

LEGAL PRACTICE BOARD

1 July 2008 - 30 June 2009



OF WESTERN AUSTRALIA

ANNUAL REPORT

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1. REPORT FROM THE CHAIRPERSON

1.1 The Role of the Legal Practice Board

The role of the Legal Practice Board (Board) is described on its website as:

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

In the specific areas the subject of the Board’s jurisdiction, these statutory obligations require the Board to:

Admission & Registration:

- prescribe, assess and monitor quality and delivery of initial legal qualifications (delivered by the universities);
- prescribe, assess and monitor quality and delivery of practical legal training courses in Western Australia;
- assess applications for admission and re-admission from local applicants;
- assess applications and qualifications for registration or mutual recognition of practitioners’ qualifications from both overseas and interstate;
- operate the Articles Training Program (ATP);

Professional Affairs:

- issue and renew practising certificates from local practitioners;
- consider the imposition of conditions on practitioners for a variety of reasons;
- manage, and where appropriate prosecute, issues relating to the practice of law by those not qualified to do so;
- organise supervision of legal practices requiring monitoring and supervision;
- monitor and inspect practitioner trust accounts;
- monitor incorporated legal practices and multi disciplinary practices;
- maintain the roll of legal practitioners and the disciplinary register;
- implement, monitor and audit obligations of practitioners and quality assured providers regarding continuing professional development (CPD);

Law Library:

- manage all aspects of the operation of the Law Libraries at the Supreme Court and the Central Law Courts; and

Disciplinary Matters:

- receive, manage and prosecute where appropriate, complaint and discipline matters via the Legal Profession Complaints Committee (LPCC).

Associated with and in addition to these activities, is the legal requirement arising due to the Board’s status as a “non SES agency” to report on government compliance, regulatory standards and recordkeeping obligations.

To support these operations the Board currently has 55 staff members across 5 separate geographical locations (the Board Office, the LPCC offices, the offices of the ATP, the Law Library at the Supreme Court and the Branch Library at the Central Law Courts).

1. REPORT FROM THE CHAIRPERSON

The majority of the operations of the Board are mandated by statute – yet are funded by the profession. Government support comes from:

- bearing the rental cost for the premises of the Board, the LPCC and the Library premises;
- bearing the telephone costs for the Board, LPCC and Libraries;
- an annual grant (at an unchanged figure set 17 years ago), to assist in maintenance of the Library; and
- the salary of 2 librarians to staff the Supreme Court and Branch Library.

The government funding for the operation of the Library currently equates to approximately 20% of the cost of operating the 2 Libraries.

Rental costs for the ATP office and all other Board costs, including staffing costs, are met by the Board itself. To this extent, the Board is primarily funded through the payment of practising certificate fees.

The Board's power was derived from the *Legal Practice Act 2003* up to 28 February 2009, and from the 1 March 2009 from the *Legal Profession Act 2008*.

1.2 The National Legal Profession Reform Project

In last year's report I noted that there was increasing Australian Government pressure for uniformity in both the administration of laws and the regulation of the legal profession. With the increasing national (and indeed global) operation of the profession, the Board was actively working at a national level with the other regulators, the Law Societies, the Law Council of Australia (LCA) and the Law Admissions Consultative Committee (LACC) to feed information and views into the Standing Committee of Attorneys-General (SCAG) and Council of Australian Governments (CoAG).

On April 30 2009, the Federal Attorney-General, through the auspices of the Council of Australian Governments (CoAG), established a National Legal Profession Reform Project and appointed a Taskforce to make recommendations and prepare draft legislation for consideration by CoAG within twelve months. Additionally, the Attorney-General announced the formation of a Consultative Group to provide advice and recommendations for the consideration of the Taskforce.

The Board was invited by the Attorney-General to suggest a suitable representative to serve on that Consultative Group which is chaired by the Hon Professor Michael Lavarch. The Board recommended that its immediate past President, Mr Steven Penglis, be appointed to the Consultative Group. (On 10 July 2009 Mr Penglis was appointed to the Consultative Group).

The reform process will be a significant part of the Board's business in the year ahead and may have significant implications for the practice of law, with potential changes in the regulation of the profession and its governing legislation.

1.3 The Legal Profession Act 2008

The bulk of the *Legal Profession Act 2008* (LPA 2008) became operative on 1 March 2009, with various aspects relating to costs becoming operative on 1 July 2009.

1. REPORT FROM THE CHAIRPERSON

Continuing Professional Development

The most significant and broad-reaching change brought in by the legislation was the introduction of compulsory CPD as a statutory condition on all practising certificates. Whilst the condition could not be imposed until the LPA 2008 became operative on 1 March 2009, the Board progressed the implementation of its CPD policy in preparation of the introduction of CPD for the practising certificate renewal period 2008-2009.

Prior to the formal introduction of CPD, the Board delivered information seminars to both metropolitan and regional practitioners and to prospective providers of CPD. These seminars took place in Perth, Bunbury, Albany, Kalgoorlie, Geraldton and Broome.

Those practitioners renewing their practising certificates for the 2009-2010 year were required to indicate on their renewal application if they had complied or would comply with their CPD obligations by the prescribed date. By the end of the renewal period, 98% of practitioners confirmed that they had or would have done so. The Board will be entering into arrangements with the 2% of practitioners who had not complied to ensure that any shortfall is made up. Additionally, the Board has undertaken to conduct a CPD audit of at least 1 practitioner from every Western Australian practice (approximately 1400 audits). This staged process will commence in the 2009-2010 financial year, and will include an audit of all Board members!

Practical Legal Training

The LPA 2008 also provides for an alternative route to admission, being the undertaking of a practical legal training (PLT) course rather than undertaking a period of service as an articled clerk. The Board developed guidelines for prospective providers of PLT to enable them to seek approval of their courses and has approved the College of Law as one such provider.

Subsidiary Legislation

The LPA 2008 also gave the Board the power to introduce subsidiary legislation, and this was done with the introduction of the *Legal Profession Rules 2009* and the *Legal Profession (Admission) Rules 2009*.

The Board also agreed that it would promulgate professional conduct rules and has convened a Professional Conduct Rules Advisory Committee to advise the Board. The Advisory Committee is being chaired by Mr Steven Penglis and has representation from the Board, the LPCC, The Law Society and the Bar Association.

Membership of the Board

The structure of the membership of the Board underwent a change under the provisions of the new LPA 2008. Queens and Senior Counsel, who were previously automatically members of the Board upon the taking of silk, now have to elect to be members of the Board – giving them a choice whether or not to actively participate in the Board's activities.

1.4 Online Renewal of Practising Certificates

Following the successful introduction of the online practising certificate renewal process in 2007-2008 – the first Australian jurisdiction to do so – the Board was required to implement a number of alterations to the renewal system to accommodate changes introduced by the LPA 2008. This required considerable operational resources, but was successfully undertaken, with 96% of practitioners electing to renew online. Further refining of the online renewal process will continue in the year ahead.

1. REPORT FROM THE CHAIRPERSON

1.5 The Future

The next year may see preparation for significant changes in the regulation of the profession, with consequential changes to the operations of the Board. New processes introduced by the LPA 2008 may be superseded by suggested changes developed within the National Legal Profession Reform Project. Whilst it is unlikely that we will see a new Act during 2009-2010, if the Federal Attorney-General's requested timeframe is met, the profession may see a new national Bill before the end of 2010. It is hoped that the National Legal Profession Reform Project will realise the aim of the consistent regulation of the legal profession in Australia, and not just the introduction of additional layers of bureaucracy with no benefit to the majority of the profession.

In addition, the Board will be introducing a re-developed website, IT and Record Management systems that will allow the Board to be better able to provide the profession with relevant information, forms and guidelines, as well as keeping the profession informed of developments in the National Legal Profession Reform Project.

1.6 Acknowledgements

I would like to take this opportunity to thank the staff across all divisions of the Board's operations for their dedication and committed work on behalf of the Board and its Committees. The knowledge and expertise that we have now built has been, and will continue to be, of invaluable assistance to the profession.

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

A particular vote of thanks goes to Grant Donaldson SC (Deputy Chair and Convenor of the Admissions and Registrations Committee), Robert Cock QC (Convenor of the Management Committee), Matt Zilko QC (Convenor of the Professional Affairs Committee), Clare Thompson (Convenor of the Legal Education Committee – to April 2009), Chris Zelestis QC, Justice Ken Martin and Michael Corboy SC (Convenor and Deputy Convenors of the Legal Professions Complaints Committee), Justice Nicholas Hasluck (Chairperson of the Law Library Advisory Committee) and Mr Steven Penglis (Professional Conduct Rules Advisory Committee) for their leadership, not to mention the contribution to the various committees that they chair.

Personally I would also like to thank all the Board staff and members for their invaluable advice and support to me.

I look forward to serving the profession in the year ahead.

Anna Liscia
Chairperson
25 September 2009

2. REPORT FROM THE EXECUTIVE DIRECTOR

It has been a very busy year for the Board administration, highlighted by operations to support the following activities:

- The introduction of the *Legal Profession Act 2008* (LPA 2008) and the *Legal Profession Regulations 2009* (Regulations).
- Preparation and implementation of the *Legal Profession Rules 2009* and the *Legal Profession (Admission) Rules 2009* (Rules).
- The introduction of compulsory continuing professional development (CPD) as a condition of practising certificate renewal.
- Continued developments under 'Project Arch' to re-develop the Board's I.T. capability, including website re-development and the commencement of the Records Management Project.
- The introduction by the Australian Government of the National Legal Profession Reform Project.
- Preparation for hosting the Conference of Regulatory Officers (CORO).

2.1 The Legal Profession Act 2008

The introduction of the LPA 2008 involved the Board staff in preparing for the introduction of compulsory CPD, the introduction of practical legal training (PLT), expanded monitoring of incorporated legal practices, changes to cost and cost disclosure requirements, and national admissions initiatives. The LPA 2008 was introduced as part of the establishment of a national profession aiming for consistent regulatory regimes.

To inform the profession of the changes pending and then ultimately introduced on 1 March 2009 when the LPA 2008 became operative, a delegation of board representatives, including the Chairperson, the Convenor of the Legal Education Committee, the Senior Trust Account Inspector and the Executive Director, conducted a series of information seminars in both the Perth metropolitan area and regional Western Australia (Bunbury, Albany, Kalgoorlie, Geraldton and Broome). The seminars were well received and it was encouraging to see the appreciation, especially from the regional practitioners, of the Board's efforts to disseminate information and guidance to the profession to ensure compliance with the provisions of the new LPA 2008.

The Board staff engaged with the office of the State Solicitor in the development of the Regulations and, to supplement the provisions and give operational effect to the LPA 2008 and Regulations, the staff worked in conjunction with the office of the parliamentary draftsman to formulate further subsidiary legislation. This resulted in the introduction of the *Legal Profession Rules 2009* and the *Legal Profession (Admission) Rules 2009*. Additionally, an advisory committee was convened (comprising representatives from the Board, the Legal Profession Complaints Committee, the Law Society and the Bar Association) to work on the development of professional conduct rules. The development of the profession conduct rules is ongoing.

2. REPORT FROM THE EXECUTIVE DIRECTOR

2.2 Continuing Professional Development (CPD)

The power to place conditions on practising certificates, and hence introduce compulsory CPD, was provided by the LPA 2008. Although the LPA 2008 and its supporting Regulations and Rules did not become operative until 1 March 2009, the Board was committed to the introduction of compulsory CPD as a condition of renewal for practising certificates for 2009-2010. Accordingly, all preparations were put in place, information seminars conducted, and processes developed for its management. Quality Assured provider status was introduced for providers of CPD and each application for that status was assessed. Provision was also made for practitioners and non QA providers to have other CPD events approved as satisfactory for fulfilling CPD obligations.

The Board was extremely pleased to have 98% of the applicants renewing their practising certificates advise that they had, or will have by the required date, completed their CPD obligations. Staff will now work with those who had not completed their obligations to ensure that any shortfall is made up during the next CPD year in addition to that year's obligations. A CPD audit for at least one practitioner within every Western Australia practice (including all Board members) will also be undertaken.

2.3 Project Arch

Project Arch is the Information Technology (IT) re-development project – so named as its primary aim is to provide an over-arching connectivity between all of the Board's four geographically separated divisions. The first phase of Project Arch involved the introduction and customisation of a new database (known as iMIS) whilst simultaneously developing an online renewal process for practising certificates in time for the 2008-2009 renewals. This was successfully achieved, but additional alterations, configurations and customisations needed to be undertaken on systems to accommodate changes to the renewal process introduced by the LPA 2008.

Re-development of the Board's website and the development of an organisation wide and consistent Records Management System will now be matters for focus in the year ahead.

2.4 National Legal Profession Reform Project

No sooner has the Board gone through the trauma of the introduction of processes to support new legislation, than proposals for the development of new, nationally standardised (and hopefully simplified) legislation has been raised by the Federal Attorney-General at the behest of the Council of Australian Governments (CoAG). The Attorney-General has launched the National Legal Profession Reform Project, appointed a Taskforce to draft nationally consistent legislation, and sought advice from relevant regulatory and professional bodies (including the Board) on appropriate nominees for membership onto a Consultative Group to provide recommendations to the Taskforce. It is likely that developments arising from this project will significantly influence the work of the Board offices and staff in the year ahead.

2. REPORT FROM THE EXECUTIVE DIRECTOR

2.5 Conference of Regulatory Officers (CORO)

A number of staff and Board members attended the CORO in Darwin in July, and the Board agreed to host CORO in September 2009. CORO is an annual gathering of the chief representatives from the legal regulators from all Australian jurisdictions, and provides a forum for discussions on process and working towards cross-border consistency of those processes. The Board will host CORO in Perth at Fraser's Convention Centre in Kings Park and hopes to attract international guests, political decision-makers and a large contingent of inter-state regulators. It is likely that there will be a high level of interest in CORO arising from the National Legal Profession Reform Project. We look forward to show-casing Perth and the work of the Board.

2.6 Staffing

There were no major staffing developments or re-organisations during the period under review. Staff levels remained consistent at 55 over the four offices (Office of the Board, Legal Profession Complaints Committee, Articles Training Program, and the Law Library).

2.7 The Future

Further Strategic Planning for the Board's operations will be somewhat constrained pending outcomes and outputs from the national Legal Profession Review Project. Whilst we will be in 'wait and see' mode, the Board will continue with its co-operative consultation with regulators and Legal Service Commissioners from other jurisdictions, and engagement with the LCA and Law Societies from all jurisdictions, and with the Law Admissions Consultative Committee (LACC) with a view to ensuring that the Western Australian profession has the opportunity to provide input into matters before the Standing Committee of Attorneys-General (SCAG) and CoAG.

I do intend to extend the 'educative' role for the Board to more effectively disseminate information to the profession. It is my strongly felt view that the Board's role is to not only be an interpreter and enforcer of statutory regulation, but should include activities to inform, educate, support and advise the profession on its obligations and the expectations of the standards expected by the profession and members of the public whom they serve.

2.8 Vote of Thanks

Thank you to my Chairperson, Anna Liscia, for her continuing and valued support and advice and to Robert Cock QC, Convenor of the Management Committee, for his ongoing trust in the management of the Board's operations. Additionally, to the Convenors of each of the Board Committees and Advisory Committees during the year under review – Grant Donaldson SC, Matt Zilko QC, Clare Thompson, Steven Penglis, Chris Zelestis QC, the Hon. Justice Ken Martin, Michael Corboy SC, and the Hon. Justice Hasluck – and to the committee members - for guiding the policy behind the operations of the Board.

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

2. REPORT FROM THE EXECUTIVE DIRECTOR

And finally, my sincere appreciation and congratulations are extended to all staff members for their dedication and expertise in the delivery of the important tasks that we undertake in the regulation of the legal profession and the associated protection of the public interest in that regard.

Graeme Geldart
Executive Director
25 September 2009

3. THE LEGAL PRACTICE BOARD

3.1 Role

The Board is constituted under the *Legal Profession Act 2008* (LPA 2008). The Board has statutory authority for the admission, supervision and discipline through the Legal Profession Complaints Committee (LPCC) and the State Administrative Tribunal (SAT) for all the legal practitioners in Western Australia.

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

3.2 Membership

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

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

3.2.1 Queens Counsel

Prior to the introduction of the LPA 2008 all Queens Counsel whose principal place of practice was this State, were automatically members of the Board. Following the introduction of the LPA 2008 Queens Counsel had to nominate as members of the Board. At 30 June 2009 there were 8 Queens Counsel resident and practising in Western Australia, who had nominated as members of the Board.

During the year under review:

On 23 March 2009, Mr KJ Martin QC was sworn in and welcomed as a Judge of the Supreme Court of Western Australia and so ceased to be a member of the Board.

3.2.2 Senior Counsel

Prior to the introduction of the LPA 2008 all Senior Counsel whose principal place of practice was this State, were automatically members of the Board. Following the introduction of the LPA 2008 Senior Counsel had to nominate as members of the Board. At 30 June 2008 there were 15 Senior Counsel resident and practising in Western Australia, who had nominated as members of the Board.

3. THE LEGAL PRACTICE BOARD

During the year under review:

On 3 December 2008 the following practitioners were appointed as Senior Counsel, and became members of the Board:

- Mr LM Levy SC; and
- Ms SR Moncrieff SC.

On 09 January 2009, Mr GM Calcutt AM SC retired from the Parliamentary Counsel's Office, ceased to be taken to be a certificated practitioner and so ceased to be a member of the Board.

On 28 April 2009, Mr GH Murphy SC was sworn in and welcomed as a Judge of the Supreme Court of Western Australia and so ceased to be a member of the Board.

3.2.3 Total Number of Silk as at 30 June 2009

At the conclusion of the year under review the Board had a total of 23 Queens Counsel and Senior Counsel as members of the Board.

3.2.4 Elected Members

- 1 July 2008 to April 2009 election

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

- April 2009 election to 30 June 2009

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

Ms LB Black stood down as a member of the Board having served on the Board since her election in April 2007. Her contribution to the Board during the time is acknowledged.

Ms CH Thompson stood down as a member of the Board having served on the Board since her election in April 2004. Her contribution to the Board during the time is acknowledged.

- Appointment of Chairperson and Deputy Chairperson

Ms AM Liscia was re-appointed Chairperson on 08 April 2009, effective for the ensuing year.

Mr GR Donaldson SC was re-appointed Deputy Chairperson on 08 April 2009, effective for the ensuing year.

3. THE LEGAL PRACTICE BOARD

3.2.5 Board Members as at 30 June 2008

Attorney-General	Solicitor-General	Chair	Deputy Chair
The Hon. Mr CC Porter, MLA	Mr RJ Meadows QC	Ms AM Liscia	Mr GR Donaldson SC
Queens Counsel	Senior Counsel	Elected Members	
Mr MJ McCusker AO QC	Mr KR Wilson SC	Mr JGM Fiocco	
Mr CL Zelestis QC	Mr MH Zilko SC	Mr JRB Ley	
Mr RK O'Connor QC	The Hon Mr PMC Dowding SC	Ms AM Liscia	
Mr S Owen-Conway QC	Mr GMG McIntyre SC	Ms EE Macknay	
Mr RE Birmingham QC	Mr EM Corboy SC	Mr S Penglis	
Mr TF Percy QC	Mr GTW Tannin SC	Ms SM Schlink	
Mr RE Cock QC	Mr CP Shanahan SC	Mr JL Sher	
Mr PI Jooste QC	Mr GR Donaldson SC	Mr JG Syminton	
	Mr B Fiannaca SC	Ms AM Van Onselen	
	Mr T Lampropoulos SC	Ms FB Walter	
	Mr PCS van Hattem SC	Mr I Weldon	
	Mr JD Allanson SC		
	Mr RM Mitchell SC		
	Mr LM Levy SC		
	Mr SR Moncrieff SC		

3.3 Committees

3.3.1 LPA 2008 Section 552 Committees

Pursuant to section 552 of the LPA 2008, the Board may appoint committees of its members and pursuant to section 547 of the LPA 2008, the Board may delegate to a committee established under section 552 any power or duty of the Board under the LPA 2008 other than this power of delegation.

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

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

A summary of the main areas of responsibility and activities of the above committees during the 2008-2009 reporting year is set out further in this report.

Information required to be provided in the Board's annual report pursuant to section 551 of the LPA 2008 is provided in each of the Committee's reports below. These Committees' reports also detail significant issues and trends relating to each of the Committee's areas of administration in the performance of the Board's statutory functions.

3. THE LEGAL PRACTICE BOARD

3.3.2 Other Committees

The Board has two advisory committees whose members include representatives of key stakeholders. In this reporting year, the Law Library Advisory Committee continued to hold meetings to run the business of the Law Library. The Professional Conduct Rules Advisory Committee was established to advise the Board on the promulgation of professional conduct rules under the provisions of the LPA 2008.

3.3.3 Meeting Overview

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

Board/Committee	No
Full Board (every 3 months)	4
Full Board – Electronic Quorums	4
Admissions and Registrations Committee	10
Admissions and Registrations Committee – Special Meetings	2
Admissions and Registrations Committee – Electronic Quorums	7
Professional Affairs Committee	10
Professional Affairs Committee – Special Meetings	4
Professional Affairs Committee – Electronic Quorums	4
Management Committee (every 2 months)	7
Management Committee – Electronic Quorums	2
Legal Education Committee	8
Legal Education Committee – Electronic Quorum	1
Law Library Advisory Committee	7
Total Meetings	70

3.4 Organisational Structure

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

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

3.4.1 Office of the Board

The Office of the Board provides administrative and executive support to the Board and its Committees as well as undertaking other core regulatory functions of the Board as provided for in the *Legal Practice Act 2003* and the LPA 2008. The Office of the Board also ensures the Board complies with considerable additional legislation that is applicable to the Board and its organisation as a public regulatory authority.

3. THE LEGAL PRACTICE BOARD

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

- executive support of the Board and Committees;
- maintenance of the practitioner register (a record of all practitioners admitted to practice in Western Australia) plus various other records pertaining to legal practitioners in this State;
- processing of admission and registration applications;
- issue and renewal of annual practising certificates and the administration of other practitioner compliance matters;
- conducting the Board's annual election; and
- management of the Board's human, financial and physical resources.

3.4.2 Articles Training Program

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

3.4.3 Law Library

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

The Law Library provides reference and research facilities for the legal profession in Western Australia and through Rule 48 of the *Legal Profession Rules 2009* (Rules) gives wide access to members of the Judiciary, certificated practitioners, articled clerks, members of Parliament (and their department staff), members of the Police Force, holders of an office, post or position established under an Act and public service officers and employees. Several groups such as law students, interstate practitioners, foreign lawyers and litigants in person may use the library subject to any restrictions, including payment of a fee, determined by the Law Library Advisory Committee.

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

3.4.4 Legal Profession Complaints Committee

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

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

3. THE LEGAL PRACTICE BOARD

3.4.5 Staff

As at 30 June 2009, 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	19
ATP	6
Law Library and Branch Library	9
LPC	19
Trust Account Inspector	2
Total Staff	55

4. PROFILE OF THE CURRENT WA LEGAL PROFESSION

4.1 Composition of the Western Australia Legal Profession

	Resident Females	Non- Resident Females	Resident Males	Non- Resident Males	Totals
Barristers	33	0	159	0	192
Commonwealth Government	30	0	28	0	58
Consultants	21	0	44	1	66
Director	54	0	239	1	294
Employees	1078	45	861	50	2034
Equity Partner	37	0	290	4	331
Fixed Profit-share Partner	5	0	21	1	27
Inhouse	131	10	193	8	342
Locum	0	0	0	0	0
Not practising (certificated)	197	22	122	31	372
Salaried Partner	19	0	40	2	61
Sole Practitioners	104	1	340	4	449
Judiciary[^]	2	0	7	0	9
Deceased[^]	0	0	3	0	3
Struck Off /Suspended[^]	1	0	1	0	2
State Government[*]	45	1	18	0	64
Practice Certificates Issued	1757	79	2366	102	4304
S.36 Practitioners					
** State Solicitor's Office	60	0	36	0	96
**Director of Public Prosecutions (State)	52	0	54	0	106
**Other Departments	105	0	62	0	167
Total Practitioners	1929	78	2500	102	4673

[^] Held a practising certificate during 2008-2009, however by 30 June 2009 were appointed judiciary/deceased/struck off/suspended.

^{*} State Government employees who held a practising certificate during 2008-2009.

^{**} State Government employees taken to be certificated pursuant to section 36 of the Legal Profession Act 2008.

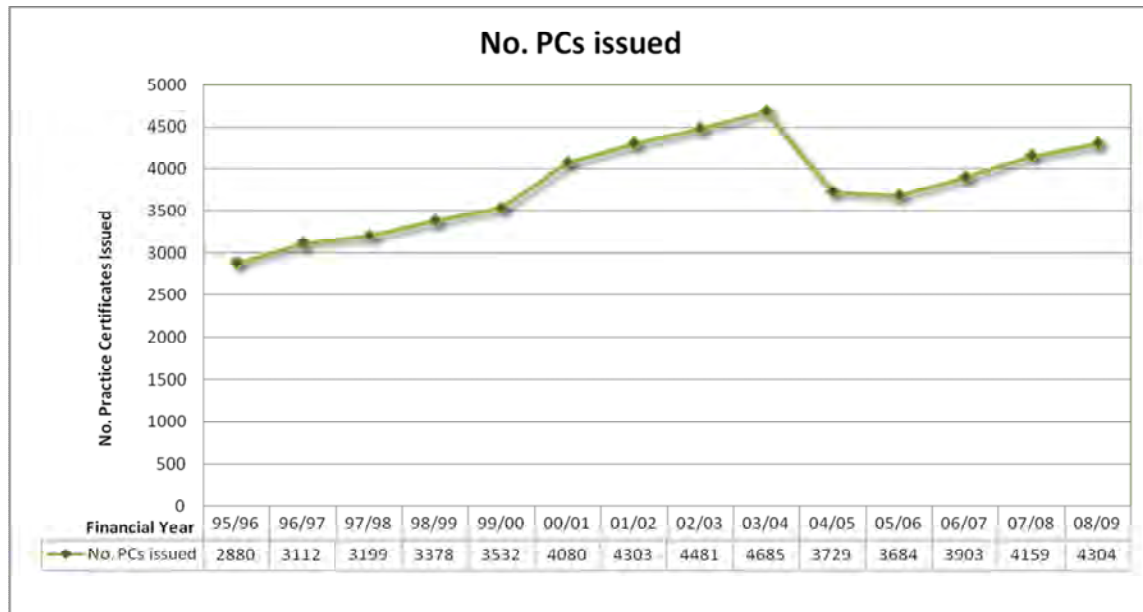
4.2 Incorporated Legal Practice

In the period under review, 41 incorporated legal practices gave notice of their intention to commence practice pursuant to section 101(1) of the *Legal Profession Act 2008* (LPA 2008) and 11 incorporated legal practices ceased practice.

4. PROFILE OF THE CURRENT WA LEGAL PROFESSION

4.3 Practising Certificates

The number of practising certificates issued during 2008-2009 was 4304 which represents a 3.48% increase in the number of certificates issued in the previous period.



4.4 Renewal of Practising Certificates

For the financial year 2008-2009, section 37 of the *Legal Practice Act 2003* required that all applications for renewal of practising certificates must be lodged with the Board by 30 June and practising certificates were issued with effect from 1 July. Applications received after 30 June take effect on the date upon which a complete application is lodged with the Board, or if extenuating or exceptional circumstances exists, on an earlier date as determined by the Board.

For the financial year 2008-2009 the Board launched an online application which was taken up by the majority of practitioners as disclosed in the previous report. For practitioners who made manual application the Board continued to populate the fields on the application form with information contained within the Board’s database.

The number of late applications for the renewal period 2008-2009 showed a small decrease on the previous year:

- 58 practising certificate renewal applications were lodged up to two weeks late; and
- 46 practising certificate renewal applications were lodged more than two weeks late.

For the financial year 2009-2010, Section 44 of the LPA 2008 changed the timing of the renewal period for annual practising certificate renewal. Under the old legislation applications for renewal of practising certificate received by 30 June were issued from 01 July each year. Applications received after 30 June would take effect on the date upon which a complete application was received by the Board, or if extenuating or exceptional circumstances exist, on such earlier date as determined by the Board.

4. PROFILE OF THE CURRENT WA LEGAL PROFESSION

Under the LPA 2008 a certificated practitioner must apply for the renewal of the practising certificate during the standard renewal period or the late fee period as prescribed by the *Legal Profession Rules 2009* (Rules). The Rules prescribe the standard renewal period as 01 May to 31 May and the late fee period as 01 June to 30 June. Applications received during the late fee period are subject to a 25% penalty surcharge. Applications for renewal of practising certificates made during the standard renewal period and the late fee period are renewed from 01 July.

Pursuant to section 44(4) of the LPA 2008, the Board may reject an application for renewal of a practising certificate made during the late fee period and must reject an application for renewal made outside of the renewal periods. However, pursuant to section 44(5) of the LPA 2008 the Board may accept an application outside of the late fee period if it is made within 6 months after 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.

If an application is received and accepted by the Board under section 44(4), after the expiry of the local practising certificate on 30 June, the certificate is taken to have continued in force on and from 1 July immediately following its expiry until the Board renews or refuses to renew the certificate and if renewed is taken to have been renewed on and from 1 July. Applications for renewal of practising certificates received during July are subject to a late penalty surcharge of 50% and applications received on or after 01 August are subject to a late penalty surcharge of 100%.

For the financial year 2009-2010 the Board continued with the online renewal process and for practitioners who made manual application the Board continued to populate the fields on the application form with information contained within the Board's database. Practitioners who renewed using the online renewal system received a 5% discount from the standard practising certificate application fee.

At the end of April, a letter was sent to every practitioner who held a current Western Australia practising certificate and every interstate practitioner resident in Western Australia practising on an interstate practising certificate, inviting them to renew their practising certificate online. Each practitioner was given a log in and password to access the online renewal system. An additional administrator's log in was also made available upon request by a law firm to allow for the bulk payment of practising certificate application fees.

By 30 June 2009 a total of 3958 applications for renewal of practising certificates for the financial year 2009-2010 had been received. Of these, 3816 applications were made online and 142 were manual applications. In addition a total of 52 non renewal notices had been received by the Board.

During the standard renewal period a total of 3727 applications for renewal of practising certificates were received, of these 82 were manual applications. A further 50 non renewal notices were received during this period.

During the late fee period a total of 231 applications for renewal of practising certificates were received, of these 60 were manual applications. A further 2 non renewal notices were received during this period.

With the introduction of the new timing for the renewal of practising certificates, 94% of all applications for renewal of practising certificates for the financial year 2009-2010 were made during the standard renewal period.

4. PROFILE OF THE CURRENT WA LEGAL PROFESSION

The online renewal process continues to be welcomed by the profession with the percentage of practitioners using the online renewal process in the year under review increasing to 96.4% of the profession.

5. ADMISSIONS AND REGISTRATIONS COMMITTEE

Convener: Mr GR Donaldson SC

Deputy Convener: Ms A van Onselen

Having sat as a member of Admissions and Registrations Committee (ARC) for more than 10 years, Mr Penglis resigned from the ARC in April 2009. Ms Elizabeth Macknay, Mr Simon Moncrieff SC (as his Honour then was) and Mr Laurence Levy SC were appointed to ARC in April 2009. Justice Moncrieff ceased to be a member upon appointment to judicial office.

Until March 2009, the ARC was delegated the power and duty of the Board pursuant to the *Legal Practice Act 2003* and the *Legal Practice Board Rules 2004* (Rules) to deal with matters relevant to:

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

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

Prior to the commencement of the *Legal Profession Act 2008* (LPA 2008) ARC considered and approved draft *Legal Profession (Admission) Rules 2009* (Admission Rules) which also commenced in March 2009. The ARC also considered and approved the forms required under the LPA 2008.

Following the commencement of the LPA 2008, the delegations of powers and responsibilities were restructured. Under the LPA 2008 ARC is responsible for those functions and powers of the LPA 2008 that regulate the admission of lawyers and the registration and practice of foreign lawyers. To assist the ARC in performing these functions the Board has delegated some powers and duties associated with the admission of lawyers to the Executive Director.

Since March the ARC has ceased to have delegated responsibility to deal with:

- Mutual recognition issues. The admission of practitioners under mutual recognition falls within the jurisdiction of the Supreme Court, not the Board. In addition, mutual recognition applications have reduced considerably as admission in Western Australia is no longer a prerequisite for applying for a Western Australian practising certificate.
- Restricted practice issues. As the restricted practice provisions of the LPA 2008 are more comprehensive than those in the preceding legislation, less restricted practice issues require Board consideration. In other Australian jurisdictions, powers relating to the admission of practitioners and practising certificate issues are separated to the extent that they are the responsibilities of completely separate bodies. Restricted practice issues in Western Australia are now dealt with by the same Committee that deals with the issue of practising certificates, i.e. the Professional Affairs Committee.
- Interstate practitioners (i.e. notices of establishment of office). The powers of the LPA 2008 relating to interstate practitioners have been delegated to the Professional Affairs Committee.

5. ADMISSIONS AND REGISTRATIONS COMMITTEE

In addition to the improvements resulting from the new delegations, the following factors have resulted in improved efficiencies in the processing of applications for admission:

- ARC was able to simplify and streamline processes when drafting new Admission Rules and Forms to be used under the LPA 2008.
- Systems for processing and monitoring applications were improved when the new IMIS database was installed.

5.1 Academic Requirements for Admission

Prior to March 2009, persons who completed a law degree in another Australian jurisdiction were required to apply for assessment of that qualification. The LPA 2008 allows ARC to recognise Australian law degrees completed in other Australian jurisdictions as “corresponding” academic qualifications for the purpose of admission in Western Australia.

5.2 Practical Legal Training

Prior to March 2009, articles of clerkship (supplemented by the Articles Training Program) was the only form of pre-admission practical legal training (PLT) in Western Australia. When the LPA 2008 commenced in March 2009, ARC had the power to approve PLT courses as an alternative to articles of clerkship. In anticipation, following extensive research and consultation with interested parties, ARC prepared criteria for approving PLT courses. Having regard to the criteria, ARC considered and approved an application from the College of Law to provide a Western Australia PLT course in March 2009. Since the commencement of the LPA 2008, ARC has also had the power to recognise practical legal training courses completed elsewhere in Australia as “corresponding practical legal training” for the purpose of admission in Western Australia.

5.3 Articles of Clerkship

Until March 2009 ARC was required to consider whether a person applying for registration as an articulated clerk was of good fame and character. ARC did not conduct any Inquiries to determine whether a person was of good fame and character to be articulated between July 2008 and March 2009. Under the LPA 2008 suitability is only considered when the person applies for admission, and is not an issue for consideration when articles are registered. There is, however, a provision in the LPA 2008 for a person to seek an early determination of suitability.

ARC continues to have a responsibility to approve a practitioner to be the principal to an articulated clerk. In determining whether a practitioner should be approved, ARC has regard to, inter alia, whether the practitioner has a disciplinary record, or is the subject of a pending disciplinary matter. The ARC resolved to hold several Inquiries during the period under review, only one of which proceeded to a formal hearing. Further details are provided in the Inquiries section below.

ARC also monitors disciplinary matters relating to principals that arise during the term of articles. In the year under review, given the seriousness nature of complaints lodged against one principal, ARC resolved to hold an Inquiry to determine whether it was appropriate to revoke

5. ADMISSIONS AND REGISTRATIONS COMMITTEE

the approval to be principal. The Inquiry did not proceed as the articulated clerk applied for cancellation of the articles with the intention of completing the College of Law PLT course, as an alternative to completing her term of articles and the ATP course.

ARC also continues to consider applications for a reduction in the term of articles to 6 months. The applications are approved if, after completion of their law degree, the person has served as an Associate to a Judge for a period of at least 12 months.

5.4 Five Year Articles of Clerkship and Managing Clerks

The systems of “five year articles of clerkship” and “managing clerks” were abolished when the *Legal Practitioners Act 1893* was repealed. However, clerks registered prior to 1 January 2004 continued service. The final five year articulated clerk and the final managing clerk were admitted to practice this year.

5.5 Assessment of Overseas Applicants for Admission

Overseas qualified and admitted applicants for admission are required to apply for assessment of their qualifications. Applications are assessed having regard to the Uniform Principles prepared by the Law Admissions Consultative Committee (LACC).

5.6 Law Admissions Consultative Committee (LACC)

LACC is a consultative committee that provides recommendations to Australian Admitting Authorities with the aim of achieving uniformity of admission requirements across the country. The Chair continues to sit as a member of LACC. ARC continues to consider recommendations and proposals by LACC for review of the requirements of the Uniform Principles and other matters relating to the admission of practitioners in Australia. In the year under review, ARC considered proposals from LACC relating to special circumstances admissions for overseas admitted practitioners; the inclusion of a study of statutory interpretation as a mandatory academic requirement for entry to the Australia legal profession; proposed standards for the approval of Australian PLT courses; and amendments to the Uniform Principles in relation to academic requirements for overseas qualified practitioners.

5.7 Admission

ARC considers the eligibility and suitability of applicants for admission. No Inquiries to determine suitability to be admitted were held in the year under review.

5.8 Applications for Re-Admission

Three applications for re-admission were considered in the year under review. One application was withdrawn. ARC held formal inquiries to determine the remaining two applications (refer below for details). One applicant was re-admitted to the Supreme Court in November 2008 and the other applicant was re-admitted in April 2009.

5. ADMISSIONS AND REGISTRATIONS COMMITTEE

5.9 Formal Inquiries Conducted by ARC

Under the *Legal Practice Act 2003*, ARC conducted Inquiries for the purpose of determining whether –

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

Under the LPA 2008, there is no specific provision relating to the holding of Inquiries. However, ARC would conduct a formal Inquiry, if required, to determine whether:

- a practitioner should be approved to be principal to an articled clerk [Admission Rule 15(2)(b)];
- to revoke the approval given to a practitioner to be principal to an articled clerk [Admission Rule 15(4)];
- an applicant for an early determination of suitability is a fit and proper person to be admitted [s23(3)]; and
- an applicant for admission, or an applicant for re-admission, is a fit and proper person to be admitted [s30(b)(ii)].

The ARC conducted the following Inquiries pursuant to the LPA 2008 during the period under review:

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

The ARC considered whether the practitioner should be approved to take an articled clerk, given that the practitioner was the subject of two applications to the State Administrative Tribunal (SAT). One application was withdrawn because the practitioner's former client was a Chinese national who had returned to China and was therefore unable to appear as a witness. In respect to the second application, the SAT found the practitioner guilty of unsatisfactory conduct in respect of a family law matter in that the costs and disbursements which the practitioner had charged were excessive. At the conclusion of the Inquiry, the ARC approved the practitioner to take an articled clerk.

- Inquiries to determine whether persons are fit and proper to be re-admitted:

One Inquiry was held in relation to a person struck off the roll in 1992, primarily for unprofessional conduct arising from behaviour in Court; misleading a client as to the fixing of a court date, intimidating his clients and neglect and delay in the conduct of two matters. At the conclusion of the Inquiry the ARC determined that it was satisfied that the person was fit and proper to be re-admitted. The Full Bench of the Supreme Court subsequently held a formal hearing and re-admitted the person on 18 November 2008. The reasons of the Full Court are published on the Court's web site.

A second Inquiry was held in relation to a person struck off the role in 1994, primarily for a trust account defalcation. The person had pleaded guilty to a criminal charge for

5. ADMISSIONS AND REGISTRATIONS COMMITTEE

stealing for which a fine was imposed. At the conclusion of the Inquiry the ARC determined that it was satisfied that the person was fit and proper to be re-admitted. The Full Bench of the Supreme Court subsequently held a formal hearing and re-admitted the person on 3 April 2009. The reasons of the Full Court are published on the Court's web site.

- No Inquiries have been conducted by ARC under the LPA 2008.

5.10 Statistics Pertaining to Matters Considered by the ARC during 1 July 2008 to 30 June 2009

Assessments of qualifications:

ARC assessed 73 overseas qualified applicants:

Qualified	Admitted	No
Australia	Malaysia	1
Brazil	Brazil	1
Canada	Canada	1
Egypt	Egypt	1
England/Wales	Not admitted	10
England/Wales	Malaysia	3
England/Wales	USA	1
England/Wales	England/Wales	13
England/Wales	England/Wales & Singapore	1
England/Wales	England/Wales & Malaysia	2
France	France	1
Hungary	Not admitted	1
India	India	4
Iraq	Iraq	1
Philippines	Philippines	3
Romania	Romania	1
Scotland	Scotland	3
Singapore	Not admitted	1
Singapore	Singapore & England/Wales	2
South Africa	Not admitted	1
South Africa	South Africa	14
South Africa	South Africa & England/Wales	1
Sri Lanka	Sri Lanka	1
USA	USA	5
Total Overseas Law Degrees		73

ARC assessed 4 Australian law graduates:

Law Graduates from:	No
New South Wales	2
Queensland	1
South Australia	1
Total	4

Since the commencement of the *Legal Profession Act 2008*, Australian qualified applicants are not required to apply for assessment of their academic qualifications.

5. ADMISSIONS AND REGISTRATIONS COMMITTEE

Articles of Clerkship Registrations

Registration of Articled Clerks:	No
Male	78
Female	138
Total new registrations	216

Law Graduates from:	No
University of Western Australia	95
Murdoch University	62
University of Notre Dame	43
Edith Cowan University*	6
Corresponding Australian Universities	4
Overseas Institutions	6
Total Graduates	216

*First ECU graduates to register articles

Admissions

Admitted/Re-Admitted Pursuant to:	No
Admitted pursuant to s27(2)(a) of the <i>Legal Practice Act 2003</i>	96
Admitted pursuant to s27(2)(b) of the <i>Legal Practice Act 2003</i> (overseas)	0
Re-Admitted pursuant to s34 of the <i>Legal Practice Act 2003</i>	2
Admitted pursuant to s26 of the <i>Legal Profession Act 2008</i>	154
Admitted pursuant to <i>Mutual Recognition (WA) Act 2001</i>	159*
Admitted pursuant to <i>Trans-Tasman Mutual Recognition (WA) Act 2008</i> (TTMRA)**	16
Total new admissions	427***

* This figure may include some TTMRA admittees who failed to file copies of their admission papers with the Board.

** The TTMRA commenced on 1 February 2008.

***The number of admissions was 80 less than in the previous year. When the LPA 2008 commenced in March 2009, interstate admitted practitioners could apply for a WA practising certificate without having to be admitted to the WA Supreme Court. Accordingly, the number of MRA admissions reduced from March 2009.

New Admissions:	No
Male	169
Female	258
Total new admissions	427

5. ADMISSIONS AND REGISTRATIONS COMMITTEE

The 252 practitioners admitted pursuant to the *Legal Practice Act 2003* and the *Legal Profession Act 2008* were law graduates from:

Law Graduates from:	No
Western Australian Institutions	
▪ University of WA	108
▪ Murdoch University	77
▪ University of Notre Dame	53
Interstate tertiary institutions	6
From overseas institutions	4
N/A - Completed 5 years articles after having completed studies at the University of Notre Dame	1
N/A - Completed a Managing Clerkship, having completed studies at Murdoch	1
N/A – Re-admissions	2
Total Practitioners Admitted	252

2 practitioners had previously been admitted overseas:

Previously Admitted in:	No
England & Wales	1
Malaysia (Australian qualified)	1
Total Practitioners Admitted Overseas	2

Registered Foreign Lawyers

3 existing foreign lawyers renewed their registration, and 3 new foreign lawyers registrations were approved in the year under review. The foreign lawyers are registered to practice the law of:

Registered to Practice Law of:	No
England/Wales	1
France and England/Wales	1
Germany	3
India	1
Total Foreign Lawyers	6

Grant Donaldson SC
Convenor
13 October 2009

6. PROFESSIONAL AFFAIRS COMMITTEE

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

The Professional Affairs Committee (PAC) met on 14 occasions between 1 July 2008 and 30 June 2009. This included 10 scheduled meetings and 4 special meetings.

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

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

6.1 Practising Certificates

6.1.1 Practising Certificate Information and Statistics

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

6.1.2 Suitability Matters

The PAC has delegated power to determine whether a person is a fit and proper person to hold a practising certificate. In determining this for each practitioner, the PAC reviewed any suitability matters and show cause events disclosed by practitioners.

Prior to the end of the reporting period, for the 2009-2010 renewal year:

- 182 suitability matters had been reported to the PAC.
- 7 show cause events had been reported to the PAC.

6.1.3 Conditions Imposed on Practising Certificates

The PAC has delegated power to impose and monitor a practitioner's compliance with conditions on a practising 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 counselling or medical treatment, continuing legal education and so on.

Between 1 July 2008 and 30 June 2009, the PAC imposed conditions on 10 occasions. These conditions covered the following circumstances:

6. PROFESSIONAL AFFAIRS COMMITTEE

- One instance of a supervised legal practice condition and a requirement to undergo medical treatment and for the medical practitioner to provide reports periodically.
- One instance of supervised legal practice and a requirement for further legal education in circumstances where a practitioner was re-entering the profession after an absence of over 10 years.
- One instance of a practitioner obtaining a senior legal practitioner peer to act as his mentor and for the mentor to provide reports periodically due to a finding of unsatisfactory conduct by the Legal Profession Complaints Committee.
- One instance of a practitioner only acting as an employed solicitor where the practitioner had ill health.
- One instance of a requirement for the practitioner to practise under direct supervision of a Board appointed Manager where the practitioner was awaiting the determination of a disciplinary issue before the State Administrative Tribunal.
- Five instances of similar conditions where the practitioner in each case had declared bankruptcy, which included not maintaining a trust account, providing financial statements periodically and providing a report from their trustee periodically.

All reports provided periodically to the Board, as required by the imposed conditions, are carefully reviewed by the PAC to ensure that the condition is still appropriate and that the condition is sufficient to protect the public.

The PAC also imposed a condition on the practising certificates of several practitioners who consented to a condition that they could practise only as employed practitioners. These practitioners, who each had over 40 years' practice experience, consented to this condition so that they could obtain an exemption from the requirement to comply with CPD in accordance with the Board's policy.

Last year, it was reported that an inquiry was held with respect to one practitioner and, due to concerns relating to the practitioner's prior conduct, it was decided that any practising certificate issued to the practitioner would be subject to conditions that the practitioner only practise on a supervised basis. The practitioner made an application to the State Administrative Tribunal for a review of this decision and the Tribunal handed down its decision, confirming the PAC's decision to impose conditions and dismissing the application, during this reporting period: *Chin v Legal Practice Board of Western Australia* [2008] WASAT 252. The practitioner applied to the Court of Appeal for a review of the Tribunal decision with the result that leave to appeal was refused and the appeal dismissed: *Chin v Legal Practice Board Western Australia* [2009] WASCA 117.

6. PROFESSIONAL AFFAIRS COMMITTEE

6.2 Restricted Practitioners

The PAC has the delegated power to consider applications pursuant to section 50(7) of the *Legal Profession Act 2008* (LPA 2008) from a restricted practitioner that the practitioner's period of supervised legal practice be reduced on the basis that the practitioner does not need to be supervised or he/she needs to be supervised for a shorter period than normally required.

During this reporting period, the PAC considered three applications made pursuant to section 50(7) and determined:

- In one instance to remove the requirement for supervised legal practice.
- In one instance to reduce the requirement for supervised legal practice to 12 months.
- In one instance to refuse the application to reduce the period of supervised legal practice.

6.3 Uncertificated Legal Practice

Prior to the LPA 2008 coming into force, the PAC considered the late renewal of annual practising certificates and instances of practitioners apparently engaging in legal practice whilst uncertificated. As reported in the 2007-2008 Annual Report:

- These matters placed a continuing drain on the Board's resources and thereby represented a cost to the whole profession.
- The Board was particularly concerned at the apparent lack of awareness or the failure to give due regard to an individual practitioner's professional obligations under the *Legal Practice Act 2003*.

Under the LPA 2008:

- Instances of practitioners apparently engaging in legal practice whilst uncertificated are treated as unqualified practice matters.
- A certificated practitioner must apply for the renewal of the practising certificate during the standard renewal period or the late fee period as prescribed by the *Legal Profession Rules 2009*. After the expiry of the local practising certificate on 30 June the certificate is taken to have continued in force on and from 1 July immediately following its expiry until the Board renews or refuses to renew the certificate and, if renewed, is taken to have been renewed on and from 1 July. Applications for renewal of practising certificate received during July are subject to a late penalty surcharge of 50% and applications received on or after 1 August are subject to a late penalty surcharge of 100%.

As a result of these matters, the drain on resources reported in the 2007-2008 Annual Report has largely been addressed.

6. PROFESSIONAL AFFAIRS COMMITTEE

6.4 Business Structures – Incorporated Legal Practices

During the period under review, 41 new Incorporated Legal Practices (ILPs) gave notice of their intention to commence practice and 11 ILPs ceased practice.

The PAC has a broad supervisory role in respect of ILPs and the legal practitioner directors who control and manage them including the power to audit an ILP to ensure compliance with the legislation and to ensure that appropriate management systems are in place. The Board's work on developing an online audit process is an ongoing project.

6.5 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.

Information on Trust Account Investigations can be found in this report at 11.2 through 11.5.

6.6 External Intervention

With the introduction of the LPA 2008, the PAC has acquired a greater range of options for intervention in the business and professional affairs of law practices for the purpose of protecting the interests of the public. These appointments are made in certain circumstances warranting external intervention and with regard to the interests of the clients, owners and employees of the law practice and to other matters that the PAC considers appropriate.

There are three types of external intervention open to the PAC:

- the appointment of a Supervisor of trust money of a law practice;
- the appointment of a Manager for a law practice; and
- the appointment of a Receiver for a law practice.

Two external intervention appointments were made during the 2008-2009 year:

- The appointment of a Manager for an ILP pending the determination of disciplinary proceedings against the ILP's sole legal practitioner director.
- The appointment of a Manager to a law practice in circumstances where the sole practitioner of the law practice had passed away suddenly.

The Managers are required to provide a report to the Board periodically, which is reviewed by the PAC.

The PAC also reviews the fees, costs and expenses of the Manager and seeks appropriate recovery.

6. PROFESSIONAL AFFAIRS COMMITTEE

6.7 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 admitted legal practitioners.

It is an ongoing concern to the PAC that the community is being disadvantaged by persons offering so called 'legal services' without the appropriate legal training and with no financial protection against claims of negligence and/or unprofessional conduct.

During this reporting period, the Board received 18 new complaints regarding possible unqualified legal practice, which is a decrease from the 22 complaints received during the previous reporting period. It is also a significant decrease from 2006-2007 when 33 complaints were received.

Of the new matters considered by the PAC during this financial year, the PAC:

- Resolved not to take seven matters further than the investigation stage.
- Did not proceed to prosecute one matter in light of evidence produced that the legal work undertaken was not for reward (a defence under the *Legal Practice Act 2003* and the LPA 2008).
- Did not proceed to prosecute one matter because it was the PAC's view that the legal work was done in the person's role as a public officer (a defence pursuant to section 124(2)(a) of the *Legal Practice Act 2003*).
- Sought advice from its external solicitors in relation to the possible prosecution of two apparent breaches (one matter was not prosecuted due to insufficient evidence and one matter is still pending).
- Briefed one matter out to counsel for prosecution advice and the matter is still pending.

One previous matter was successfully prosecuted during this reporting period: *Legal Practice Board v Tee* [2008] WASC 206; *Legal Practice Board v Tee* [2009] WASC 5. In this matter, the Supreme Court determined that in proceedings under section 250 of the *Legal Practice Act 2003* the Board had established to the criminal standard that Mr Tee had committed four of five alleged contraventions of section 128(b) of the *Legal Practice Act 2003*. Mr Tee was fined an aggregate of \$4,000 for the contraventions and ordered to pay the Board's costs to be taxed.

Another matter carried over from last year is still ongoing. Prosecution proceedings are currently underway and should be finalised during the next reporting period.

Another matter that was received by the Board last year, however not considered by the PAC until this year, was briefed out to external solicitors and is being held in abeyance pending the determination of related civil proceedings.

In addition, last year the PAC sought advice from its external solicitors in relation to the possible prosecution of a further two apparent breaches of the *Legal Practice Act 2003*. These matters were finalised during this reporting period:

6. PROFESSIONAL AFFAIRS COMMITTEE

- In one instance on the basis that an undertaking be obtained from the individual that she would modify her advertisement so as not to imply or tend to the belief that she is a legal practitioner or is recognised at law as a legal practitioner, and that she would cease to perform or carry out any work in connection with the administration of law or in any other proceedings.
- In the other instance due to lack of required information.

The PAC does not believe the public interest always requires it to bring prosecution proceedings whenever it is satisfied there are good prospects of success. The PAC recognises that there are sometimes other more cost-effective ways to protect the interests of the public and the reputation of the profession than by prosecuting through the court system and in those cases exercises its discretion accordingly.

6.8 Other Matters

The PAC also advised on a broad spectrum of issues raised by members of the profession or the public, including:

- New professional conduct rules.
- Whether a practitioner's status was that of a junior or senior practitioner for the purpose of charging legal costs.
- Supervision requirements for remote restricted practitioners.
- Concern whether a practitioner's advertising may be misleading.

Matthew H Zilko SC
Convenor
October 2009

7. LEGAL EDUCATION COMMITTEE

Convenor: Ms Clare Thompson (March), current - Ms Anna Liscia

Deputy Convenor: Ms Anna Liscia (March) Current - Vacant

7.1 The Implementation of Continuing Professional Development (CPD)

As of 1 July 2008 and in anticipation of the new *Legal Profession Act 2008* (LPA 2008) coming into operation, the Legal Education Committee (LEC), exercising powers delegated to it by the Board, implemented the Board's existing policy on CPD.

As a consequent the LEC began accepting applications for approval of CPD Quality Assurance (QA) providers and for CPD activities, both from non QA providers of CPD and applications from individual practitioners. The LEC also began accepting applications for variations and exemption from compliance with the Board's CPD policy.

On 1 March 2009 the LPA 2008 came into operation and pursuant to the LPA 2008, rules were made by the Board dealing with, inter alia, CPD. In particular, the *Legal Profession Rules* (Rules) Part 2 Division 2 deals with the imposition of CPD on the holders of practising certificates as a statutory condition of the right to practice and sets out the basic requirements practitioner are to meet in order to comply with their CPD obligations.

For the year 1 July 2008 to 30 June 2009 the LEC received the following applications for consideration:

Application type	No
QA Provider	82
Individual activities by a non QA Provider	36
Single activities by an individual practitioner	96
Applications for Variations/Exemptions	103
Total applications	317

As of 1 March the Board was also able to implement the agreed fee structure for all CPD applications. Generally speaking, QA Providers obtain approval from the LEC to operate CPD activities for a 2 year period, with the fee payable for a 2 year approval.

The fee structure has been designed so that the CPD programme will be self funding and not require an increase to the cost of a practising certificate. Income from all applications as at 30 June 2009 totalled \$238,399.29, covering the major costs of the employment of a Legal Education Coordinator and conducting information seminars in the city.

7.2 Visits to Country Practitioners

During 2008-2009 the LEC continued its commitment of providing information to the profession about the introduction of CPD. In particular, a series of country seminars were conducted following the successful seminars conducted in the city the previous year. The LEC was able to fund this series of regional seminars from a grant of \$20,000 received on 21 July 2009 from the Legal Contributions Trust.

The LEC took the view that country practitioners were an important part of the legal profession in Western Australia and as such, should have an equal right to the receipt of information and

7. LEGAL EDUCATION COMMITTEE

more importantly, the ability to ask questions directly from those who were implementing the CPD policy.

As a result, the then Convenor of the LEC, Ms Clare Thompson, the Deputy Convenor of the LEC and Chair of the Board, Ms Anna Liscia, and the Executive Director, Mr Graeme Geldart, undertook a series of visits to Albany, Kalgoorlie, Bunbury, Geraldton and Broome over the second half of 2008. Ms Julie Bain, the Board's Legal Education Coordinator, also attended the Bunbury, Geraldton and Broome seminars.

The seminars were warmly received and well attended by country practitioners who were extremely pleased to be included in the information delivery process. It was interesting to note the enthusiasm which country practitioners had towards CPD, with many actively encouraging the introduction of CPD as means of obtaining CPD in country areas, a matter which in the past was difficult.

It is hoped that the Board will continue to make regular visits to country areas to provide CPD activities relating to the regulation of the profession. The LEC is also hopeful that CPD providers will recognise the important part played by country practitioners and ensure that CPD activities are provided to them. This is certainly an area which the LEC and Board will keep under review.

7.3 Transition Period & Audits

Due to the delay in the proclamation of the LPA 2008, for the year ending 30 June 2008, the Rules provided for practitioners to have the option of extending the usual CPD period (which would normally run from 1 April to 31 March each year) to include CPD activities undertaken by practitioners after 31 March and up to 31 May 2009. As a result, on renewal of practising certificates, practitioners had the choice of declaring that they:

- had not met the CPD requirements; or
- had met the CPD requirements; or
- would by 31 May 2009 meet the CPD requirements.

All practitioners who indicated they had not met the CPD requirements or would by 31 May 2009 have been contacted by the LEC.

The LEC has given an undertaking to conduct an audit of the first year of compliance with the CPD scheme, intending to audit all Board members, sole practitioners (which will include all barristers) and a representative of all practices. It is anticipated that this audit will occur in the second half of 2009.

As CPD is now a statutory condition on all local practising certificates, any contravention of this the condition will become a matter for the Professional Affairs Committee. At this stage it is not anticipated that there will be any referrals to the Professional Affairs Committee for breaches of the CPD statutory condition.

The LEC has been encouraged by the response both from the profession and the providers of legal education to the implementation of the Western Australian CPD scheme. The LEC has also received feedback from the profession and CPD providers which will enable it to further fine tune and improve the CPD scheme in Western Australia.

7. LEGAL EDUCATION COMMITTEE

7.4 LEC Meetings

During this year the LEC met regularly until March 2009.

On the introduction of the LPA 2008, the Board delegated a number of administrative functions relating to CPD to the Board's Executive Director. As a consequence, the LEC now only meets on an ad hoc basis.

Currently the LEC meets mainly to consider issues of policy relating to CPD. Given the introduction of the Rules, the LEC is currently reviewing the Board's policy on CPD, much of which is embodied in the Rules, with the aim of simplifying the policy and developing guidelines for the profession and CPD providers.

It is anticipated that as soon as the CPD scheme is established, the role of the LEC committee will be transferred to the Professional Affairs Committee.

At the March 2009 meeting of the LEC, the then Convenor Ms Clare Thompson tendered her resignation from the LEC. Ms Thompson was the real guiding hand to CPD, being responsible for much of the design of the CPD scheme and the Board's policy in relation thereto, as well as taking the lead in explaining the policy to the legal and broader community.

The LEC and Board members, along with the Board staff would like to recognize the tireless commitment and contribution Ms Thompson has made to the successful implementation of CPD for the Western Australia legal profession, and to thank her for her work and dedication to the Board and especially to the LEC.

Anna Liscia
Convenor
October 2009

8. MANAGEMENT COMMITTEE

Convenor: Mr RE Cock QC

Deputy Convenor: Ms AM Liscia

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

8.1 Committee Process

During this year the Management Committee was able to reduce the frequency of its meetings as a result of being able to delegate standard operational powers and executive work to the Executive Director. The Committee now meets every second month. The Management Committee receives and considers information and reports from the Executive Director and the Corporate Support Officer in regard to resourcing and financial issues. The committee focuses on advice received on strategic issues.

8.2 Human Resources

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

The year under review saw the number of staff remain static at 55 across all four divisions of the Board with no additional senior appointments being made. However, there were significant public service salary increases introduced for both general and legal staff ranging from 8% to 11%. These increases caused the Board's salary, superannuation and payroll expenditure to increase substantially.

8.3 Physical Resources

The major refurbishment of the Board office in Hay Street was finalised during the year under review with an official opening attended by the Attorney-General and the Chief Justice taking place on 24 July 2008. This project was funded from the Board's reserves.

During the year under review negotiations have also commenced for the renewal of the lease of premises at Mount Lawley at which the Articles Training Program is conducted. The lease and options on those premises expire in December 2009.

The I.T. re-development (Project Arch) continued during this review year and will continue throughout 2009-2010. The project will provide connectivity between all of the Board's separate locations, an enhanced reporting capability, a re-developed website and ultimately a consistent Records Management System. As a result of obligations imposed by the *Legal Profession Act 2008* (LPA 2008) it was necessary to undertake additional customisation and configuration changes to the database. As a result, stages 2 and 3 of the Project have been delayed but are now proceeding. In the year ahead the Board should also see the introduction of a re-developed website and an Electronic Data Record Management System. This project is also being funded from Board reserves.

8. MANAGEMENT COMMITTEE

8.4 Financial Resources

The Board is primarily self funded, with approximately 10% of its funding coming from the State Government through contribution by a grant toward the cost of maintaining the Law Library and also funding the cost of the accommodation of the Offices of the Board and the Legal Profession Complaints Committee.

As pointed out in last year's Annual Report, this financial relationship is one which warrants review with the government. With the election of the new government in Western Australia during this year under review, the Committee has provided a briefing to the Attorney-General and will continue to work towards a more equitable and appropriate funding model for the Board's operations.

As a result of the Global Financial Crisis and the introduction by the Australian Government of the Government Deposit Guarantee Scheme, the Committee decided that it needed to secure the Board's deposited reserves by entering into the scheme. This had a resultant negative impact on the interest earned on those reserves.

8.5 The Law Library

The Management Committee, guided by the recommendations of the Law Library Advisory Committee, administers the Law Library in the Supreme Court and the Branch Library in the Central Law Courts. Whilst this is not a regulatory activity, and maintaining a library might seem incongruous with its other functions, it is a statutory obligation placed upon the Board.

Robert Cock QC
Convenor
23 September 2009

9. REPORT FROM THE LAW LIBRARIAN

9.1 Introduction

The *Law and Parliamentary Library Act* of 1873 established the Supreme Court library in 1873 as the joint Law and Parliamentary Library. In 1898 the collection was divided and the Law Library became a separate entity, housed at the Supreme Court.

Ownership of the Law Library is vested in the Board under the provisions of the *Legal Profession Act 2008* (LPA 2008). The role of the Law Library at the Supreme Court is to provide a comprehensive legal reference and research facility for the legal profession in Western Australia.

Its objective is to serve legal practitioners, the judiciary and other eligible users, through the provision of a high quality legal research collection and to provide associated professional support services.

In 1982 the Branch Library was established in the Central Law Courts building at 501 Hay Street. The purpose of the Branch Library is to provide legal material pertinent to matters heard in the Magistrate and District Courts, with the emphasis on the criminal jurisdiction.

9.2 The Law Library Advisory Committee

The Hon. Justice Hasluck chairs the Law Library Advisory Committee. The eight members of the Committee represent the Judiciary, Board members, and the Court & Tribunal Services. The Committee assists the Board with policy and the development of the Law Library.

9.3 Collections

The Law Library strives to provide a comprehensive collection of primary and secondary legal materials for Western Australia, Australia and other common law jurisdictions. The collection is the primary support for the day to day activity of the Western Australian courts.

The current collection of the Law Libraries contains:

- serials, including loose-leaf monographs - 1,747 titles;
- monographs - 10,871 titles; and
- legislation - over 7,000 vols.

The libraries also have electronic access to the major case citators including Westlaw, the Australian law reports, numerous commentaries, and obtains full-text journal articles, both Australian and International, via Informit and Heinonline.

The Law Library was fortunate enough to obtain by donation a set of the Statutes at Large from a Brisbane law firm, Flower + Hart this year.

9. REPORT FROM THE LAW LIBRARIAN

9.4 Library Services

9.4.1 Legal information Literacy

This year the Law Library continued with the program of library induction tours for Articled Clerks. Two groups a week were taken through the libraries during February and March. A total of 63 Articled Clerks attended.

The library also participated in the Supreme Court's Induction programs for Summer Clerks in December and for new Associates in January and March.

In line with the new continuing professional development (CPD) requirements for legal practitioners under the LPA 2008, the library implemented a pilot program of free training sessions for practitioners. These six, one hour sessions on researching case law, legislation and the use of the FirstPoint service, award one CPD point per session to participating practitioners. The Law Library Advisory Committee will assess the response to these sessions and consider the feedback obtained from the participants to determine the worth of continuing this program in 2010.

9.4.2 Judgments Service

An important function of the Law Library is to make available the written decisions of the courts and tribunals of Western Australia to legal practitioners.

The PLEAS (Practitioners Legal Electronic Access Service) continued to develop. During the past year, the following databases have been added to this subscription service:

- a database of pre-1991 Supreme Court decisions, going back to 1964, with an attached PDF copy;
- sentencing decisions of the Supreme Court from June 2008; and
- a web enabled database of Family Court decisions from 2007, which was launched in June 2009.

The weekly Catchword service of Supreme Court and District Court judgments is delivered electronically to 33 subscribers and there were 27 requests for the Annual Indexes of the Supreme Court of Appeal, the Supreme Court and the District Court judgments. These indexes are also sent to the National Library and the State Library to comply with Legal Deposit requirements.

9.4.3 Reference and Document Delivery Requests

The reference service at both libraries continues to receive a steady flow of requests, both in person, telephonically and, increasingly, via email. The complexity of these requests has increased in recent years, whilst straight forward requests for cases and legislation have declined as more of this material becomes available on the Internet. Almost universal use of email has also changed our means of document delivery, ensuring a faster service.

9. REPORT FROM THE LAW LIBRARIAN

9.5 Accommodation

In light of the wish expressed by the Chief Judge of the District Court, and the Branch Library at the Central Law Courts. It was also decided to replace most of the hard copy subscriptions with electronic online access, and to encourage practitioners to use this format. Hard copy research material will be concentrated in the main library at the Supreme Court.

As a result of the building operations at the Central Law Courts building, and the resulting temporary closure of the Hay Street entrance to the building, usage of the Branch Library declined, but started picking up towards the end of this reporting period when the Hay Street entrance to the building re-opened.

9.6 Staff

Apart from a librarian, Nora Hayes-Stapylton, resigning in December 2008 to pursue further studies, the staff situation in the library has been relatively stable. The Court & Tribunal Services division advertised for a librarian to take up the position at the Branch Library in the Central Law Courts building.

Staff members attended a variety of training and professional development sessions during the course of the year. In total the number of training hours for all staff members was 211 hours.

The librarians participated in the organization of the annual conference in Perth of the Australian Law Librarian's Association in September. The library team had the opportunity to attend conference sessions and activities of interest to them.

9.7 Community Activities

The library continued to support the activities of the Supreme Court and participated in the Court Open Day on Sunday 19 October 2009. Over 800 members of the public toured the Law Library on that day.

The Law Library hosted two practicum library studies students during the year. One student was a Graduate Diploma student from Curtin University and the other a Technician Diploma student on scholarship to Edith Cowan University from the University of Oman.

9.8 Projects for 2009-2010

Projects which will continue into the 2009-2010 financial year include:

- The project of digitising early court judgments. The judgments of the Supreme Court prior to the year 1991 are being scanned from the hardcopy and made available online.
- The Law Library Advisory Committee will review and decide on the continuation of the CPD legal research training program in 2010.
- The development of an effective web presence to promote the library and to give online access to some library services.

9. REPORT FROM THE LAW LIBRARIAN

- Refurbishment of the Practitioners Branch Library in the Central Law Courts building and the promotion of the facility once it re-opens.
- Continuing collection development, striving for a cost-effective balance between the print and online resources according to the needs of library users.

I would like to thank the staff for their commitment to the library and for their enthusiasm in undertaking new projects which enhance library services.

I would also like to express my appreciation to the Law Library Advisory Committee members for their continuing support and guidance.

Alice Anderson
Law Librarian
October 2009

10. REPORT FROM THE ARTICLES TRAINING PROGRAM DIRECTOR

10.1 Introduction

In order to qualify for admission to practice as a legal practitioner in Australia a law graduate must complete a period of practical legal training prescribed by the relevant admitting authority (being the admitting authority in the jurisdiction in which they seek first time admission). In this regard in Western Australia the *Legal Practice Board Rules 2004* require the completion of a period of articles of clerkship and a course of programmed practical legal training provided by the Articles Training Program (ATP): refer Section 27 *Legal Practice Act 2003* and Rule 34.

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

ATP courses are designed to teach and assess the competence of articled clerks across a number of Skills, Values and Practice Areas identified by the Australasian Professional Legal Education Council (APLEC) and the Law Admissions Consultative Committee (LACC) as necessary to practice law (refer "*Competency Standards For Entry Level Lawyers*" published jointly by APLEC and LACC in November 2000¹).

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

10.2 Core Course

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

Skills	Practice Areas	Values
Lawyers Skills	Civil Litigation	Ethics and Professional
Problem Solving	Criminal law Practice	Responsibility
Work Management and Business Skills	Consumer Law Practice	
Trust and Office Accounting		

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

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

Teaching is by lectures, tutorials, workshops and practical exercises. There is a strong emphasis on the practical aspects of the practice of law and most of the clerk's time is spent engaged in practical exercises. Clerks are required to complete around 25 written or oral assessment tasks including the conduct of a mock criminal and civil trial, an argued chambers application, an

¹ A link to the text of this document is available on the Resources page of the APLEC website www.cleaa.asn.au

10. REPORT FROM THE ARTICLES TRAINING PROGRAM DIRECTOR

application for bail and a plea in mitigation. Written assessment tasks include letter writing, drafting court documents and the gathering and presentation of written evidence. A clerk who does not demonstrate the minimum level of competence on an assessment is provided with individual tuition to enable them to be reassessed.

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

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

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

10.3 Optional Courses-Property Law Practice and Corporate and Commercial Practice

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

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

The ATP offered its first courses in these Practice Areas in the first half of 2007. The courses are intensive. They each run for three full consecutive days. Due to time constraints much of the teaching is by way of lectures, a number of which are delivered by visiting practitioners with current practice experience in the subject matter. The emphasis of the lectures is on the practical aspects of practice in these areas rather than legal theory. For example, in the property practice course clerks are taught how to affect common types of transactions rather than the theory of property law, which they have studied at university.

Assessment of clerks' competence in Property Law Practice and Commercial and Corporate Practice is by way of an examination and an assignment in each subject. Clerks receive detailed written feedback on their work which is designed to supplement the clerks' knowledge and understanding of the material which has been taught. Clerks who are unable to demonstrate the

10. REPORT FROM THE ARTICLES TRAINING PROGRAM DIRECTOR

minimum level of competence on their first attempt at an assessment task are offered further tuition before completing supplementary assessment tasks.

10.4 Basic Accounting

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

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

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

10.5 Staffing

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

10.6 The Future

The changes to the State legislation regulating the legal profession which came into force on 1 March 2009 in the *Legal Profession Act 2008* (LPA 2008) permits law graduates to complete their PLT requirements other than by way of articles of clerkship. A number of firms have indicated that they intend to make use of the new regime and bypass the articles of clerkship system. It is expected that this will have the effect of decreasing the number of articulated clerks registering with the Board. If that does occur it will become difficult for the cost of the program to be recouped via enrolment fees. In the event of such a scenario the Board will no doubt be forced to consider the future viability of the ATP.

Deborah Milton
Director, Articles Training Program
October 2009

11. REPORT FROM THE SENIOR TRUST ACCOUNT INSPECTOR

11.1 Educative - Trust Accounts

The appointment of a new Senior Trust Account Inspector has provided the resource required to meet the year’s objective of increasing the ‘educative’ role of the Board.

11.1.1 Seminars

A major seminar was held in conjunction with the Law Society of Western Australia at the District Court and was televised to regional centres. Four smaller seminars were held in Albany, Bunbury Geraldton and Perth. These seminars were restricted in numbers so as to achieve a higher level of interaction with the attendees. These seminars were so well received that they have been continued into the 2009-2010 year with a focus on both practitioners and their support staff.

11.1.2 Guidance Notes

A series of guidance notes have been prepared and placed onto the Board’s web site. The objective of these guidance notes was to provide some clarity in relation to the application of the law by the Board and to provide a resource for practitioners, practitioners’ staff and the accountants who report on the operation of solicitors’ trust accounts.

11.2 Reporting of Irregularities

Although irregularities in respect of trust accounts or trust ledger accounts were previously reported under the *Legal Practice Act 2003*, the *Legal Profession Act 2008* (LPA 2008) imposed a specific reporting obligation.

The frequency of the reporting of irregularities has increased, probably as a result of the increased educative initiatives of the Board, including, practitioner seminars and the issue of guidance notes.

The following irregularities were reported throughout the 2008-2009 reporting period:

Quarter Ended	30/9/2008	31/12/2008	31/3/2009	30/6/2009
Irregularities Reported	Not Available	4	7	10
Frequency (Days)		19 Days	13 Days	9 Days

11.3 External Examiners’ Reports

492 trust accounts were maintained during the year.

465 External Examiners’ Reports, previously referred to as accountants’ certificates, were received for the 2008-2009 reporting period and a further 27 were outstanding.

11. REPORT FROM THE SENIOR TRUST ACCOUNT INSPECTOR

Accountant's Certificates/ External Examiners' Reports	2009	2008	2007
Lodged and Approved	465	563	564
Waivers Granted	4		
Outstanding	23		
Qualified & Trivial	53	59	47
Qualified & Trivial %	11%	10%	8%

Outstanding reports are being followed up, and with the introduction of the LPA 2008, the failure to lodge these reports is a prescribed offence with specific penalties of \$10,000.

11.4 Declaration by a Law Practice Regarding Trust Money

With the introduction of the *Legal Profession Regulations 2008*, and as part of the 'educative' initiative of the Board, practitioners maintaining trust accounts were asked to voluntarily complete a declaration regarding trust money.

The majority of the practitioners approached to complete the declarations did so without objection and indicated it was a worthwhile process that identified to them some potential deficiencies in their controls.

Of the 79 declarations received to 30 June 2009, a total of 44 or 56% required some form of follow up action. The most frequent issues identified were consistent with issues identified during formal inspections of practitioners' trust accounting records and included:

- Bank Reconciliations:
 - stale cheques, some as old as 5 years being carried forward on bank reconciliations;
 - unpresented cheques for significant amounts to government agencies that remained outstanding for more than 3 months;
 - deposits not credited that were up to two years old;
 - bank errors carried forward on reconciliations for up to two years;
 - unexplained adjustments to bank reconciliations; and
 - use of suspense accounts.
- Trust Account Balances: there were many small and stagnant balances which should have been returned to clients or transferred to unclaimed monies.
- Trust Account Signatories: there were several instances where staff or family members of practitioners were able to transact on the trust account contrary to the *Legal Profession Regulations 2008*, which require such persons to only act as joint signatories.
- Computerised Accounting Systems: several practitioners continuing to use computerised accounting systems that failed to meet the requirements of the regulations.

Declaration	Count	No Issues	Trivial	Yes
Commenced	84	35	30	14
Closed	79	44%	38%	18%
Open	5			

11. REPORT FROM THE SENIOR TRUST ACCOUNT INSPECTOR

Due to the high level of follow up action required and the five fold increase on the qualified External Examiners' Reports, (56% and 11%) the Board intends to continue requesting practitioners to complete the declarations.

An educational programme for the registered company auditors who complete the reports is also to be considered.

11.5 Trust Account Inspections

From September 2008 the Board has conducted inspections of solicitors' trust accounts independently of the Legal Profession Complaints Committee. The objective of the inspections is to:

- educate practitioners in respect of their obligations;
- confirm compliance with the act and regulations; and
- prevent, detect and mitigate fraud.

The following inspections have been conducted:

Year	Commenced	Finalised	Pending
2007-2008	No Data Available	No Data Available	No Data Available
2008-2009	15	12	3

Of the 15 inspections commenced during the year, issues were identified in 14 of the 15 practices. Although most issues were considered trivial, there were two matters referred to the Legal Profession Complaints Committee and these matters are pending.

11.6 Scams

Local practitioners have been targeted as part of an international scam. Practitioners are being approached to act on behalf of overseas based companies to recover debt from Australian customers. These debts are being settled by forged bank cheques and practitioners requested to forward all or part of the proceeds to overseas banks. A number of practitioners have been approached by these scammers and some have received and banked to the trust account the forged bank cheques, which were subsequently dishonoured.

Bruce Bentley
Senior Trust Account Inspector
October 2009

12. OTHER LEGAL REQUIREMENTS

12.1 Public Interest Disclosure

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

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

12.2 Equal Employment Opportunity

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

12.3 Public Sector Standards and Ethical Codes

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

12.3.1 Public Sector Standards

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

12.3.2 Western Australia Code of Ethics

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

12.3.3 Agency Code of Conduct

- Is currently being developed.

12.4 Recordkeeping

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

12.4.1 Developments

12 January 2009 saw the beginning of the Board's Recordkeeping Project with recordkeeping consultants contracted to carry out a review of the Board's recordkeeping practices. At the conclusion of the audit, corrective actions to comply with the requirements of the *State Records Act 2000* were recommended and provided to the Board for consideration.

12. OTHER LEGAL REQUIREMENTS

Recommendations that have been implemented in the year under review include:

- formation of a working party to drive the Recordkeeping Project;
- improvement to the security of the records repository at the Office of the Board;
- standardisation of mail registration across all divisions of the Board;
- adoption of a standard medium of filing across all divisions of the Board; and
- assignment of dedicated human resources to the Recordkeeping Project.

Recommendations considered during the period under review:

- resubmission of the Recordkeeping Plan that better reflects the Board's recordkeeping practices;
- to adopt a Business Classification Scheme (BCS) for controlled file titling;
- to develop Board wide policies and procedures; and
- to adopt a Board wide Electronic Document and Records Management Software (EDRMS) solution.

At the recommendation of the recordkeeping working party, a recordkeeping consultant will be contracted to achieve the following outcomes:

- review and develop an updated Recordkeeping Plan to incorporate changes resulting from the promulgation of new governing legislation, assented to on 1 March 2009;
- develop a holistic BCS;
- research and plan for implementation of an EDRMS; and
- provide initial recordkeeping education training to all Board staff.

12.4.2 Recordkeeping Plan

The Board lodged a revised Recordkeeping Plan with the State Records Office on 21 December 2008. Advice from the State Records Office together with the recommendations provided at the conclusion of the recordkeeping review resulted in the preparation of a resubmission of the Board's Recordkeeping Plan. This will be submitted by 31 October 2009.

12.4.3 Staff Training and Information Sessions

The Board has identified the requirement for an ongoing recordkeeping education and training program and will begin to address this from June 2009.

12.5 Freedom of Information

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

No freedom of information applications were received during the period under review.

13. GOVERNMENT POLICY REQUIREMENTS

13.1 Corruption Prevention

The Board has acknowledged the risk of corruption when managing organisational risk. As part of the induction of new staff, they are trained in the policies, practice and procedures of the Board in dealing with private and confidential information collected and held by the Board. During meetings of the Board and its Committees, the policy of the disclosure of conflicting interests and the related self-disqualification from deliberating a matter because of a potential rise of conflicting interests is strongly upheld and adhered to.

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

**LEGAL PRACTICE BOARD
OF WESTERN AUSTRALIA**

**Special Purpose Financial Report
For the financial year ended 30 June 2009**

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

SPECIAL PURPOSE FINANCIAL REPORT
FOR THE FINANCIAL YEAR ENDED 30 JUNE 2009

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LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

STATEMENT BY EXECUTIVE DIRECTOR

For the year ended 30 June 2009

As detailed in Note 1 to the financial statements, the Legal Practice Board of Western Australia is not a reporting entity because in the opinion of the Board it is unlikely that users of the financial report exist, who are not themselves in a position to prepare reports to satisfy specifically all of their information needs. Accordingly, this "special purpose financial report" has been prepared to satisfy the Board's reporting requirements under Sections 549, 550 and 551 of the Legal Profession Act 2008.

The Board declares that:

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



Mr Graeme Geldart
Executive Director

Date: 29 October 2009
Perth WA

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

We have audited the accompanying financial report, being a special purpose financial report, of the Legal Practice Board of Western Australia, which comprises the statement of financial position as at 30 June 2009, the statement of comprehensive income, cash flow statement and statement of changes in equity for the year ended on that date, a summary of significant accounting policies, other explanatory notes and the Statement by the Executive Director as set out on page 1 and pages 4 to 22.

The Responsibility of the Board for the Financial Report

The Board of the entity are responsible for the preparation and fair presentation of the financial report and have determined that the accounting policies described in Note 1 to the financial statements, which form part of the financial report, are appropriate to meet the financial reporting requirements of Sections 14, 15 and 17 of the Legal Practice Act 2003 for the period 1 July 2008 to 28 February 2009, Sections 549, 550 and 551 of the Legal Profession Act 2008 for the period 1 March 2009 to 30 June 2009 and are appropriate to meet the needs of the Board. The responsibility of Board also includes establishing and maintaining internal control relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

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

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



The financial report has been prepared for distribution to the Board for the purpose of fulfilling the Board's financial reporting requirements under Sections 14, 15 and 17 of the Legal Practice Act 2003 for the period 1 July 2008 to 28 February 2009 and Sections 549, 550 and 551 of the Legal Profession Act 2008 for the period 1 March 2009 to 30 June 2009. We disclaim any assumption of responsibility for any reliance on this report or on the financial report to which it relates to any person other than the Board, or for any purpose other than that for which it was prepared.

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

Auditor's Independence Declaration

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

Auditor's Opinion

In our opinion, the financial report presents fairly, in all material respects, the financial position of the Legal Practice Board of Western Australia as at 30 June 2009 and of its financial performance, its cash flows and its changes in equity for the year ended on that date in accordance with the accounting policies described in Note 1 to the financial statements.

Deloitte Touche Tohmatsu

DELOITTE TOUCHE TOHMATSU

Kathleen Bozanic

Kathleen Bozanic
Partner
Chartered Accountants
Perth, 29 October 2009

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA
STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2009

	Note	<u>2009</u> \$	<u>2008</u> \$
CURRENT ASSETS			
Cash and Cash Equivalents	3	7,226,541	6,791,377
Trade and Other Receivables	4	342,757	334,444
Other Current Assets	5	113,901	182,097
		<hr/>	<hr/>
TOTAL CURRENT ASSETS		7,683,199	7,307,918
		<hr/>	<hr/>
NON-CURRENT ASSETS			
Plant and Equipment	6	872,040	1,159,947
		<hr/>	<hr/>
TOTAL NON-CURRENT ASSETS		872,040	1,159,947
		<hr/>	<hr/>
TOTAL ASSETS		8,555,239	8,467,865
		<hr/>	<hr/>
CURRENT LIABILITIES			
Trade and Other Payables	7	459,328	954,197
Provisions	8	391,383	356,471
Income in Advance	9	4,344,337	3,864,888
		<hr/>	<hr/>
TOTAL CURRENT LIABILITIES		5,195,048	5,175,556
		<hr/>	<hr/>
NON-CURRENT LIABILITIES			
Provisions	10	99,719	73,375
		<hr/>	<hr/>
TOTAL NON-CURRENT LIABILITIES		99,719	73,375
		<hr/>	<hr/>
TOTAL LIABILITIES		5,294,767	5,248,931
		<hr/>	<hr/>
NET ASSETS		3,260,472	3,218,934
		<hr/>	<hr/>
EQUITY			
Retained Earnings	11	3,260,472	3,218,934
		<hr/>	<hr/>
TOTAL EQUITY		3,260,472	3,218,934
		<hr/>	<hr/>

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

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA
STATEMENT OF COMPREHENSIVE INCOME
FOR THE YEAR ENDED 30 JUNE 2009

	Note	<u>2009</u> \$	<u>2008</u> \$
REVENUE			
Office of the Board	12	5,057,748	4,876,911
Articles Training Program	13	999,818	923,400
Trust Account Inspector	14	244,229	127,032
Legal Profession Complaints Committee	15	174,275	178,920
Law Library	16	208,624	215,855
Income from State Government	17	554,349	337,819
TOTAL REVENUE		7,239,043	6,659,937
EXPENDITURE			
Office of the Board	12	2,020,867	1,556,175
Articles Training Program	13	951,062	892,251
Trust Account Inspector	14	260,529	145,286
Legal Profession Complaints Committee	15	2,226,671	2,106,677
Law Library	16	1,184,027	1,226,431
Expenditure from State Government	17	554,349	337,819
TOTAL EXPENDITURE		7,197,505	6,264,639
Net Profit	11	41,538	395,298

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

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2009

	Note	<u>2009</u>	<u>2008</u>
		\$	\$
Cash flows from operating activities			
Receipts from customers		6,994,433	6,645,552
Payments to suppliers and employees		(6,873,704)	(5,810,489)
Interest received		441,319	358,276
Net cash provided by operating activities	19(b)	562,048	1,193,339
Cash flows from investing activities			
Payment for property, plant and equipment		(126,884)	(868,815)
Net cash used in investing activities		(126,884)	(868,815)
Net increase in cash and cash equivalents			
		435,164	324,524
Cash and cash equivalents at the beginning of the financial year		6,791,377	6,466,853
Cash and cash equivalents at the end of the financial year	19(a)	7,226,541	6,791,377

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

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA
STATEMENT OF CHANGES IN EQUITY
FOR THE YEAR ENDED 30 JUNE 2009

	Retained Earnings \$
Balance at 1 July 2007	2,823,636
Profit for the year	<u>395,298</u>
Total recognised income and expense for the year	395,298
Balance at 30 June 2008	<u>3,218,934</u>
Balance at 1 July 2008	3,218,934
Profit for the year	<u>41,538</u>
Total recognised income and expense for the year	41,538
Balance at 30 June 2009	<u>3,260,472</u>

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

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2009

1. Significant Accounting Policies

Financial Reporting Framework

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

This special purpose financial report has been prepared to satisfy the Board's accountability requirements under Section 549, 550 and 551 of the Legal Profession Act 2008.

Statement of Compliance

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

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

Basis of Preparation

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

Critical Accounting Judgements and Key Sources of Estimation Uncertainty

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

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

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

The accounting policies set out below have been applied in preparing the financial statements for the year ended 30 June 2009; the comparative information presented in these financial statements for the year ended 30 June 2008.

a) Depreciation

All assets are carried at cost less provision for depreciation.

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

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

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2009

1. Significant Accounting Policies (cont'd)

a) Depreciation (cont'd)

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

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

b) Employee Benefits

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

Liabilities recognised in respect of employee benefits expected to be settled within 12 months, are measured at their nominal values using the remuneration rate expected to apply at the time of settlement. Liabilities recognised in respect of employee benefits which are not expected to be settled within 12 months are measured as the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

Defined Contribution Plans

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

c) Property, Plant and Equipment

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

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

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

Gains and losses on disposals are determined by comparing proceeds with carrying amount. These are included in the income statement.

d) Income Tax

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

e) Revenue Recognition

Interest Revenue

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

Grants

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

Other grants in 2009 are assistance from the Legal Contribution Trust to fund educational seminars on Continuing Professional Development to regional areas. Other grants in 2008 are assistance from the Public Purpose Trust for the purchase of specific library resources.

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2009

1. Significant Accounting Policies (cont'd)

e) Revenue Recognition (cont'd)

Grants (cont'd)

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

Certifications

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

Rendering of Services

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

f) Goods and Services Tax

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

Where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO). In these circumstances, the GST is recognized as part of the cost of acquisition of an asset or as part of an item of expense.

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

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

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

g) Impairment of assets

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

h) Cash and Cash Equivalents

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

i) Provisions

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

Where a provision is measured using the cash flows estimated to settle the present obligation, its carrying amount is the present value of those cash flows. When some or all of the economic benefits required to settle a provision are expected to be recovered from a third party, the receivable is recognised as an asset if it is virtually certain that reimbursement will be received and the amount of the receivable can be measured reliably.

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2009

1 Significant Accounting Policies (cont'd)

j) Financial Assets

Trade and Other Receivables

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

k) Trade and Other Payables

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

l) Resources received Free of Charge or for Nominal Cost

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

m) Adoption of new and revised Accounting Standards

At the date of authorisation of the financial report, a number of Standards and Interpretations were in issue but not yet effective. Initial application of the following Standards will not affect any of the amounts recognised in the financial report, but will change the disclosures presently made in relation to the Legal Practice Board's financial report:

AASB 101 'Presentation of Financial Statements' (Revised September 2007)	Effective for annual reporting periods beginning on or after 1 January 2009
AASB 2007-8 'Amendments to Australian Accounting Standards arising from AASB 101	
AASB 2007-10 'Further Amendments to Australian Accounting Standards arising from AASB 101	

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

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2009

	<u>2009</u>	<u>2008</u>
	\$	\$
2 Auditors Remuneration		
Deloitte Touche Tohmatsu Audit of the financial report	16,500	16,000
	<hr/>	<hr/>
	16,500	16,000
	<hr/>	<hr/>
3 Cash and Cash Equivalents		
Cash at Bank	614,166	2,680,073
Cash on Hand	770	1,089
Term Deposits	6,611,605	4,110,215
	<hr/>	<hr/>
	7,226,541	6,791,377
	<hr/>	<hr/>
4 Trade and Other Receivables		
Trade Receivables	381,237	323,594
Less Allowance for Doubtful Debts	(64,981)	(94,481)
Other Receivables	26,501	105,331
	<hr/>	<hr/>
	342,757	334,444
	<hr/>	<hr/>
	342,757	334,444
	<hr/>	<hr/>
5 Other Current Assets		
Accrued Interest	113,901	182,097
	<hr/>	<hr/>
	113,901	182,097
	<hr/>	<hr/>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2009

6. Plant and Equipment

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

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

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2009

6. Plant and Equipment (cont)

	Office of the Board \$	Law Library \$	Legal Profession Complaints Committee \$	Trust Account Inspector s \$	Articles Training Program \$	Library Books \$	Total \$
Gross Carrying Amount							
Balance at 30 June 2008	995,649	243,802	299,079	22,092	249,797	100,000	1,910,419
Additions	114,267	5,970	4,822	-	1,825	-	126,884
Disposals	(3,724)	(11,557)	(12,128)	-	(7,526)	-	(34,935)
Balance at 30 June 2009	1,106,192	238,215	291,773	22,092	244,096	100,000	2,002,368
Accumulated Depreciation							
Balance at 30 June 2008	(148,104)	(215,383)	(175,324)	(8,432)	(203,229)	-	(750,472)
Depreciation Expense	(338,598)	(13,065)	(41,377)	(2,304)	(18,971)	-	(414,315)
Disposals	3,724	11,497	12,128	-	7,110	-	34,459
Balance at 30 June 2009	(482,978)	(216,951)	(204,573)	(10,736)	(215,090)	-	(1,130,328)
Net Book Value							
As at 30 June 2008	847,545	28,419	123,755	13,660	46,568	100,000	1,159,947
As at 30 June 2009	623,214	21,264	87,200	11,356	29,006	100,000	872,040

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

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2009

	<u>2009</u>	<u>2008</u>
	\$	\$
7 Trade and Other Payables		
Trade Payables	228,722	682,382
Other Payables	151,284	162,337
Accruals	79,322	109,478
	<hr/>	<hr/>
	459,328	954,197
	<hr/>	<hr/>
8 Current Provisions		
Provision for Annual Leave	269,696	216,715
Provision for Long Service Leave	121,687	139,756
	<hr/>	<hr/>
	391,383	356,471
	<hr/>	<hr/>
9 Income in Advance		
Publication Sales in Advance	6,650	8,700
Continuing Professional Development Fees in Advance	143,764	-
Course Fees in Advance	369,348	431,432
Photocopying in Advance	26,398	24,812
PLEAS - Subscriptions in Advance	57,900	58,300
Practice Certificates in Advance	3,719,737	3,329,056
Solicitors Guarantee Fund	20,540	12,588
	<hr/>	<hr/>
	4,344,337	3,864,888
	<hr/>	<hr/>
10 Non-Current Provisions		
Provision for Long Service Leave	99,719	73,375
	<hr/>	<hr/>
	99,719	73,375
	<hr/>	<hr/>
11 Accumulated Funds		
Balance at Beginning of the year	3,218,934	2,823,636
Net Profit	41,538	395,298
	<hr/>	<hr/>
Balance at End of Year	3,260,472	3,218,934
	<hr/>	<hr/>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2009

12	<u>Office of the Board</u>	<u>2009</u>	<u>2008</u>
		\$	\$
	Income		
	Assessment of Qualifications	22,442	21,350
	Admissions	76,840	85,200
	Advertising - Admissions	14,663	15,930
	Annual Grant	250,000	250,000
	Articles Registration Fees	43,400	53,200
	Bank Interest	373,123	365,449
	Continuing Professional Development	94,635	-
	Evidentiary Certificates	18,900	13,100
	Fines	84,034	56,750
	Foreign Lawyers	2,200	3,600
	Other Grants	20,000	-
	Supervising Solicitors reimbursement	31,631	148,358
	Practice Certificates	4,009,670	3,861,400
	Miscellaneous Income	16,210	2,574
		<hr/>	<hr/>
		5,057,748	4,876,911
	Expenditure		
	Advertising	21,333	17,764
	Audit and Accounting Fees	18,157	16,469
	Bad Debts Written Off	4,500	-
	Bank Charges	24,377	17,101
	Computer Expenses	27,014	17,958
	Conference Attendance	1,957	13,195
	Depreciation	338,598	61,370
	Facsimile	1,440	1,014
	Fringe Benefits Tax	10,955	6,885
	HR Consultant	-	11,611
	Insurance	1,258	-
	Legal Costs - LPB	225,981	294,105
	Loss on Sale of Non-Current Assets	-	3,054
	Miscellaneous Costs	27,102	63,420
	Parking	5,451	-
	Payroll Tax	50,136	37,206
	Postage and Petties	30,096	21,759
	Professional Memberships	2,756	3,770
	Printing and Stationery	24,426	39,730
	Allowance for Doubtful Debts	7,000	3,500
	Records Management Review	11,644	-
	Reference Materials	1,154	1,947
	Salaries	1,039,073	807,206
	Seminars	10,585	-
	Service and Maintenance	3,923	2,469
	Storage	8,837	13,025
	Superannuation Contributions	89,499	63,991
	Training	13,613	29,657
	Transcripts	3,369	1,287
	Travel & Accommodation	12,534	3,154
	Workers' Compensation	4,099	3,528
		<hr/>	<hr/>
		2,020,867	1,556,175

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2009

13	<u>Articles Training Program</u>	<u>2009</u>	<u>2008</u>
		\$	\$
	Income		
	Course Fees	999,350	923,400
	Miscellaneous Income	468	-
		<hr/>	<hr/>
		999,818	923,400
		<hr/>	<hr/>
	Expenditure		
	Accommodation	134,821	128,952
	Advertising	10,940	4,243
	Cleaning and Gardening	21,087	19,649
	Conference Attendance	4,114	6,820
	Computer Expenses	4,767	1,650
	Depreciation	18,971	20,386
	Electricity	11,696	11,612
	Fringe Benefits Tax	392	311
	Lecturers	115,253	115,816
	Loss on Sale of Non-Current Assets	416	-
	Miscellaneous Expenses	18,578	1,233
	Payroll Tax	26,604	24,239
	Postage and Petties	4,060	5,147
	Printing & Stationery	28,312	24,089
	Professional Memberships	8,859	3,226
	Reference Materials	5,759	4,736
	Salaries	476,807	457,962
	Service and Maintenance	6,485	12,286
	Student Amenities	2,243	2,869
	Superannuation Contributions	39,688	35,347
	Teaching Materials	-	179
	Telephone and Facsimile	5,431	5,882
	Training	2,818	3,985
	Workers' Compensation	2,284	1,632
		<hr/>	<hr/>
		951,062	892,251
		<hr/>	<hr/>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2009

14	Trust Account Inspector	<u>2009</u>	<u>2008</u>
		\$	\$
	Income		
	Seminar Fees	-	4,482
	TAI Reimbursements	244,229	122,550
		<hr/>	<hr/>
		244,229	127,032
		<hr/>	<hr/>
	Expenditure		
	Conference Attendance	3,003	2,976
	CPA Membership	1,323	549
	Depreciation	2,304	2,303
	Fringe Benefits Tax	1,286	913
	Insurance	258	-
	Mileage	3,159	2,287
	Parking	5,994	4,885
	Payroll Tax	12,168	5,916
	Printing & Stationery	308	73
	Room Hire	-	2,079
	Salary	205,423	105,742
	Superannuation Contributions	18,065	8,251
	Telephone Reimbursement	208	258
	Training	1,723	2,877
	Travel and Accommodation	3,970	2,013
	Workers' Compensation	760	342
	Miscellaneous Expenses	577	3,822
		<hr/>	<hr/>
		260,529	145,286
		<hr/>	<hr/>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2009

15	Legal Profession Complaints Committee	<u>2009</u>	<u>2008</u>
		\$	\$
	Income		
	Costs Recovered	159,761	169,340
	Fines - Summary Jurisdiction	14,000	9,400
	Miscellaneous Income	514	180
		<hr/>	<hr/>
		174,275	178,920
		<hr/>	<hr/>
	Expenditure		
	Advertising	7,103	15,145
	Bad Debts Written Off	7,149	-
	Computer Expenses	15,214	1,465
	Conference Attendance	283	11,718
	Depreciation	41,377	42,070
	Fringe Benefits Tax	1,530	897
	Insurance	207	-
	Legal Costs	257,473	288,465
	Loss on Sale of Non-Current Assets	-	304
	Payroll Tax	75,421	66,536
	Postage and Petties	22,806	21,761
	Printing and Stationery	23,091	20,481
	Allowance for Doubtful Debts	-	1,500
	Professional Fees & Memberships	21,112	21,490
	Reference Materials	8,271	5,802
	Salaries	1,552,990	1,458,101
	Service and Maintenance	11,970	7,454
	Storage	7,236	6,782
	Superannuation Contributions	138,246	115,628
	Training	16,661	12,278
	Transcripts	8,074	2,228
	Workers' Compensation	6,433	4,943
	Miscellaneous Expenses	4,024	1,629
		<hr/>	<hr/>
		2,226,671	2,106,677
		<hr/>	<hr/>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING 30 JUNE 2009

16	Law Library	<u>2009</u>	<u>2008</u>
	Income		
	Library Photocopier and other income	69,398	66,533
	PLEAS	59,800	59,100
	Reimbursement- Department of Attorney		
	General	79,426	75,262
	Grants	-	14,960
		<hr/>	<hr/>
		208,624	215,855
		<hr/>	<hr/>
	Expenditure		
	Serials	466,745	526,405
	Monographs	23,524	29,177
	Electronic Publications	192,480	162,848
	Online/Library Services	273	313
	Bank Charges	600	427
	Cleaning and Binding	20,827	34,641
	Computer Consultancy	31,927	32,004
	Conferences and Meetings	2,930	1,941
	Depreciation	13,065	20,602
	Fringe Benefits Tax	633	507
	Institutional & Professional Memberships	1,050	1,132
	Insurance	10,599	-
	Loss on Sale of Non-Current Assets	60	380
	Minor Assets/ Office Equipment	365	973
	Payroll Tax	16,537	15,384
	Postage and Petties	2,159	1,344
	Printing and Stationery	1,667	1,211
	Promotions	119	80
	Salaries	338,400	345,986
	Service and Maintenance	-	884
	Staff Professional Memberships	1,322	754
	Superannuation Contributions	30,582	27,603
	Training	2,366	2,667
	Workers' Compensation	1,437	966
	Miscellaneous Expenses	2,394	2,917
	Photocopier Costs	9,519	10,508
	PLEAS - Costs	12,447	4,777
		<hr/>	<hr/>
		1,184,027	1,226,431
		<hr/>	<hr/>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

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

17 Income from State Government

Resources received free of charge	<u>2009</u>	<u>2008</u>
	\$	\$
Determined on the basis of the following estimates provided by the Department of the Attorney General:		
Office space rental	554,349	337,819

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

18 Employee Benefits

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

Provision for employee benefits:	<u>2009</u>	<u>2008</u>
	\$	\$
Current (note 8)	391,383	356,471
Non-current (note 10)	99,719	73,375
	<hr/>	<hr/>
	491,102	429,846
	<hr/>	<hr/>
	No.	No.
Number of employees at end of financial year	47	43

19 Notes to the cash flow statement

<u>2009</u>	<u>2008</u>
\$	\$

19(a) Reconciliation of cash and cash equivalents

For the purposes of the cash flow statement, cash and cash equivalents includes cash on hand and in banks and investments in money market instruments, net of outstanding bank overdrafts. Cash and cash equivalents at the end of the financial year as shown in the cash flow statement is reconciled to the related items in the balance sheet as follows:

Cash and cash equivalents	7,226,541	6,791,377
	<hr/>	<hr/>
	7,226,541	6,791,377

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

	<u>2009</u>	<u>2008</u>
	\$	\$
Profit for the period	41,538	395,298
Loss on sale or disposal of non-current assets	476	3,738
Depreciation and amortisation of non-current assets	414,315	146,731

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA

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

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

Changes in net assets and liabilities:	<u>2009</u>	<u>2008</u>
	\$	\$
(Increase)/decrease in assets:		
Current receivables	(8,313)	(628)
Other current assets	68,196	(797)
Increase/(decrease) in liabilities:		
Current payables	(494,869)	506,264
Current provisions	34,912	77,382
Income in advance	479,449	93,844
Non-current provisions	26,344	(28,493)
Net cash from operating activities	<u>562,048</u>	<u>1,193,339</u>

20 Subsequent events

Since balance sheet date the lease for accommodation at the Articles Training Program has been signed for a further 3 years. The cost of this commitment has been included in Note 22.

21 Additional Company Information

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

Registered Office

Principal Place of Business

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

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

22 Commitments for Expenditure

	<u>2009</u>	<u>2008</u>
	\$	\$
Operating Lease Commitments		
Not longer than 1 year	58,740	27,311
Longer than 1 year and not longer than 5 years	443,517	169,865
Longer than 5 years	-	-
	<u>502,257</u>	<u>197,176</u>

23 Contingent liabilities

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