(1). Conduct referred to LPCC, prosecution commenced (1)</p> <p>No breach found (2)</p> <p>Referred to home jurisdiction (1)</p> <p>Breach of s 12(2), explanation provided and no further action (1)</p>	5
Applicant subject to imposed mentoring conditions	Local practising certificate issued subject to conditions that the practitioner meets with an approved mentor who provides periodic reports to the Board. (12).	12
Audit of a law practice	Audit of law practice for trust account irregularities. Practising certificate cancelled. Referred to LPCC (1).	1

Matter	Outcome	No
Suspension of practising certificate	<p>Cancelled for trust account breached (1)</p> <p>Cancelled for obtaining practising certificate with false or misleading information (1)</p> <p>Suspended until requested information provided (1)</p> <p>Suspended on request (1)</p> <p>Suspended on conviction (1)</p> <p>Suspended pursuant to SAT order from previous reporting period (1)</p>	6
Obtained practising certificate through false or misleading information	<p>Cancelled practising certificate (1)</p> <p>Inadvertent error, no further action taken (1)</p>	2
Applicant subject to orders of the State Administrative Tribunal imposing conditions on practice	Imposition of condition, including 3 suspension, 1 referral to full bench of Supreme Court, 1 including additional CPD, 1 including written undertaking not to apply for a practising certificate (5)	5
Subject to orders of the State Administrative Tribunal or the Supreme Court	Including 3 findings of professional misconduct, 1 unsatisfactory professional conduct, 1 suspended, 1 public reprimand, 1 undertaking not to apply for a practising certificate, fine and costs (1)	8
'Barrister only' condition	'Barrister only' condition imposed at the request of the practitioner on the practitioner's practising certificate (24)	24
'Volunteer or pro bono only' condition	<p>'Volunteer or pro bono only' condition imposed at the request of the practitioner on the practitioner's practising certificate (18)</p> <p>'Volunteer or pro bono only' condition request refused (4)</p>	22

Matter	Outcome	No
Miscellaneous matters	Disclosures made in error (12)	23
	Erroneous allegations of misconduct (1)	
	Potential breach of SAT orders (1)	
	Adverse findings from Royal Commission (3)	
	Breach of a Code of Conduct (1)	
	Breach of Social Media policy (1)	
	Fishing in a sanctuary zone (1)	
	Parking infringements (1)	
	Civil proceedings, not concluded (1)	
	Failure to disclose academic dishonesty in another jurisdiction (1)	
Total		319

Failure to apply for renewal of a practising certificate within the renewal period of 1 May 2020 to 30 June 2021

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

Section 44(4) provides that the Board may exercise its discretion to accept an application for renewal of a certificate lodged after the expiry of that certificate and treat it as if it were received prior to the expiry of the original certificate. That discretion is limited to the Board being satisfied that the delay was caused by:

1. reasons beyond the control of the applicant; or
2. other special circumstances warranting acceptance of the application. The Board's Executive Director and Deputy Executive Director have been delegated power to accept applications for renewal made after 30 June.

During 2020-2021, the Board was referred seventy six (76) applications to renew practising certificates lodged with the Board after 30 June 2020. Seventy four (74) applications were considered and accepted.

These figures indicate a significant increase in late applications (up to 30 June) from the previous reporting periods, increasing from sixteen (16) to seventy six (76). Increased education and awareness has continued to be provided to the profession to minimise any renewals after 20 June. The Board's measures to ensure the profession is aware of the requirement to lodge an application to renew a local practising certificate in the prescribed period appear to be having a positive effect.

Refund of Fees

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

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

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

During 2020-2021, the Board considered one hundred and sixty seven (167) applications for the refund of the fee payable for an application for the grant or renewal of a local practising certificate. Seventy two (72) applications were accepted and the applicants excused from complying with the Rules.

Of the 72 applications that were accepted, none were approved for a refund of the late fee payable, eight (8) were approved for the refund of the fee after the application was withdrawn, sixty five (65) were approved for the refund of the fee payable after overpaying the prescribed fee, none were approved in circumstances where the Board refused to accept the late application as a renewal application and instead considered it as the grant of a practising certificate, as the prescribed fee had not been paid on that occasion. Twenty three (23) applications were refused and the applicants were required to comply with the Rules.

These figures indicate a significant increase from the previous reporting period in relation to those refunds being considered, increasing from seventy nine (79) to one hundred and sixty seven (167). The Board will increase measures to ensure the profession is aware of the requirement to lodge an application to renew a local practising certificate in the prescribed period. The Board is also updating its policy on the refund of fees accompanying an application for a local practising certificate.

In addition, seventy two (72) applications were considered to waive the requirement to pay the prescribed fee under the Rules in circumstances where the application was seeking the imposition of the “*Volunteer or pro bono only*” condition to be imposed on a practising certificate. All applications were accepted and the prescribed fee not paid.

Lay Associate applications

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

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

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

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

During the 2020-2021 year, the Board considered one hundred and seventy (170) applications for prospective approval, approving one hundred and fifty one (151). Nineteen (19) applications were considered where the associate had commenced working for the law practice prior to obtaining approval from the Board. The PAC considers that it does not have the power under the Act to give retrospective approval. In each of those nineteen (19) cases, the Board considered an explanation from either or both of the law practice and the lay associate, and resolved not to take any further the apparent breach of s 15 of the Act.

These figures indicate an increase in the number of lay associate matters compared to the previous reporting period (from 136 to 1170). The prevalence of lay associates is to be monitored as it is expected to increase with an increase in Australian lawyers seeking work in a law practice without holding a practising certificate.

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

Business Structures – Incorporated Legal Practices and Multi Disciplinary Practices

During 2020-2021, the Board was notified of the commencement of ninety eight (98) Incorporated Legal Practices (**ILPs**) and the Board was notified that nineteen (19) ILPs ceased practice. This brings the total number of ILPs in Western Australia to seven hundred and sixty three (763). The Board was not notified of the commencement of any new Multi Disciplinary Practices (**MDPs**) and no MDPs ceased practice. This means the total number of MDPs in Western Australia remains at twelve (12).

During the 2020-2021 year, the PAC considered eleven (11) instances of the failure of an ILP to give the Board the required notice of its intention to commence practice before commencing to provide legal services in possible contravention of s 102 of the Act. A corporation that contravenes s 102 is not entitled to recover any amount for any legal services provided during the period of time it was in default and is also liable to be fined.

Of the eleven (11) matters considered the PAC considered that one (1) of the ILPs may have breached their obligations under s 102 of the Act. That two (2) ILPs were required to write to each affected client to inform those clients of the position and advise them of their right to request a refund of fees pursuant to s 102 of the Act, and then to advise the Board in writing that this had been done, and no further action was taken in relation to the remaining five (5) matters.

The PAC also considered three (3) instances of an ILP's failure to give the Board the required notice of its ceasing to provide legal services in possible contravention of s 104 of the Act. A corporation that contravenes s 104 is liable to a fine. In all cases, the PAC noted explanations from the corporations as to the circumstances of their apparent breach of the Act.

There has been one (1) ILP go into liquidation during the reporting period.

The PAC accepts undertakings provided the law practice advises of the methods to ensure the public and clients are aware a director or partner of a law practice is not an Australian legal practitioner holding an unrestricted practising certificate.

During the 2020-2021 year, the PAC considered no instances of a legal practitioner in an existing MDP failing to give the Board the required notice of intention to commence practice before commencing to provide legal services in possible contravention of s 133 of the Act. A legal practitioner who contravenes s 133 is liable to be fined. If this should occur, the Board usually notes the explanation from the MDP and the legal practitioner as to the circumstances of the apparent breach of the Act.

Trust Account Investigations

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

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

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

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

During the 2020-2021 period, fifty three (53) matters were considered where the law practice sought the Board to exercise its discretion to grant an exemption in relation to an omission to have an external examination in the current financial year. On all occasions the Board exercised its discretion to not take any action in relation to omissions to have an external examination or final external examination.

The Board considered the designation of an external examiner on seven (7) occasions:

- On three (3) occasions granting status as a designated accountant qualified to be an external examiner; and
- On no (0) occasion the Board considered, in the circumstances, the applicant was not eligible to be appointed as an external examiner in Western Australia.
- The Board considered six (6) matters where the practitioner contravened a law about trust money or a trust account.
- On one (1) occasion the law practice was the subject of a trust account investigation. The principal was suffering from health issues.
- On two (2) occasions the PAC considered that an associate of the law practice had misappropriated funds from either the trust account or from clients. One matter has been ongoing. The law practice is in liquidation, the principal practitioner's conduct has been referred to the LPCC, and a Manager has been appointed. While this matter remains under investigation the Board has reserved its rights to consider whether the principal practitioner remains fit and proper to hold a practising certificate. The other matter has resulted in the associate's practising certificate being cancelled and the matter referred to the WA Police and the LPCC.
- On one (1) occasion a Supervisor of Trust Money has been appointed. The Board has reserved its rights to consider whether the practitioner remains a fit and proper to hold a practising certificate.

- On two (2) occasions the trust account breaches were minor and upon action being taken to rectify the errors no further action was taken.

Information on Trust Account Investigations can be found in this report at page 67.

External Intervention

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

The table below shows the number of external interventions undertaken in 2020-2021.

Part of Act	Type of External Intervention	Opening Balance	Commenced	Closed	Closing Balance
Part 14 – Division 3	Supervisor of trust money	3	1	1	3
Part 14 – Division 4	Manager	12	5	7	10
Part 14 – Division 5	Receiver	0	0	0	0

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

The number of external intervention matters has decreased from the last reporting period.

Unqualified Legal Practice

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

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

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

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

During 2020-2021, the Board was notified, or became aware, of eighteen (18) new matters regarding possible unqualified legal practice or representing an entitlement to engage in legal practice when not entitled to do so.

This is to be contrasted with the twenty seven (27) new matters during the previous reporting period. The instances of unqualified legal practice decreased in the last reporting period.

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

Of the new matters considered,

- Six (6) matters involved an Australian lawyer. Of those matters:
 - One (1) matter was found to not be a breach of the Act and no further action was taken
 - One (1) matter involved an Australian lawyer in another jurisdiction. The matter was referred to that jurisdiction's legal services regulatory body.
 - One (1) matter, ongoing, involved the use of the title Senior Counsel.
 - One (1) matter involved a principal of a law practice who had failed to apply for the renewal of his practising certificate and was required to notify clients of a right to a refund of fees.
 - One (1) matter involved an Australian lawyer engaging in legal practice on the assumption her employer had made an application for a practising certificate.
- Three (3) matters involved foreign lawyers using the titles of 'lawyer', 'solicitor', and 'legal counsel'. All were resolved once the titles were no longer used and a satisfactory explanation provided.
- Seven (7) matters involved the use of prohibited titles or representations of an entitlement to engage in legal practice on websites and social media sites. All were resolved after the unqualified persons amended the offensive content and provided explanations for the conduct being the subject of the complaint
- Two (2) matters were referred to counsel for advice. Both matters have been referred to a prosecution.
- Five (5) matters have been carried over from the previous reporting period where:
 - One (1) matter in which the convicted offender lodged an appeal which was dismissed; lodged an appeal to the Court of Appeal, which was partially allowed; lodged an application for special leave to the High Court of Australia, which was dismissed, and a minor case claim in relation to costs which was heard and dismissed.
 - One (1) matter in which a prosecution has commenced, however the accused has left the country.
 - One (1) matter in which a prosecution had commenced and the accused plead guilty to the charge. A conviction was recorded.
 - One (1) matter in which a prosecution had commenced, and following a hearing the accused was convicted.
 - One (1) matter in which a prosecution had commenced and the final hearing had not concluded in the reporting period.

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

John Fiocco

Convenor

December 2021

PROFESSIONAL DEVELOPMENT COMMITTEE

Convenor:

Mr John Syminton

Deputy Convenor:

Ms Rebecca Heath

Members:

Mr Gary Cobby SC

Mr Matthew Curwood SC*

Ms Karen Farley SC

Mr Michael Feutrill SC

Mr Jason MacLaurin SC*

Mr Stephen Wright SC

Mr Matthew Zilko SC*

Mr Gary Mack

Ms Patricia Femia*

*Part year

The Role of The Professional Development Committee

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

Committee Process

The PDC convened for eleven (11) scheduled meetings between 1 July 2020 and 30 June 2021.

Practice Management Scheme

In 2014-2015 the Board directed the introduction of a mandatory Practice Management Course (**PMC**) for all practitioners wishing to practise in the capacity of a principal of a law practice as defined in section 6(3) of the *Legal Profession Act 2008*.

It was decided that the PMC would be introduced through the imposition of a condition on the local practising certificate of all practitioners who were not practising as a principal of a law practice as at the date of introduction of the scheme, that being 1 July 2016 (**PMC Condition**). The enabling legislation for the imposition of the PMC Condition was commenced on 1 July 2016 through amendments to the *Legal Profession Rules 2009 (Rules)*.

The PMC Condition requires the successful completion of the PMC before the practitioner can practise as a principal of a law practice. Practitioners may seek a revocation or variation of the condition by application, and must give notice to the Board, in the required form, of their intention to commence practising as a principal of a law firm.

Currently, the College of Law is the only approved external provider of a PMC in Western Australia. The PDC has approved the application of one law practice for their internal partnership training as an approved PMC.

The College of Law commenced its first PMC on 18 July 2016, and delivers the course on average 6 times per year. The PMC is delivered by College of Law through 30 hours of online course material comprising reading material and practical online exercises and questions, to be completed prior to attendance; and a 3 day face-to-face workshop with interactive problem-based sessions.

The College of Law has also advised that they intend running a separate stream of the PMC for principals from large firms.

Practitioners may seek a revocation or variation of the PMC Condition by application to the Board, and must give notice to the Board, in the approved form, of their intention to commence practise as a principal of a law firm. This includes Barristers, however Barristers may seek to vary the PMC Condition to make its effect nugatory while the practitioner practises as a Barrister, has the '*Barrister only*' condition imposed on the practitioner's local practising certificate, and has completed, or has undertaken to complete, a suitable course for practise as a Barrister that is approved by the WA Bar Association, or equivalent, within a specified period of time, or if the practitioner has the demonstrated skills or experience to practise as a Barrister.

During the reporting period the Board issued guidance on local legal practitioners being principals of an overseas law practice. Those principals who were not practising Australian law or did not have Western Australian clients were not considered to be a principal of an Australian law practice and were not required to have the PMC condition removed from their practising certificate.

Decisions Regarding PMC Matters

The PDC and the Board's Executive Director, or Deputy Executive Director, exercise delegated power in considering applications for variation and revocation of the PMC Condition. During the reporting period two hundred and seventy three (273) applications for the variation or revocation of the PMC Condition were considered, including eighty three (83) applications made by practitioners who successfully completed an approved PMC in the reporting period. This represents an increase in the overall number of applications, from one hundred and ninety nine (199) in the last reporting period to two hundred and seventy three (273). Please refer to Table 1 below.

Table 1

Application type	Decisions by PDC	Decisions by ED/DED
Approved a variation of the PMC Condition.	2	82
Approved a further variation to the PMC Condition (time extension).	1	28
Approved the variation of the PMC Condition for Barristers subject to completing an approved Bar Readers Course within two years.	0	29
Approved a further variation to the PMC Condition for Barristers subject to completing an approved Bar Readers Course within two years.	0	7
Approved a variation of the PMC Condition for Barrister – Bar Reader's Course Completed.	0	8
Approved an exemption from the PMC Condition - practising as a principal on a Volunteer or pro bono only basis.	0	8
Total of variations approved	3	161

Application type	Decisions by PDC	Decisions by ED/DED
Approved revocation of the PMC Condition on the basis that the practitioner had completed an approved local practice management course.	0	93
Approved revocation of the PMC Condition on the basis that the practitioner had completed an interstate approved practice management course.	0	2
Approved revocation of the PMC Condition on the basis that the practitioner had demonstrated the requisite skills or experience to practise as a principal.	1	3
Approved revocation of the variation on the PMC condition, no longer practising as a principal. PMC condition to remain.	0	0
Approved revocation of the PMC Condition incorrectly imposed on a local practising certificate.	0	0
Total revocations approved	1	97
Refused application for the revocation of the PMC Condition, instead approving imposition of a variation to the PMC Condition.	0	9
Refused application for the revocation of the PMC Condition.	0	1
Refused application for the revocation of the PMC Condition after the practitioner successfully completed an approved PMC, as the practitioner expressed no intention of practising as a principal of a law practice.	0	1
Total applications for revocations refused	4	11
TOTAL DECISIONS	4	296
		273

Any breach of the PMC Condition or undertaking is considered on a case-by-case basis.

Continuing Professional Development (CPD) Scheme

The PDC continued to monitor the mandatory CPD scheme requiring practitioners to complete at least 10 CPD points, with at least 6 being interactive, across 4 competency areas between 1 April and 31 March each year (**CPD Condition**). CPD points can be earned by completing minimum periods of time in an approved activity, being 0.5 points for each 30 minutes.

During the reporting period the PDC issued guidance on the definition of an 'interactive activity', issued guidance to practitioners in relation to Family Violence education within competency area 2 (Professional Skills), and approved an individual provider to deliver

an activity in relation to sexual harassment earning 1.0 points for each 30 minutes across all four competency areas.

Interactive activities

The following notification was provided to the profession.

Rule 7 of the Rules defines an interactive activity as *“an approved CPD activity that is part of a structured learning programme and either —*

(a) involves interaction between 2 or more persons whether in person or by remote communication; or

(b) is an interactive electronic activity”

Rule 13A of the Rules defines an electronic activity as *“an approved CPD activity provided by way of the electronic communication of information in the form of data, text, sound or images, or a combination of those things”.*

To be considered interactive, an activity must:

- Be delivered ‘face-to-face’ or by a live webinar, and have the ability for the participant to ask questions and interact with the presenter; or
- Be delivered electronically and include a component during the activity which requires the participant to interact with the delivered content; and
- Comply with other conditions of being an approved activity (e.g. be an approved single activity or be delivered through an approved QA provider, be included in one of the four mandatory competency areas, includes accurate records of attendance)

Family Violence

The Attorney General wrote to the Board in relation to improving the family violence competency of legal practitioners.

The Attorney General advised that from a pure family safety perspective a mandatory approach to Family Safety CPD is desirable, however a preferred approach for enhancing CPD in stages has emerged, recommending that a discretionary approach be adopted whereby all legal practitioners are strongly encouraged to do at least one CPD unit in family violence each year, by expressly listing it under ‘Professional Skills’ in CPD policy and guidance materials.

In response, the Board’s guidelines for the allocation of topics in CPD competency areas have been revised to include Family Safety Competency (family violence) in competency area 2 (Professional Skills).

The Board also supports amendment to the Uniform Law CPD Rules to ensure:

- (a) Legal practitioners practising family law are not singled out to complete different or additional CPD requirements to other legal practitioners.
- (b) The availability of courses on family violence recognition should provide continuing legal education as part of developing professional skills, among other skills, for all legal practitioners should they choose to do so.
- (c) That CPD requirements are the same for solicitors and barristers.

Sexual Harassment CPD Activity

The PDC has considered the need to support practical measures to prevent sexual harassment. In particular, the PDC has formed the view that specific and tailored sexual

harassment sessions could be approved by the Board to attract comparatively more points to encourage attendance.

The Board approved EEO Specialists to deliver the CPD Activity 'What's Our Story – Workplace Sexual Harassment' earning double the CPD points allocated, across all competency areas. Jointly sponsored by the Law Society and the College of Law, and with the support of the Board, the experience was delivered on 24 August 2021 and was led by Franca Sala Tenna of EEO Specialists. A lawyer, trainer, and workplace problem solver, Franca tries to make sense of the law to people who need to understand its everyday application.

The Board is committed to taking an active position on challenging unwelcome behaviours in the profession and is taking steps to educate and influence education of any form of harassment, bullying or discrimination in the profession. As part of this commitment, the Board will promote CPD programmes targeting sexual harassment.

Variations To The CPD Condition

A practitioner can seek a variation to the CPD Condition on a case-by-case basis. The circumstances in which the Board may consider a practitioner's application for a variation to the CPD condition include:

- parenting leave;
- completing equivalent CPD activities while practising in another jurisdiction;
- absence from legal practice due to illness;
- a practitioner engaged in legal practice for a period exceeding 40 years; and
- other circumstances.

CPD Variations For Financial Year 1 July 2020 – 30 June 2021

During the reporting period, the Board processed variations to the CPD Condition, as set out in Table 2 below.

The number of applications for a variation of the CPD condition has increased from two hundred and seventy three (273) in the last reporting period to three hundred and sixty nine (369) received within the current reporting period with two hundred and ninety one (291) assessed, and fifteen (15) withdrawn, before 1 July 2021.

This represents a 35% increase in the number of variation of the CPD condition applications received.

The increase is much larger in comparison to the 19% increase in the last reporting period. This increase can be attributed to the Board's focus on ensuring overseas practitioners comply with CPD requirements by submitting a variation application on the basis of completing equivalent CPD hours in a foreign jurisdiction. Please refer to Table 2 below.

CPD Audit For CPD Year 1 April 2020 – 31 March 2021

In accordance with rule 13B(3) of the Rules, the Board conducts an annual audit by requiring practitioners to provide documents or information regarding compliance with the CPD condition (CPD Audit).

For the CPD year 1 April 2020 – 31 March 2021 six hundred and forty four (644) practitioners, approximately 10% of all certificated practitioners, were selected and requested to respond to the CPD Audit with details of CPD completed in the period.

Table 2

CPD Variation	Total received in 2020/2021	Approved in 2020/2021	Not approved / Withdrawn in 2020/ 2021	Outstanding as at 1 July 2021
Parenting Leave	116	75	9	11
Overseas	230	201	4	103
Illness	9	7	1	1
Exceeding 40 years in legal practice	7	4	0	1
Other circumstances	7	4	1	5
TOTAL	369	291	15	121

The responses to the 2021 Audit, and the comparative figures from the 2018 Audit and the 2019 Audit, are set out in the table below. Due to the pressures placed on the profession due to COVID-19 in 2020, the 2020 CPD Audit was not conducted for the CPD period from 1 April 2019 to 31 March 2020.

Table 3

Audit Outcomes	17/18	18/19	20/21
Compliant in the first instance - practitioners who provided a compliant response to the first email	428	423	436
Compliant with interaction - practitioners were compliant with the CPD requirements but required further communication with Board staff to confirm their compliance	44	118	145
Incomplete no action taken - practitioners who did not provide a response where extenuating circumstances were identified by Board staff	3	1	2
Non-compliant with imposed conditions - practitioners who did not comply with their CPD requirements and consequently had conditions imposed on their local practising certificates	19	30	35
Non-compliant with no action taken - practitioners who were non-compliant but where there was a reason to not take any further action at this time	7	12	11
Non-compliant with a single activity approved - practitioners who were non-compliant at the time they were audited, but submitted a request for the approval of a single activity to meet their CPD obligations.	14	15	10
Non-compliant with a variation (illness) - practitioners who were non-compliant at the time they were audited, but subsequently submitted an application to vary the CPD condition due to illness.	0	4	0
Non-compliant with a variation (overseas) - practitioners who were non-compliant at the time they were audited, but subsequently submitted an application to vary the CPD condition as they were located overseas.	4	14	2
Non-compliant with a variation (parental) - practitioners who were non-compliant at the time they were audited, but subsequently submitted as application to vary the CPD condition due to parental leave.	1	2	1
Non-compliant with a variation (other) - practitioners who were non-compliant at the time they were audited, but subsequently submitted an application to vary the CPD condition due to reasons not otherwise identified.	3	2	2
No response provided	4	0*	0
Referred to the Professional Development Committee*	0	1**	0

*A practitioner who did not provide a response was referred to the PDC for its consideration on 21 August 2019. However, for statistical purposes, was recorded once as “no response received”.

**There was one practitioner who had not provided sufficient evidence of CPD completed via a QA provider. This matter was dealt with by the PDC thereafter.

1. For the most part the responses for the 2018 Audit, 2019 Audit and 2021 Audit were consistent.
2. However –
 - (a) There has been a steady increase in the number of practitioners compliant in the first instance, compliant with interaction, and non-compliant with additional conditions being imposed.
 - (b) There was a notable decrease in the number of practitioners who were non-compliant and required a Form 4 Application (overseas variation).
3. The following observations have been made:
 - (a) The introduction of the CPD Audit Checklist and Frequently Asked Questions in 2018 significantly reduced the number of practitioners who required interaction with the Board prior to being assessed as compliant with CPD requirements.
 - (b) In the 2021 Audit, there was increased interaction with practitioners as the Board has required information evidencing CPD points obtained from QA providers as well as non-QA providers.
 - (c) An audit of overseas practitioners in 2020 and a notice sent to all overseas practitioners in January 2021 setting out details of their CPD requirements while practising overseas has dramatically decreased the number of non-compliant practitioners practising overseas.
 - (d) Many practitioners do not have a clear understanding of interactive vs. non-interactive CPD activities and their CPD requirements generally under the Legal Profession Rules 2009. The information notice referred to earlier in this report is designed to assist in this regard.
 - (e) As a result of the 2021 Audit, processes were reviewed including the information (including how it is delivered) provided to the profession regarding CPD requirements, availability, and benefits.

As discussed below, the introduction of the CPDMS will allow for continuous auditing of practitioners and QA providers who are prima facie non-compliant and the resources spent on auditing otherwise compliant practitioners can be diverted to non-compliance and education initiatives.

CPDMS

Development of the CPDMS commenced in May 2020.

In order to provide CPD providers with the opportunity to provide feedback to the Board on the CPDMS, a notice was circulated to CPD Providers on 18 July 2020. Of the 233 notices sent to CPD Providers, 31 responses were received. This notice contained information relating to the developed upload data sheet, instructions and a request for feedback on its use. Many of the CPD providers confirmed that they were able to work with the upload data sheets.

On 14 January 2021, the Board held an information session for QA providers via Zoom. There were 154 participants at the session. It became apparent that a number of individuals are the co-ordinator of CPD activities for multiple QA Providers, which gave rise to security concerns relating to the distribution of data. QA providers were requested to provide further information to ensure that the Board's records were correct. A revision of the security protocol was undertaken and implemented into the CPDMS.

Further online meetings occurred with large law firms in relation to specific data

exporting and uploading issues. Two information sessions were held to the CPDMS, one has been recorded and can be accessed generally.

The CPDMS for Providers went live in February 2021.

CPDMS access for practitioners has been implemented.

Practising Certificate Renewals and CPD Compliance

Of the practising certificate renewal applications received for the year commencing 1 July 2020, two hundred and four (204) practitioners declared that they had not complied with the CPD Condition. This is a 30% increase from the previous reporting period in which one hundred and forty four (144) practitioners declared that they had not complied with the CPD Condition in the previous reporting period, one hundred and fifteen (115) practitioners indicated that they had not complied with the CPD Condition in 2018/2019, and one hundred and two (102) in the 2017/2018 reporting period. The outcomes of these disclosures are set out below in Table 4. ***Please note the total within the Table is higher due to many practitioners requiring multiple assessments.

Table 4

Declaration of non-compliance with the CPD condition on local practising certificates	2017/ 2018	2018/ 2019	2019/ 2020	2020/ 2021
Practising overseas and the Board approved an application for a variation of the CPD condition.	33	38	59	80
Cited illness and the Board approved an application for a variation to the CPD condition.	2	4	2	3
Cited other reasons and the Board approved an application for a variation to the CPD condition.	8	5	5	12
Admitted post 1 April 2019 or had not held a practising certificate for the CPD period.	6	6	0	15
Practitioner is no longer practising.	1	0	1	0
Answered "no" by mistake and on review was found to have complied with the CPD condition.	1	4	10	3
Answered No at Renewal and declared that they had not met their CPD compliance. Additional CPD condition imposed on their practising certificate requiring them to complete the outstanding CPD points in specific competency areas, and providing periodic reports of their successful completion of CPD points to the Board.	47	41	52	58
Complied once application for Single CPD Activities was submitted and approved.	4	5	0	13
Complied once application by non-QA Approved Provider was submitted and approved.	-	-	2	6
Practitioner was awaiting a response from the Board regarding the outcome of their Audit.	0*	1	0*	11
Practitioner awaiting response from the Board regarding previous Additional CPD Condition compliance outcome.	0	3	6	0
Ongoing communication between Practitioner and the Board.	0	6	1	1
Referred to Professional Affairs Committee.	0	1	0	0
Referred to Professional Development Committee.	0	1	5	2
Practitioner withdrew renewal application prior to Additional CPD Condition being imposed	-	-	1	0
Total	102	115	144	204

* No Audit carried out

There has been an increase in overseas legal practitioners declaring they have not met their CPD compliance. This can be attributed to a series of more targeted communication from the Board informing overseas practitioners of the processes and CPD requirements.

Conditions Imposed For Non-Compliance Of CPD Condition

The PDC, the Board's Executive Director, or Deputy Executive Director, exercise delegated power to impose conditions on a practitioner's practising certificate where it is decided that it is appropriate to do so.

An additional CPD condition was imposed on eighty seven (87) practising certificates relating to the 2020/2021 CPD period, requiring those practitioners to complete additional CPD points, in specific competency areas, as rectification of the breach, and providing to the Board periodic reports of their successful completion of CPD points. Compared to the previous reporting period which had ninety six (96) imposed conditions, this is a decrease of 10%. Please refer to Table 5 below.

Table 5

Additional CPD Condition	2017/ 2018	2018/ 2019	2019/ 2020	2020/ 2021
Additional CPD Condition imposed	56	68* adjusted to 70	96	87
Compliance with Additional CPD Condition imposed	53	36	41	24
Breach of Additional CPD Condition	4	32 (13 processed within first 4 days of July)* adjusted to 34	55	63
Compliant - Breach of Additional CPD Condition in previous financial year	Not previously reported	4	30	6
Non-Compliant - Breach of Additional CPD Condition in previous financial year	Not previously reported	0	4	2

* This was reported incorrectly in the previous annual report.

Approval of QA Providers and Activities

Within the reporting period, the Board received one hundred and thirty six (136) Form 1 Applications for Approval as a QA Provider of CPD. This is a 91% increase from the seventy one (71) received in the previous reporting period. Please refer to Table 6 below for a breakdown of the different provider category applications received. Within the reporting period, the Board assessed one hundred and twenty three of the applications received.

Table 6

QA Provider applications	Total received in 2020/2021	Approved in 2020/2021	Not approved/ withdrawn in 2020/2021	Outstanding as at 1 July 2021
Commercial Provider	5	5	0	0
Legal Education Provider	17	17	0	0
Community Group or small non-commercial member organization	3	2	1	1
Community Legal Centre	3	3	0	0
Discussion Group	2	2	0	0
Law Practice category	66	57	2	7
Additional activities within Law Practice category	40	37	0	3
TOTAL	136	123	3	11

The Board received one hundred nine (109) requests from organisations to approve CPD activities delivered on a single activity basis. This is a slight increase from the last reporting period where one hundred and five (105) requests were received. Please refer to Table 7 below.

Table 7

Non-QA Approved Provider applications	Total received in 2020/21	Approved in 2020/21	Not approved in 2020/21	Outstanding as at 1 July 2021	Rec. 18/19, processed 19/20
1-2 hour activity	86	75	5	4	19
Half day activity	11	9	0	2	0
Activity longer than half day	12	5	7	2	4
TOTAL	109	89	12	25	23

The Board received one hundred and two (102) requests from practitioners to approve attendance at CPD activities that were not approved through the relevant organisations as single activities or delivered by a QA Provider. This is a decrease from the last

reporting period when Board received one hundred and twenty four (124) requests. Please refer to Table 8 below.

Table 8

Form 3 applications	Total received in 2020/2021	Approved in 2020/2021	Not approved / Withdrawn in 2020/ 2021	Outstanding as at 1 July 2021
Single CPD Activity by individual practitioner	124	100	2 withdrawn	22

Table 9 below sets out the breakdown of CPD applications the Board has received over the past 8 years, identifying an increase in applications from the previous reporting period.

Table 9

Application type (1 July – 30 June)	13/14	14/15	15/16	16/17	17/18	18/19	19/20	20/21
QA Providers	13	15	47	64	55	135	71	136
Individual activities by Non QA Provider	148	160	131	79	92	296	105	109
Single activities by an individual practitioner	146	152	188	147	207	202	124	102
Variation of CPD condition	113	100	84	99	143	229	273	369
TOTAL	420	427	450	389	497	863	573	691

ACKNOWLEDGEMENTS

I would like to extend my sincere thanks for the contribution and support provided by Ms Rebecca Heath, the Deputy Convenor and my fellow committee members for their preparation for and consideration of the many matters dealt with during the reporting period.

Thanks are extended to all of the Board's employees for their efforts during the year, and to the Executive Director, Ms Libby Fulham, and support staff, for their diligent attention to the matters before the PDC.

John Syminton

Convenor

December 2021

REPORT FROM SENIOR TRUST ACCOUNT INSPECTOR

The Trust Account Inspectors investigate and report on trust accounting matters to the Board, the Legal Profession Complaints Committee, the Legal Contribution Trust, and the legal profession.

This reporting period has continued to present challenges due to various COVID-19 related lockdowns, however they have not been of the duration seen in the previous reporting period so the effect on the day-to-day operations of the Trust Account Inspector team has been minimal.

Trust Account Educative Seminars

During the reporting period the Trust Account Inspectors presented 3 face-to-face seminars dealing with latest issues and concerns. A different format was adopted and the very high attendance indicates that the profession is eager to learn more about the proper management of a trust account.

The Trust Account Inspectors provided presentations in WA's South West region via video-conference and provided external presentations through QA providers including the College of Law, Curtin University and Legalwise. These seminars dealt with what a legal practitioner should know and what they should be aware of when maintaining a trust account. Also, a seminar was presented for the Law Society of WA dealing with the introduction of the Uniform Law and what effect this will have on the management of trust accounts in WA.

Reporting of Trust Irregularities

The reporting of irregularities to the Board is a requirement of section 227 of the *Legal Profession Act 2008 (Act)*. Table 1 below sets out the number of reported trust account irregularities during the reporting period.

Table 1

Quarter Ended	Trust irregularities reported past 10 years				Total
	30 - Sep	31 - Dec	31-Mar	30-Jun	
2011/2012	175	135	198	247	755
2012/2013	208	160	199	277	844
2013/2014	239	218	221	278	956
2014/2015	217	239	236	349	1041
2015/2016	321	255	384	449	1409
2016/2017	331	312	345	347	1335
2017/2018	399	408	353	274	1434
2018/2019	213	227	611	425	1476
2019/2020	774	717	495	635	2621
2020/2021	967	1372	1125	1830	5294

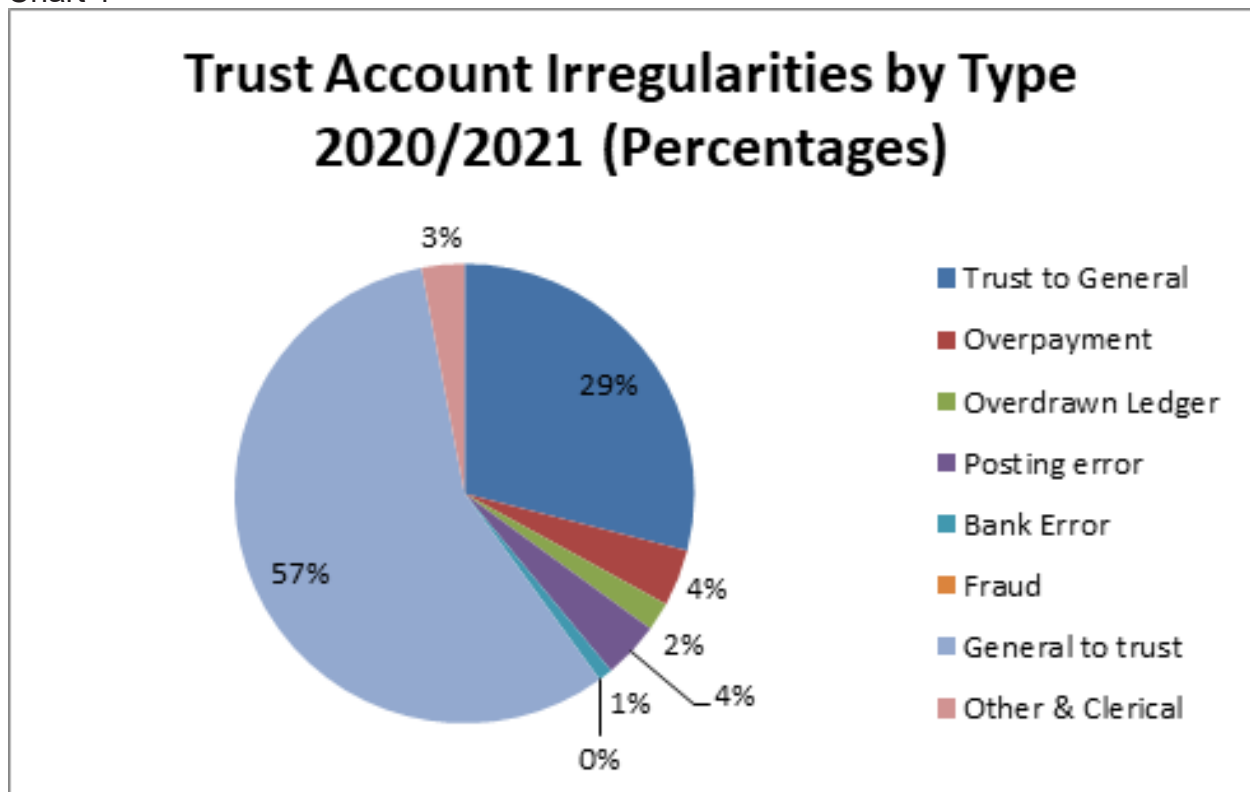
Figures for irregularities do not include irregularities identified and reported as part of the annual external examination (audit) process.

Categorised for 2020-2021 the errors comprised:

- 29% Trust funds deposited in error to the general bank account by either the client or the law practice and the overpayment of invoices.
- 57% General funds deposited in the trust account in error by clients with respect to the payment of tax invoices, clients using the wrong bank account or the law practice incorrectly processing the deposit.
- 3% Overdrawn trust ledgers due to transposition errors, bank errors and drawing against uncleared funds.
- 3% Clerical, posting and other errors.
- 4% related to bank errors, generally fees being charged to trust but also lost deposits, delay in processing deposits and processing to the incorrect account.

(See Chart 1 below)

Chart 1



There has been a reduction in the number of trust funds deposited in error to the general bank account through education methods.

There has been a significant increase in the number of reported general funds deposited in error to the trust account through erroneous trust account details being provided on invoices, and by misunderstanding in previous reporting period these deposits were not an irregularity of intermixing money.

External Examiners Report (EER)

A law practice that maintains a trust bank account is required to have its trust records externally examined at least once a year by an external examiner (**Examiner**). The Examiner is required to lodge an EER with the Board by 31 May each year. As part of

the process the Board has requested that a declaration and trust money statement is also provided as part of the EER. These reports provide further information regarding the law practice and specifically deal with aspects and concerns related to the trust bank accounts. As part of this process the Board requests specific schedules and for all incorporated legal practices an updated ASIC Extract. The information provides greater understanding of the various law practices being established in WA and maintains updated records for these law practices.

During the period 1 April 2020 to 31 March 2021 there were 764 law practices that maintained 792 trust bank accounts which required to be externally examined. In addition to these accounts there were 90 interstate trust bank accounts and 11 trust accounts currently under management or being closed due to the principal no longer practising.

During the reporting period all outstanding EERs from 2020 were cleared.

This year's report was produced as at 30 June 2021. As at 30 June 2021 584 reports were received of which 255 were processed. 34 EERs outstanding as at 1 August 2021 and these are being followed up with the Examiner and law practice.

As at 30 June 2021 only 2 of the EERs reviewed were qualified by the Examiner. The majority of EERs received were not qualified but continue to report issues of non-compliance with the *Legal Profession Regulations 2009*, an issue identified in previous years. A law practice identified with continuing compliance issues will be included in the inspection process for the next financial year.

External Examiners Reports (EER)					
	22020/2021	2019/2020	2018/2019	2017/2018	2016/2017
Law Practices with Trust Accounts (WA)	764	746	765	701	678
EERs Lodged and Approved	255	675	720	626	665
Waivers Granted	267	30	28	33	17
EERs Outstanding	34	41	17	8	24

Qualified & Trivial EER	22020/2021	2019/2020	2018/2019	2017/2018	2016/2017
EERs Lodged and Approved	255	675	720	626	665
EERs Qualified & Trivial	2	17	46	65	111
EERs Qualified & Trivial %	1%	3%	6%	10%	17%

Inspections

The number of routine and causal investigations have been maintained.

Targets are set to investigate every law practice in WA, as well as a recently opened law practice, at least once every 5 years. Of the recently opened law practices, a number of investigations have identified compliance issues. The issues identified are generally minor, however early intervention provides necessary education and training to minimise the risk of serious errors.

Table 3 below sets out the number of law practices investigated by a trust account inspector, including routine and causal investigations. The last three years show the combined figure of investigations conducted, which were previously provided

under separate annual reports for the Board and the Legal Profession Complaints Committee.

Table 3

Trust Account Investigations				
Year	Commenced	Finalised	Pending	Conducted By
2010/2011	8	4	10	Board Only
2011/2012	19	2	21	Board Only
2012/2013	17	4	16	Board Only
2013/2014	17	4	17	Board Only
2014/2015	17	0	21	Board Only
2015/2016	26	0	27	Board Only
2016/2017	29	0	29	Board Only
2017/2018	17	1	16	Board Only
2018/2019	100	82	15	TAI Team
2019/2020	84	84	7	
2020/2021	117	108	13	

INFORMATION COMMUNICATIONS AND TECHNOLOGY

The Board's Information, Communications and Technology (ICT) team provides a range of internal support services including ICT infrastructure, security monitoring and management, end-user computing, mobile support functions, recordkeeping and information management, application and database management, website development, data analysis and reporting services.

We have continued to be agile in our approach to adapt to the ever changing environment around us, whether it be adjusting to COVID-19 and a more flexible working environment, preparing for Uniform Law, or improving work efficiencies and services to the public and the legal profession. The ability to adapt so well has proven our processes, systems and systems architecture to be resilient and a reflection of the Board's investment in technology.

2020/2021 was a demanding and successful year undertaking more system development and enhancement projects than in any previous year. With a primary focus of improving efficiencies, at the completion of these projects, the Board will have improved or implemented new systems to better manage and report on complaints received and handled, admission applications, renewal of practising certificate applications, QA and Non-QA providers and Continuing Professional Development (CPD) activities undertaken by practitioners.

Summary of ICT projects

ICT Projects of 2020-2021	Project description
Infrastructure projects	
Server software upgrade	Server operating system upgrades to all servers commenced in the 2019-2020 reporting period. The project was completed in September 2020.
Thin client upgrade	Thin client workstations were replaced with docking laptops and rolled out to all staff. This increased work mobility around the office and provides assistance for remote working requirements.
Application and web development	
Online admission application system development	The Board's online services were extended to include an online admission application form which was launched on 12 April 2021 and no longer received in any other format. Data collected through the application form are directly entered into the Board's databases eliminating the need for manual data entry by staff and refocusing efforts towards assessing applications.
Case Management System (CMS) – Conceptual design	A proposed conceptual design of a CMS was completed and accepted by the Board in January 2021

CMS – first phase	<p>The first phase of the CMS will build the foundation of the system within iMIS, the Board’s core database managing practitioners and related records including online services for practitioners and applicants.</p> <p>This phase has not yet completed and is envisaged to be implemented by 31 December 2021</p>
CPD Management System (CPDMS) – Phase 1	<p>The Board is committed to establishing an effective system to monitor and manage compliance with CPD obligations for all WA legal practitioners that also gives the practitioner an avenue to easily access their own CPD records and lodge applications relating to CPD activities.</p> <p>Phase one of the project developed the database system within iMIS and an online uploading facility for CPD providers which was implemented in February 2021.</p>
CPD Management System (CPDMS) – Phase 2 and 3	<p>Phase two of the CPDMS project commenced to provide practitioners with a means to view their CPD activities as uploaded by CPD Providers as well as submitting online applications for a variation to their CPD obligations. This is envisaged to be implemented September 2021.</p>
Online application for a Practising Certificate (PC) enhancements	<p>Based on feedback from staff and practitioners, a number of enhancements were made to the online application for a PC system inclusive of improvements to invoicing, the login interface, automations and COVID-19 updates.</p>
Website enhancements	<p>A number of enhancements were carried out to accommodate the different online services being made available. These included new areas for the CPDMS and admission application forms and an information area for Uniform Law.</p>
Information management projects	
Objective Hierarchy restructure project	<p>A review and restructure of the Board’s file hierarchy and staff privileges and general information security was completed 7 August 2020.</p> <p>The file hierarchy structure and staff security matrix was implemented 10 September 2020 and saw all records relating to all functions and activities across the office in one file structure. This has improved staff accessibility to records, enhancing and strengthening staff communications and information sharing.</p>
Archiving project – Physical records	<p>A significant archiving task was undertaken to archive old physical enquiry, complaints and associated records that were held on premises.</p>

Records Management

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

Recordkeeping Plan

The Board's Recordkeeping Plan was approved by the SRC on 21 March 2021 with the next review date of 21 March 2026.

The following recordkeeping plans and schedules are also under review and will be finalised in 2021-2022:

- Vital Records Plan.
- Business Continuity Plan.
- Retention and Disposal Schedule.

Evaluation of Recordkeeping Systems

The Board continues to review and develop its current recordkeeping program to ensure compliance with the SRC principles and standards governing recordkeeping by state government agencies.

The security and integrity of the Boards ICT systems and data holdings remain key priorities. The Board completed an extensive review of information assets and assigned classifications and privileges resulting in a restructure of the Board's filing structure and amendments to the Board's business classification scheme.

Recordkeeping Training Program

The Board continues to develop recordkeeping training strategies to support record management activities undertaken throughout the Board. The training strategies aim to consolidate records management policy and procedures.

A formal recordkeeping training program has been developed to incorporate recordkeeping awareness and best practice standards, Board core recordkeeping processes, electronic document and records management system functionality and workflow activities, and an improved delivery method approach for training.

During the reporting year there was an emphasis on team specific training and identified individual training needs were also addressed.

Evaluation of the recordkeeping training program

The Board continues to evaluate recordkeeping training, with findings used to develop training strategies that deliver knowledge of recordkeeping systems, practices and processes.

Recordkeeping induction program

The Board's well-established induction program continues to be provided to all new staff members which cover both technical recordkeeping procedures as well as policies and responsibilities in compliance with the Board's recordkeeping plan.

Analisa Zainal

IT and Information Manager

DISCLOSURES AND OTHER LEGAL REQUIREMENTS

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

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

The Board is committed to maintain a high standard of accountability, integrity and transparency in all its functions and activities in line with the public sector standards. As part of this the Board is continuing its program of regular review and updating all the Board's policies relating to both its internal and external functions, including but not limited to human resources and work force management . The Board has a commitment to continue to maintain and review its own Code of Conduct for both Board members and Board staff in line with the Commissioner's Instruction No 8 as at 8 February 2020.

The Board provides the following information regarding compliance during the period under review.

Public Sector Standards:

- There were no breach claims in the reporting period;
- Information on standards is provided at recruitment and the Code of Ethics is included in the Offer of Employment contract;
- All employees receive an induction manual on employment with the Board. The Code of Ethics is included in the Board's employee induction manual. The employee's induction manual sets out the Board's policies and conditions of employment and all employees are required to sign a document stating they have read the manual;
- Training is provided to persons on recruitment panels to ensure compliance with the relevant standards; and
- The Board's policies are consistent with ethical principles and are subject to regular review and update.

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

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

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

Occupational Safety, Health, Injury Management and Wellness

In accordance with the Commissioner's Circular 2018-03 Code of Practice: Occupational Safety and Health in the Western Australian public sector, the Board is committed to promoting a safe healthy and congenial workplace. To this end the Board has the following policies and initiatives in place:

- A comprehensive Occupational Safety and Health (**OS&H**) policy document which outlines the Board's procedures for dealing with OH&S matters. The Board has an appointed OS&H Officer who is compliant with Worksafe standards and responds to any OS&H issues that may arise. The Board provides information on OS&H matters to all new staff on induction.
- The Board has an appointed OS&H Co-ordinator.
 - For the period under review there were no cases of OS&H injury.
- The Board has two (2) appointed staff contact officers and an appointed grievance officer upon the occurrence of a grievance.
 - There were no (0) staff grievances received during the reporting year.
- Periodical reviews of the ergonomic conditions within the office are conducted with a view to improving the working conditions for all staff.
- Where possible the Board seeks to accommodate flexible working arrangements for staff.
- Access is available for all staff to counselling services through its nominated service provider Relationships Australia.
- A wellness program is in place that it is continuing to grow. Normally the Board provides kitchen supplies and consumables for the benefit of the staff and also regularly organises a visiting massage therapist for the benefit of the staff, however due to COVID-19 communal food and contact has been suspended. The Board will continue to develop this program with the input of the staff.
- Various social activities for the staff take place, including each year holding an inclusive event to raise funds for the Cancer Council. In addition to this the Board staff also contribute items each year to the Salvation Army's Christmas Appeal.
- All endeavours are made to be environmentally conscious and encourage recycling; for example all superseded electronic equipment is sent to an appropriate recycling facility.

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

Freedom of Information

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

- Five (5) freedom of information applications were received and dealt with in the year under review.
- As 30 June 2021, there were no freedom of information applications in progress.

Corruption Prevention

The Board has acknowledged the risk of corruption when managing organisational risk. As part of the induction of new staff, they are made aware of the policies, practices and

procedures of the Board in dealing with private and confidential information collected and held by the Board.

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

Public Interest Disclosure

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

- No public disclosure requests were received during this period under review.

Substantive Equality

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

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

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

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

Special Purpose Financial Statements
For the financial year ended 30 June 2021

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

SPECIAL PURPOSE FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30 JUNE 2021

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LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

STATEMENT BY EXECUTIVE DIRECTOR

For the year ended 30 June 2021

As detailed in note 1 to the financial statements, the Legal Practice Board of Western Australia is not a reporting entity because in the opinion of the Board there are unlikely to be users of the financial statements who are not able to command the preparation of reports tailored so as to specially satisfy all of their information needs. Accordingly, this 'special purpose financial report' has been prepared to satisfy the Board's reporting obligations under Section 549, 550 and 551 of the *Legal Profession Act 2008*.

The Board declares that:

- (a) In the Board's opinion, there are reasonable grounds to believe that the entity will be able to pay its debts as and when they become due and payable; and
- (b) In the Board's opinion, the attached financial statements and notes thereto are in accordance with the *Legal Profession Act 2008*, including compliance with accounting standards and giving a true and fair view of the financial position and performance of the entity.



Ms Elizabeth Fulham
Executive Director

Date: 17 August 2021
Perth WA

Legal Practice Board of Western Australia

Independent auditor's report to the Legal Practice Board of Western Australia

Report on the Audit of the Financial Statements

Opinion

We have audited the financial report of the Legal Practice Board of Western Australia, which comprises the statement of financial position as at 30 June 2021, the statement of profit or loss and other comprehensive income, the statement of changes in equity and the statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, and statement by the Executive Director.

In our opinion, the accompanying financial report presents fairly, in all material respects, the financial position of the Legal Practice Board of Western Australia as at 30 June 2021, and its financial performance and its cash flows for the year then ended in accordance with the financial reporting requirements of section 549, 550 and 551 of the *Legal Professional Act 2008*.

Basis for Opinion

We conducted our audit in accordance with Australian Auditing Standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Report section of our report. We are independent of the Legal Practice Board of Western Australia in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (including Independence Standards) (the Code) that are relevant to our audit of the financial report in Australia. We have also fulfilled our other ethical responsibilities in accordance with the Code.

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

Emphasis of Matter – Basis of Accounting

We draw attention to the *Financial Reporting Framework* section within the introduction to the financial report, which describes the basis of accounting. The financial report has been prepared to assist the Legal Practice Board of Western Australia to meet the requirements of section 549, 550 and 551 of the *Legal Professional Act 2008*. As a result, the financial report may not be suitable for another purpose. Our opinion is not modified in respect of this matter.

Responsibilities of Management and Those Charged with Governance for the Financial Report

Management is responsible for the preparation and fair presentation of the financial report in accordance with the financial reporting requirements of section 549, 550 and 551 of the *Legal Professional Act 2008* and for such internal control as management determines is

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Independent auditor's report to the Legal Practice Board of Western Australia (cont.)

necessary to enable the preparation and fair presentation of a financial report that is free from material misstatement, whether due to fraud or error.

In preparing the financial report, management is responsible for assessing the Legal Practice Board of Western Australia's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless management either intends to liquidate the Legal Practice Board of Western Australia or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Legal Practice Board of Western Australia's financial reporting process.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

A further description of our responsibilities for the audit of these financial statements is located at the Auditing and Assurance Standards Board website at:

https://www.auasb.gov.au/auditors_responsibilities/ar4.pdf

This description forms part of our independent auditor's report.

William Buck

William Buck Audit (WA) Pty Ltd

ABN 67 125 012 124

CM

Conley Manifis

Director

Dated this 17th day of August 2021

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

**STATEMENT OF PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME
FOR THE YEAR ENDING 30 JUNE 2021**

REVENUE	Note	2021	Restated 2020
		\$	\$
Office of the Board	14	9,227,470	9,098,615
Trust Account Inspector	15	506,603	616,849
Legal Profession Complaints Committee	16	<u>143,693</u>	<u>93,151</u>
TOTAL REVENUE		<u>9,877,766</u>	<u>9,808,615</u>
EXPENDITURE			
Office of the Board	14	5,182,593	4,896,126
Trust Account Inspector	15	348,652	403,394
Legal Profession Complaints Committee	16	<u>3,534,522</u>	<u>3,486,108</u>
TOTAL EXPENDITURE		<u>9,065,767</u>	<u>8,785,628</u>
Profit for the year from continuing operations		<u><u>811,999</u></u>	<u><u>1,022,987</u></u>

**STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2021**

Operating Receipts			
Receipts from Customers		10,811,013	8,800,694
Interest received		131,945	269,957
Operating Payments			
Payments to Employees & Suppliers		(8,490,636)	(7,915,923)
Net cash provided by/(used in) operating activities	19 (b)	<u>2,452,322</u>	<u>1,154,728</u>
Cash Flows from Investing Activities			
Investing Payments			
Payment for property, plant & equipment		(211,681)	(245,849)
Purchase of Term Deposits (net)		75,618	(145,458)
Lease Finance paid		(352,295)	(336,501)
Net cash used in investing activities		<u>(488,358)</u>	<u>(727,808)</u>
Net increase/(decrease) in cash and cash equivalents		1,963,964	426,920
Cash and cash equivalents at the beginning of period		3,269,073	2,842,153
CASH AND CASH EQUIVALENTS AT THE END OF PERIOD	19 (a)	<u><u>5,233,037</u></u>	<u><u>3,269,073</u></u>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

**STATEMENT OF CHANGES IN EQUITY
FOR THE YEAR ENDED 30 JUNE 2021**

	Restated Retained Earnings
	<u>\$</u>
Balance as at 1 July 2019	6,176,106
Profit for the Year	1,022,987
Total comprehensive income	<u>1,022,987</u>
Balance as at 30 June 2020	<u>7,199,093</u>
Balance as at 1 July 2020	7,199,093
Profit for the Year	811,999
Total comprehensive income	<u>811,999</u>
Balance as at 30 June 2021	<u><u>8,011,092</u></u>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2021

Introduction

Financial Reporting Framework

The Legal Practice Board is not a reporting entity because in the opinion of the Board there are unlikely to be users of the financial report who are not able to command the preparation of reports tailored so as to specially satisfy all of their information needs. Accordingly, this special purpose financial statement has been prepared to satisfy the Board's reporting obligations under Section 549, 550 and 551 of the *Legal Profession Act 2008*.

Statement of Compliance

The financial statements have been prepared on the basis of recognition and measurement specified by all Accounting Standards and Interpretations, and the disclosure requirements of Accounting Standards AASB 101 'Presentation of Financial Statements', AASB 107 'Cash Flow Statements', AASB 108 'Accounting Policies, Changes in Accounting Estimates and Errors' and AASB 1054 'Australian Additional Disclosure'. Accounting standards applicable to 'not-for-profit' entities have been applied.

New or amended Accounting Standards and Interpretations adopted

The Board has adopted all of the new or amended Accounting Standards and Interpretations issued by the Australian Accounting Standards Board ('AASB') that are mandatory for the current reporting period. Any new or amended Accounting Standards or Interpretations that are not yet mandatory have not been early adopted.

Basis of Preparation

The financial statements have been prepared on the basis of historical cost, except for certain non-current assets and financial instruments that are measured at revalued amounts or fair values, as explained in the accounting policies below. Historical cost is generally based on the fair values of the consideration given in exchange for assets. All amounts are presented in Australian dollars, unless otherwise noted. For the purpose of preparing the financial statements, the entity is a 'not-for-profit' entity.

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

Critical Accounting Judgements and Key Sources of Estimation Uncertainty

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

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

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

The accounting policies set out below have been applied in preparing the financial statements for the year ended 30 June 2021 and the comparative information presented in these financial statements for the year ended 30 June 2020.

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2021

1. Significant Accounting Policies

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 to its estimated residual value during its expected useful life using rates between 5 – 25%.

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

b) Employee Benefits

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

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

c) Property, Plant and Equipment

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

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

Gains and losses arising on disposals or retirement of an item of property, plant and equipment are determined as the difference between sales proceeds and the carrying amount of the asset. These are recognised in the Statement of Profit or Loss.

d) Right-of-use Assets

A right-of-use asset is recognised at the commencement date of a lease. The right-of-use asset is measured at cost, which comprises the initial amount of the lease liability, adjusted for, as applicable, any lease payments made at or before the commencement date net of any lease incentives received, any initial direct costs incurred, and, except where included in the cost of inventories, an estimate of costs expected to be incurred for dismantling and removing the underlying asset, and restoring the site or asset.

Right-of-use assets are depreciated on a straight-line basis over the unexpired period of the lease or the estimated useful life of the asset, whichever is the shorter. Where the Board expects to obtain ownership of the leased asset at the end of the lease term, the depreciation is over its estimated useful life. Right-of use assets are subject to impairment or adjusted for any remeasurement of lease liabilities.

The Board has elected not to recognise a right-of-use asset and corresponding lease liability for short-term leases with terms of 12 months or less and leases of low-value assets. Lease payments on these assets are expensed to profit or loss as incurred.

e) Intangible Assets

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

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2021

1. Significant Accounting Policies (cont'd)

f) Income Tax

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

g) Revenue Recognition

Interest Revenue

Interest revenue is recognised as interest accrues using the effective interest method. This is a method of calculating the amortised cost of a financial asset and allocating the interest income over the relevant period using the effective interest rate, which is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset to the net carrying amount of the financial asset.

Certifications

Revenue from the issue of certificates is recognised proportionately over the period to which the certificate relates.

Rendering of Services

Revenue from the provision of services is recognised in the period to which the services relate.

h) Goods and Services Tax

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

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

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

i) Impairment of assets

At each reporting date the entity reviews the carrying amount of its assets to determine whether there is any indication that those assets have suffered any 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 the Statement of Profit or Loss.

j) Cash and Cash Equivalents

Cash and cash equivalents comprise cash on hand, cash in banks and investments in term deposits with maturities of 3 months or less.

k) Provisions

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

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

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2021

1. Significant Accounting Policies (cont'd)

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.

l) Trade and Other Receivables

Trade receivables are initially recognised at fair value and subsequently measured at amortised cost using the effective interest method, less any allowance for expected credit losses.

The Board has applied the simplified approach to measuring expected credit losses, which uses a lifetime expected loss allowance.

Other receivables are recognised at amortised cost, less any allowance for expected credit losses.

m) Trade and Other Payables

These amounts represent liabilities for goods and services provided to the Board prior to the end of the financial year and which are unpaid. Due to their short-term nature they are measured at amortised cost and are not discounted. The amounts are unsecured and are usually paid within 30 days of recognition.

n) Lease Liabilities

A lease liability is recognised at the commencement date of a lease. The lease liability is initially recognised at the present value of the lease payments to be made over the term of the lease, discounted using the interest rate implicit in the lease or, if that rate cannot be readily determined, the Board's incremental borrowing rate. Lease payments comprise of fixed payments less any lease incentives receivable, variable lease payments that depend on an index or a rate, amounts expected to be paid under residual value guarantees, exercise price of a purchase option when the exercise of the option is reasonably certain to occur, and any anticipated termination penalties. The variable lease payments that do not depend on an index or a rate are expensed in the period in which they are incurred.

Lease liabilities are measured at amortised cost using the effective interest method. The carrying amounts are remeasured if there is a change in the following: future lease payments arising from a change in an index or a rate used; residual guarantee; lease term; certainty of a purchase option and termination penalties. When a lease liability is remeasured, an adjustment is made to the corresponding right-of-use asset, or to profit or loss if the carrying amount of the right-of-use asset is fully written down.

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2021**

	2021	2020
	\$	\$
2 Auditors Remuneration		
William Buck Audit (WA) Pty Ltd		
- Audit Services	20,008	17,850
3 Supreme Court Law Library		
<p>The management of the Supreme Court Law Library was passed to the Attorney General's Department from 1 July 2016 and the operational costs are no longer the direct responsibility of the Board. Arising from this rearrangement the Board has undertaken to meet certain costs as follows:</p>		
- Agreed cost reimbursement	600,000	600,000
4 Monetary Assets		
Cash and cash equivalents		
Cash at Bank	5,232,437	3,268,473
Cash on Hand	600	600
Term Deposits maturing within 3 months	-	-
Total cash and cash equivalents	5,233,037	3,269,073
Terms deposits maturing between 3-12 months	11,195,800	11,271,418
	16,428,837	14,540,491
5 Trade and Other Receivables		
Trade Receivables	1,047,877	876,461
Less Allowance for Expected Credit Loss	(126,097)	(207,902)
Prepayments	206,769	129,599
	1,128,549	798,158
Refer to Note 1(m)		
6 Other Current Assets		
Accrued Income	3,487	36,302

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2021

7 Property, plant and equipment	Office Equipment \$	Software Systems \$	Leasehold Improvements \$	Total \$
Cost				
Balance at 30 June 2020	718,162	1,620,703	330,398	2,669,263
Additions	75,980	135,700	-	211,680
Disposals	(4,590)	-	-	(4,590)
Balance at 30 June 2021	789,552	1,756,403	330,398	2,876,353
Accumulated Depreciation				
Balance at 30 June 2020	(432,372)	(1,326,667)	(50,343)	(1,809,382)
Depreciation for the year	(73,386)	(77,332)	(17,269)	(167,987)
Depreciation on disposals	4,590	-	-	4,590
Balance at 30 June 2021	(501,168)	(1,403,999)	(67,612)	(1,972,779)
Net Book Value				
As at 30 June 2020	285,790	294,036	280,055	859,881
As at 30 June 2021	288,384	352,404	262,786	903,574

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2021**

	2021	2020
	\$	\$
8 Right-of-use Asset		
Capitalised at 1 July 2019	<u>4,916,344</u>	<u>4,916,344</u>
Accumulated Depreciation		
At the beginning of the year	(375,771)	-
Depreciation for the year	<u>(375,772)</u>	<u>(375,771)</u>
At the end of the year	<u>(751,543)</u>	<u>(375,771)</u>
Net book value at end of year	<u>4,164,801</u>	<u>4,540,573</u>
The Board's right-of-use asset comprises its offices situated at Level 6, 111 St Georges Terrace, Perth, WA.		
9 Trade and Other Payables		
Trade Payables	41,880	193,017
Other Payables	8,755	5,625
Accruals	<u>142,279</u>	<u>80,695</u>
	<u>192,914</u>	<u>279,337</u>
10 Provisions		
Current		
Provision for Annual Leave	592,712	519,792
Provision for Long Service Leave	<u>511,241</u>	<u>513,053</u>
Total current provisions	<u>1,103,953</u>	<u>1,032,845</u>
Non-current		
Provision for Long Service Leave	<u>208,647</u>	<u>156,919</u>
11 Income in Advance		
Continuing Professional Development Fees in Advance	224,490	149,299
Photocopying in Advance	3,353	3,469
Practising Certificates in Advance	7,855,473	6,721,327
Solicitors Guarantee Fund	<u>6,780</u>	<u>12,208</u>
	<u>8,090,096</u>	<u>6,886,303</u>

12 Lease Liability

Current portion payable in 12 months	368,562	352,295
Non-current portion	<u>4,653,984</u>	<u>4,868,613</u>
Total net present value	<u>5,022,546</u>	<u>5,220,908</u>

13 Retained Earnings

Balance at Beginning of the year	7,199,093	6,176,106
Net Profit for the year	<u>811,999</u>	<u>1,022,987</u>
Balance at End of Year	<u>8,011,092</u>	<u>7,199,093</u>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2021**

14 Office of the Board	2021	2020
	\$	\$
Income		
Admissions	165,460	149,400
Assessment of Qualifications	22,600	26,400
Bank Interest	99,130	208,971
Continuing Professional Development	234,527	227,405
Evidentiary Certificates	21,809	25,971
External Examiner Reimbursement	236,293	377,629
Fines and Costs	2,681	15,500
Foreign Lawyers	7,500	18,750
Miscellaneous Income	875	8,576
Practice Certificates	8,436,595	8,040,013
	<u>9,227,470</u>	<u>9,098,615</u>
Expenditure		
Accommodation expense (Note 17)	724,405	711,752
Advertising	10,279	41,105
Audit and Accounting Fees (Note 2)	20,008	17,850
Expected Credit Loss	33,382	40,621
Bank Charges	63,672	48,944
Computer Expenses	286,490	275,793
Conferences	291	15,474
Depreciation of office equipment/software	167,988	131,729
Election Services	5,160	9,954
Fringe Benefits Tax	4,027	4,794
Insurance	8,048	6,530
Law Library Expenses (Note 3)	600,000	600,000
Legal Costs	272,781	458,048
Miscellaneous Costs	40,240	40,249
Parking	18,689	18,271
Payroll Tax	150,334	117,766
Postage	15,592	12,945
Printing & Stationery	7,889	17,093
Professional Memberships	10,810	8,542
Reference Materials	211	36
Salaries	2,425,716	2,022,911
Seminars	-	131

Service and Maintenance	2,161	3,311
Storage	21,948	22,854
Superannuation Contributions	218,143	184,828
Telephone	35,862	36,741
Training	21,645	10,492
Travel & Accommodation	(906)	21,568
Workers' Compensation	17,728	15,794
	<u>5,182,593</u>	<u>4,896,126</u>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2021**

15 Trust Account Inspector	2021	2020
	\$	\$
Income		
TAI Reimbursements	324,014	433,220
Seminar fees	10,959	11,999
General Admin Costs	171,630	171,630
	<u>506,603</u>	<u>616,849</u>
Expenditure		
Conferences	-	3,143
Parking	6	6
Payroll Tax	15,487	21,422
Professional Membership	655	1,991
Salary	297,638	329,907
Seminars	3,696	1,987
Stationery/meetings/office expenses	-	73
Superannuation Contributions	26,372	30,546
Telephone	1,610	822
Training	725	1,050
Travel & Accommodation	2,463	12,447
	<u>348,652</u>	<u>403,394</u>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2021**

16	Legal Profession Complaints Committee	2021	2020
		\$	\$
	Income		
	Costs Recovered	93,193	69,761
	Fines	39,000	19,360
	Fines – Summary Jurisdiction	11,500	4,000
	Miscellaneous Income	-	30
		<u>143,693</u>	<u>93,151</u>
	Expenditure		
	Conferences	206	9,760
	Fringe Benefits Tax	1,630	4,794
	Legal Costs	424,292	354,973
	Miscellaneous Expenses	-	208
	Parking/travel allowance	18,689	18,497
	Payroll Tax	137,946	143,499
	Professional Memberships	17,560	26,440
	Salaries	2,697,640	2,684,250
	Superannuation Contributions	231,061	242,692
	Training	5,498	995
		<u>3,534,522</u>	<u>3,486,108</u>
17	Accommodation expense	2021	2020
		\$	\$
	Accommodation expense comprises:		
	- Depreciation of Right-of-use Asset	375,772	375,771
	- Lease Finance Charges	153,933	159,534
	- Outgoings	194,700	176,447
		<u>724,405</u>	<u>711,752</u>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2021**

18 Employee Benefits

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

Provision for employee benefits:	2021	2020
	\$	\$
Current (note 10)	1,103,953	1,032,845
Non-current (note 10)	208,647	156,919
	<u>1,312,600</u>	<u>1,189,764</u>

19 Notes to the cash flow statement

19 (a) Reconciliation of cash and cash equivalents

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

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

Cash and cash equivalents (Note 4)	<u>5,233,037</u>	<u>3,269,073</u>
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19 (b) Reconciliation of profit for the year to net cash flows from operating activities

	2021	2020
Profit and loss account:	\$	\$
Profit for the year	811,999	1,022,987
Expected Credit Loss	(81,805)	(52,755)
Lease liability finance cost	153,933	159,534
Depreciation and amortisation of non-current assets	<u>543,760</u>	<u>507,500</u>
	1,427,887	1,637,266

Changes in net assets and liabilities:

(Increase)/decrease in assets:		
Trade and other receivables	(248,586)	(9,574)
Other current assets	32,815	60,986
Increase/(decrease) in liabilities:		
Current payables	(86,423)	77,160
Income in advance	1,203,793	(721,863)
Employee benefit provisions	<u>122,836</u>	<u>110,753</u>

Net cash from/(used in) operating activities	<u>2,452,322</u>	<u>1,154,728</u>
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LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2021

20 Subsequent events

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

21 Additional Company Information

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

Registered Office and Principal Place of Business

Level 6

111 St Georges Terrace

PERTH WA 6000

Tel: (08) 6211 3600

22 Commitments for Expenditure

2021

2020

Capital Expenditure Commitments

Nil

-

-

23 Contingent liabilities

There are certain cases under appeal. Depending on the outcomes of the cases there may be some orders for costs. As the outcomes are not yet determined the amounts cannot be reliably estimated and so no adjustment has been made in the financial statements at the reporting date.

24 Related party transactions

The following Board Members provided legal services to the Legal Practice Board during the financial year ended 30 June 2021:

	2021	2020
	\$	\$
Mr Gary Cobby SC	-	42,506
Mr Martin Cureden SC	29,832	49,080
Mr Matthew Howard SC	-	42,924
Mr Alain Musikanth SC	19,610	37,739
Mr Marcus Solomon SC	-	3,472
Mr Sam Vandongen SC	9,200	4,350

25 Prior Period Adjustment

Income from recovery of External Intervention expenses was understated in 2020. Therefore 2020 balances have been restated to correctly reflect the amounts in 2020.

Restatement of Financial Statements as a result of correction of error:

30 June 2020 Comparative Year

	Actual 30 June 2020 \$	Adjustment \$	Restated 30 June 2020 \$
Statement of Financial Position			
Trade Receivables	770,877	105,584	876,461
Retained Earnings	7,093,509	105,584	7,199,093
Statement of Profit and Loss			
External Examiner Reimbursement	272,045	105,584	377,629
Total Revenue and Net Profit for the Year	917,403	105,584	1,022,987