

annual 2011/2012  
R E P O R T

LEGAL PRACTICE BOARD  
OF WESTERN AUSTRALIA





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## REPORT FROM THE CHAIRPERSON



**Chairperson:**  
Mr Ian Weldon

This is my first annual report as Chairperson of the Board, following my election in April 2012. My first task then was to thank Anna Liscia, who served as the Board's Chairperson for five years from April 2007 until April 2012, the maximum period permitted by the Legal Profession Act 2008. I am grateful to have this further opportunity to thank Anna for the time and effort that she put into the work of the Board.

My second task as Chairperson was the less welcome one of accepting the resignation of Graeme Geldart as the Board's Executive Director. Graeme left the Board in May 2012, after almost five years' service, to return to his family and new employment in Sydney.

My third task, therefore, was to seek someone to replace Graeme as the Board's Executive Director and Secretary. The Board's Management Committee nominated a recruitment panel, and in June 2012 Anna Liscia, John Symington and I recommended the appointment of Anne Seghezzi as the Board's new Executive Director. Anne started work with the Board in July 2012. That appointment has already proved to be a great success.

### **The national legal profession and legislative reform**

In her report last year, Anna Liscia indicated that the Board would continue to be involved at a national level with other regulatory bodies and law societies in an effort to work towards consistency and the possible adoption of standard regulatory legislation across all jurisdictions. The Board continues to send a representative to the Law Admissions Consultative Committee which presently attempts in a practical way to achieve a broad consistency in admission standards. However, I think it fair to say that, in the last year, other work towards national uniformity has largely proceeded without involvement from Western Australia. Instead, in July 2012 the then Attorney General for Western Australia, the Honourable Christian Porter, established a working group in Western Australia to consider reforms to or the replacement of the Legal Profession Act 2008 (WA). The working group is chaired by Grant Donaldson SC, and both Anna Liscia and I are members of it. The aim of the working group, in very broad terms, is to produce a form of legislation which will provide an effective system of regulation that is appropriate to Western Australia. However, the Board's contributions to the working group will not overlook the changing structure of the national profession and the fact that many large law practices now operate at a national and increasingly at an international level.

## **Curtin University**

During the year, Curtin University advised the Board that it proposed to offer a degree of bachelor of laws. In August 2012 the Admissions and Registration Committee of the Board recommended the acceptance of this degree as an approved academic qualification under s 21 of the Legal Profession Act 2008 and r 5 of the Legal Profession (Admission) Rules 2009. The Board resolved to amend the admission rules to reflect this decision. The Board also resolved to amend r 5 of the Legal Profession (Admission) Rules 2009 so that only a law degree which includes study of the Priestley 11 subjects will be accepted as an approved academic qualification. Although there are some signs of a nascent movement away from this prescriptive system, in which study of these 11 subjects is effectively a compulsory requirement for national admission, completion of the Priestley 11 as a prerequisite to admission remains the current approach of the Law Admissions Consultative Committee. The Board's decision reflected that policy.

## **The Law Library**

The Board owns and manages the Law Library at the Supreme Court, and has a statutory obligation to maintain the library.

In 1975 an agreement was reached between the Board and the State Government to share the costs of the Law Library on a broadly equal basis. However, over recent years, the proportion of costs borne by the Board has increased significantly. By 2011 the Board was bearing some 75% of the library's operating costs. In 2011 the Board determined that it could not continue to meet the increasing costs of maintaining the Law Library at its existing level. In November 2011 Anna Liscia, the then Chairperson of the Board, notified the Attorney General that, beginning with the financial year 2012-13, the Board proposed significantly to reduce, by some 50%, its expenditure on the Law Library.

This change in the Board's proposed level of funding to the library coincided broadly with a Government announcement that a new Supreme Court building would be developed on the site of the old Treasury Building. It seems certain that this development will in any event require some reorganisation of the library facilities and resources available to the courts, the legal profession and to litigants. The location of future library facilities and issues of access to and funding of a law library remain topics for discussion between the government, the courts and the Board.

Until 2010 a small collection from the Law Library, known as the branch library, was maintained in the Central Law Courts building. The branch library

was closed for refurbishment in late 2009 and re-opened in early 2011. In July 2012 the State Government, as part of its budget efficiency measures, withdrew the allocation of space for the branch library. The branch library closed on 20 July 2012.

At the time of writing, the future of the Law Library is uncertain. The contents of the branch library are being stored by and at the expense of the Department of the Attorney General. The collection at the Law Library has been rationalised and reduced. Although the Board owns the library collection, it does not have premises, or the resources to acquire premises, from which to operate a library. I attempted to outline these changes in an email sent to the whole profession in June 2012.

### **Election**

The Board conducted its annual election in March and April 2012. The Secretary issued 5206 ballot papers of which 1007 were returned to the Board. Seven people stood for the six available positions. Immediately after the declaration of the election, the Board appointed the remaining candidate to fill the casual vacancy created by the appointment of Francine Walter as a magistrate of the Family Court of Western Australia. I am grateful to all the candidates who stood, and to all those who voted in the election, while noting that there is clearly scope to increase the level of interest and participation in the work of the Board.

### **Practising certificates**

The Board derives its income almost entirely from the fees paid for practising certificates. At 30 June 2012 the Board had issued 4,956 practising certificates for the year 2011-12. The introduction of the online application process has been one of the significant improvements in the Board's operating procedures. In 2012 around 90% of legal practitioners applied online to renew their practising certificates, although for some reason this figure has declined from around 95% in 2011. The Board's staff are working continually to improve the online renewal process.

The standard fee for a practising certificate has remained at \$1000 since 2005. The only significant change recently made by the Board was to remove in 2011 the 5% discount given to practitioners who made online applications for renewal of their practising certificates. As a matter of common experience the Board's operating expenses have increased, and it would be unrealistic to expect that the fee of \$1000 will not be subject to review.

In 2012 the Board introduced a practising certificate for practitioners who undertake only pro bono work. The conditions on these practising certificates allow practitioners to recover costs under pro bono schemes like those under r 4.19 of the Federal Court Rules 2011. No fee is charged by the Board for pro bono practising certificates, but practitioners must complete the usual CPD requirements and have appropriate professional indemnity insurance.

Until recently, practitioners who intended to practise solely as barristers gave an undertaking to that effect to the Supreme Court. During 2011 the Chief Justice indicated that the Court had reservations about accepting undertakings of this sort. In consultation with the WA Bar Association, the Law Society of Western Australia, the Legal Aid Commission and other groups, the Board resolved that it would accept requests from barristers, or from those who intended to practise as barristers, for a condition to be imposed on their practising certificates. This “barrister only” condition has the effect of, and replaces, the former system of undertakings to the court. The Legal Profession Rules 2009 were amended to reflect this change.

### **Efficiency dividend**

Because the Board is a corporate body established for a public purpose under the Legal Profession Act 2008 it falls within the public sector, although it is not part of the public service.

During the year the State Government attempted to impose on the Board a so-called “efficiency dividend”, requiring a percentage reduction in the Board’s expenditure. The Board does not accept that this measure was appropriately extended to the Board. However, as part of the library funding arrangements that I have mentioned, the State Government met the cost of the librarian employed at the branch library. The closing of the branch library and the consequent saving to the government in that salary expense more than covered the amount of the efficiency dividend, and the issue was not otherwise pursued.

### **Acknowledgements**

I have already mentioned the contribution that Anna Liscia has made and continues to make to the Board. Anna was greatly assisted by Grant Donaldson SC as Deputy Chairperson. Grant Donaldson’s appointment as Solicitor General meant that he felt unable to continue to serve the Board in that capacity. I am especially grateful that Peter van Hattem SC agreed to accept a nomination as Deputy Chairperson. I have already found Peter’s

careful and considered counsel to be an invaluable source of support. I should also like to mention the immeasurable contribution of Chris Zelestis QC as Chairperson of the Legal Profession Complaints Committee. Chris Zelestis has provided unstinting service and the benefit of his experience and wisdom, and I have been grateful for his support and advice in ensuring that the Board and the LPCC can discharge their respective statutory functions effectively and efficiently. I should also mention Robert Cock QC (as his Honour then was) who left the Board on his appointment to the District Court. Robert Cock provided long-standing service and expertise as convener of the management committee.

When Graeme Geldart left the Board, Tony Mylotte agreed once again to accept the position of acting Secretary. This occurred at the time of practising certificate renewals, almost certainly the Board's single busiest activity. We also lost at this time the services of Shung Neoh, one of the Board's legal officers, who returned to Malaysia. The fact that the Board ran so smoothly for the two months when we had no Executive Director was due entirely to the competence and energy of the Board's staff, and I am especially grateful for the assistance that I received from Tony Mylotte, Libby Fulham, Judy Robinson and Deborah MacDonald. I should also like to thank all of the Convenors and Deputy Convenors of the Board's committees, and all of the members of the Board. The Legal Practice Board is unique in its composition and operation, and it has for a long time achieved a high standard in the regulation of the legal profession in Western Australia. I hope, with the generous support of Board members, to be able to maintain that position.

Ian Weldon  
Chairperson  
2012



## REPORT FROM THE EXECUTIVE DIRECTOR

I commenced this role on 23 July 2012, after my predecessor, Graeme Geldart, resigned as Executive Director in April 2012.

I take this opportunity to gratefully acknowledge the work that Graeme did for the Legal Practice Board during his time as Executive Director. After a short time in this position, it is clear to me that Graeme initiated many improvements in the work of the Board, and was highly regarded by staff and members of the Board.

### Finances of the Board

The Board made a loss of \$1,031,373 in the year ended 30 June 2010, a loss of \$513,852 in the year ended 30 June 2011 and a loss of \$33,197 in the year ended 30 June 2012.

These losses have been able to be sustained by the prior accumulated funds of the Board, which were reduced from \$2,229,099 at 30 June 2010, to \$1,715,247 at 30 June 2011. The current balance of funds held by the Board at 30 June 2012 was \$1,682,050.

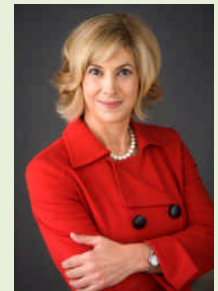
A reasonable proportion of the losses sustained in 2010 and 2011 arose from the discontinuation of the Articles Training Program but even after taking these unusual losses into account, the Board's usual operating costs have resulted in loss. The financial trends of the last 3 years therefore indicate that the Board may not have sufficient funds to operate at the current level in the future, without increasing revenue.

Most of the Board's revenue is provided from fees for practice certificates, which are currently set at \$1000 per annum. The adequacy of this fee to meet future Board operating costs is a matter which will be considered by me as a matter of priority in the next 12 months.

### Staffing

Staffing levels for the reporting period were 47 persons over the four offices of the Board (Office of the Board, Legal Profession Complaints Committee, Law Library and Branch Library). This is a decrease of 4 over 2010/2011. Part of this decrease is due to positions becoming vacant due to resignations, but not yet able to be filled.

I expect staffing levels to move upward slightly over the next 12 months, as a result of the vacant positions being advertised and staffed.



**Executive Director**  
Anne Seghezzi

## Looking Forward

The Board will continue to operate in a disciplined and prudent manner, focussed on delivering capable and efficient regulation of the legal profession in WA.

We will continue to develop our technological support and our staff to ensure the Board has the capacity to deliver its statutory function and objectives, and meet the challenges of the future.

My strategic priorities for the next 12 months include:	
<b>Innovation</b>	Using technology to meet the needs of the processes of the Board, with the aim of increasing service levels while reducing costs.
<b>Legislation</b>	Support the work of the Board in its contribution to a revised Legal Profession Act.
<b>Process Mapping</b>	Mapping Board processes so that the adequacy of controls can be assessed.
<b>Mental Health in the Legal Profession</b>	Identify how the Board can play a greater role in making a positive contribution in the area of mental health issues for legal practitioners.

## Vote of Thanks

Thank you to my Chairperson, Ian Weldon, who has been a valued support in my work since my commencement in this role. Ian's experience with stakeholders of the legal profession in his former role of President of the Law Society of WA, and detailed knowledge of the legislation that the Board administers is invaluable to the ongoing work of the Board.

Thanks are also due to the Board's Deputy Chairperson, Peter van Hattem SC. Peter has provided me with valuable guidance in both legal matters and Board management processes.

Since commencing this position I have been unfailingly impressed by the dedicated and generous pro bono work of the members of the Board to support the work of the Board and its Committees.

The Board is comprised of many of the most distinguished members of our legal community, and in my short time working with the Board to date I have come to appreciate the significant personal contributions made by Board members, particularly the Convenors and members of Board Committees, to upholding the good standing of the legal profession in Western Australia.

Thanks are also due to the dedicated staff of the Board, including Gael Roberts, the Law Complaints Officer at the Legal Profession Complaints Committee; Catherine McGill, Law Librarian at the Supreme Court Library; Libby Fulham, our Legal Officer, who supports our Professional Affairs Committee; Deb MacDonald, who supports our Admissions and Registration Committee; Julie Bain, who manages Continuing Professional Development matters; and Tony Mylotte, who manages the issuing of certificates. I am grateful for the experience and knowledge of all of the staff of the Board, and for their dedication to the work of the Board.

Anne Seghezzi  
Executive Director  
October 2012

# THE LEGAL PRACTICE BOARD

## 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. (Branch Library Closed July 2012).

## Membership

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

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

## Queens Counsel

Prior to the introduction of the LPA 2008 all Queens Counsel whose principal place of practice was this State, were automatically members of the Board. Following the introduction of the LPA 2008 Queens Counsel had to nominate as members of the Board. At 30 June 2012 there were 5 Queens Counsel resident and practising in Western Australia, who had nominated as members of the Board.

## Senior Counsel

Prior to the introduction of the LPA 2008 all Senior Counsel whose principal place of practice was this State, were automatically members of the Board. Following the introduction of the LPA 2008 Senior Counsel had to nominate as members of the Board. At 30 June 2012 there were 22 Senior Counsel resident and practising in Western Australia, who had nominated as members of the Board.

## During the year under review:

On 06 December 2011 the following practitioners were appointed as Senior Counsel and nominated as members of the Board:

- Mr JA Thomson SC;
- Mr B Dharmananda SC; and
- Mr J McGrath SC..

On 18 July 2012 Mr JR Meadows QC resigned as Solicitor General and so ceased to be a member of the Board.

On 26 March 2012 Mr RE Cock QC was sworn in and welcomed as a Judge of the District Court and so ceased to be a member of the Board.

### **Total number of Silks at 30 June 2012.**

At the conclusion of the year under review the Board had a total of 26 Queens Counsel and Senior Counsel as members of the Board.

## Elected Members

### **1 July 2011 to April 2012 election**

Elected members in office during this period were: Mr SE Creek, Mr KJ Edwards, Mr JGM Fiocco, Dr JJ Hockley, Ms NA Hossen, Mr JRB Ley, Ms AM Liscia, Ms EE Macknay, Ms SM Schlink, Mr JG Syminton, Ms FB Walter, and Mr I Weldon.

Ms FB Walter was appointed a Magistrate of the Family Court on 28 August 2011 and so ceased to be a member of the Board having served on the Board since her election in 2004.

### **April 2012 election to 30 June 2012**

Elected members in office during this period were: Mr SE Creek, Mr JGM Fiocco, Dr JJ Hockley, Ms VJ Hodgins, Ms NA Hossen, Mr JRB Ley, Ms AM Liscia, Ms EE Macknay, Ms SM Schlink, Mr JG Syminton, Mr I Weldon and Mr RG Wilson.

On 5 April 2012 Ms VJ Hodgins was appointed to the Board to fill a casual vacancy with her term of office expiring in April 2013.

## Appointment of Chairperson and Deputy Chairperson

Mr I Weldon was appointed Chairperson on 4 April 2012, effective for the ensuing year.

Mr PCS van Hattem SC was appointed Deputy Chairperson on 4 April 2012, effective for the ensuing year.

Attorney General	Solicitor General	Chair	Deputy Chair
The Hon. Mr Michael Mischin, MLA	Mr Grant Donaldson QC	Mr Ian Weldon	Mr Peter van Hattem SC
Queens Counsel	Senior Counsel	Elected Members	
Mr MJ McCusker AO QC	Mr KR Wilson SC	Mr SE Creek	
Mr CL Zelestis QC	Mr MH Zilko SC	Mr JGM Fiocco	
Mr RK O'Connor QC	Mr CG Colvin SC	Dr JJ Hockley	
Mr S Owen-Conway QC	The Hon Mr PMC Dowding SC	Ms NA Hossen	
Mr TF Percy QC	Mr GMG McIntyre SC	Mr JRB Ley	
	Mr GTW Tannin SC	Ms AM Liscia	
	Mr CP Shanahan SC	Ms EE Macknay	
	Mr MT Ritter SC	Ms SM Schlink	
	Mr B Fiannaca SC	Mr JG Syminton	
	Mr T Lampropoulos SC	Mr I Weldon	
	Mr PCS van Hattem SC	Mr RG Wilson	
	Mr RM Mitchell SC		
	Mr LM Levy SC		
	Ms PE Cahill SC		
	Mr MD Howard SC		
	Mr SM Davies SC		
	Mr SK Dharmananda SC		
	Mr S Vandongen SC		
	Mr PD Quinlan SC		
	Mr JA Thomson SC		
	Mr B Dharmananda SC		
	Mr J McGrath SC		

## Board Members as at 30 June 2012

### Committees

#### *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 Registration Committee;
- Professional Affairs Committee; and
- Management Committee.

A summary of the main areas of responsibility and activities of the above committees during the 2011 - 2012 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.

### Other Committees

In this reporting year, the Law Library Advisory Committee continued to hold meetings to supervise the business of the Law Library.

## Meeting Overview

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

Management Committee		Total meetings held: 6	
Name	Meetings Applicable*	Attended	
Mr Robert Cock QC (Convenor – March 2012)	4	4	
Ms Anna Liscia (Deputy Convenor to March 2012, Convenor April 2012 present)	6	6	
Ms Sabina Schlink	6	4	
Mr John Syminton	6	4	
Mr Ian Weldon	6	4	
Mr John Ley	6	3	
Dr John Hockley	6	3	
Mr Matt Zilko SC	6	1	
Mr Simon Creek	6	2	
Mr Sam Vandongen SC	6	1	
Mr Kanagammah Dharmananda SC	6	3	
Mr Peter van Hattem SC	2	2	
Mr Robert Mitchell SC	6	1	
Ms Valerie Hodgins	2	0	
Admissions and Registration Committee (11 special meetings were held)		Total meetings held: 11	
Name	Meetings Applicable*	Attended	
Mr Grant Donaldson SC (Convenor)	11	7	
Ms Sabina Schlink (Deputy Convenor)	11	7	
Mr Kevin Edwards	8	4	
Mr John Fiocco	11	6	
Mr Noelle Hossen	11	6	
Dr John Hockley	11	4	
Mr Matt Howard SC	11	7	
Mr Laurie Levy SC	11	9	
Mr John Ley	11	4	
Ms Anna Liscia	11	10	
Ms Elizabeth Macknay	11	5	
Mr Peter Quinlan SC	11	4	
Mr Sam Vandongen SC	11	9	
Mr Kanagammah Dharmananda SC	7	5	
Mr James Thomson SC	3	3	
Mr Joseph McGrath SC	3	3	
Mr Robert Wilson	2	2	



Professional Affairs Committee		Total meetings held: 12
<i>(19 Special meetings have not been included in this table)</i>		
Name	Meetings Applicable*	Attended
Mr Matthew Zilko SC (Convenor)	12	6
Mr Greg McIntyre SC (Deputy Convenor)	12	9
Mr George Tannin SC	12	9
Mr Grant Donaldson SC	12	3
Mr Bruno Fiannaca SC	12	8
Mr Peter van Hattem SC	12	12
Ms Patricia Cahill SC	12	8
Mr Matthew Howard SC	12	5
Mr Stephen Davies SC	12	4
Mr Peter Quinlan SC	12	3
Ms Noelle Hossen	12	4
Ms Anna Liscia	12	8
Ms Elizabeth Macknay	12	7
Ms Francine Walter	2	2
Mr Ian Weldon	12	10
Mr Simon Creek	12	5
Ms Valarie Hodgins	3	2

\* Some members of the Board were appointed to the committee or retired from the committee part way through the year. Applicable meetings refer to the number of meetings held during time of appointment.

## 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 Law Library in the Supreme Court;
- The Branch Library in the Central Law Courts (the Branch office was closed on 20 July 2012); and
- The Legal Profession Complaints Committee at 55 St Georges Terrace, Perth.

## Office of the Board

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

public regulatory authority. Accordingly, key responsibilities of the Office of the Board include, but are not limited to:

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

### Law Library

The Law Library located in the Supreme Court of Western Australia is owned and administered by the Board. A Branch Library was operated 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, articulated clerks, members of Parliament (and their department staff), members of the police force, holders of an office, post or position established under an Act and public service officers and employees. Several groups such as law students, interstate practitioners, foreign lawyers and litigants in person may use the library subject to any restrictions, including payment of a fee, determined by the Law Library Advisory Committee.

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

## Legal Profession Complaints Committee

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

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

### Staff

As at 30 June 2012, the following numbers of staff were in full-time, part-time or contract employment with the Board:

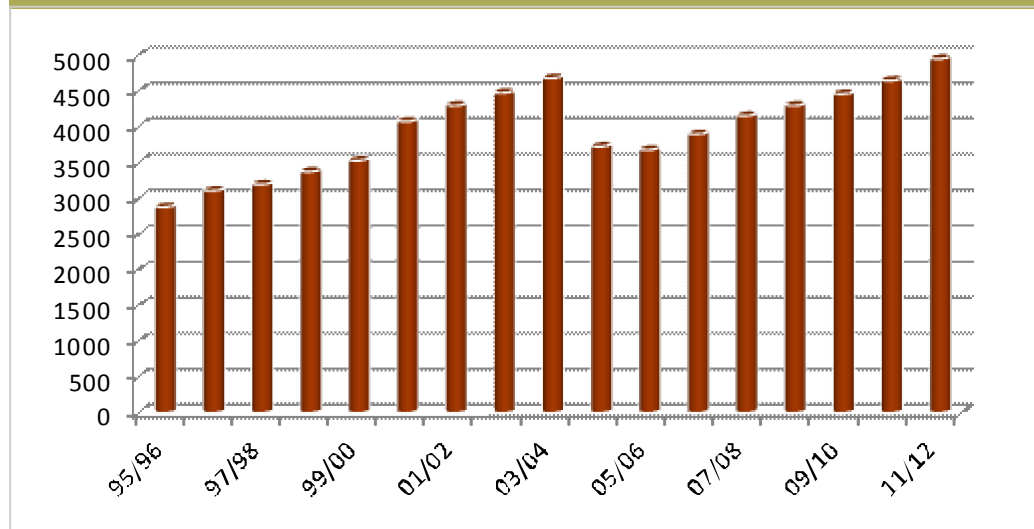
Divisions	No. of Staff
Office of the Board	19
Law Library and Branch Library	6
LPCC	19
Trust Account Inspector	3
<b>Total Staff</b>	<b>47</b>

# PROFILE OF THE CURRENT WA LEGAL PROFESSION

## Practising Certificates

The number of practising certificates issued during 2011-2012 was 4956 which represents a 6.5% increase in the number of certificates issued in the previous period.

Number of practising certificates over the past 17 years



## Renewal of Practising Certificates

The timing of the renewal of practising certificates is contained within the *Legal Profession Act 2008 (LPA)* and the *Legal Profession Rules 2009 (Rules)*. 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 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.

For the financial year 2011/2012 the Board recorded an increase in the number of practitioners not renewing their practising certificates by 30 June 2012.

**80 practising certificate renewals were lodged up to two weeks late; and  
89 practising certificate renewals were lodged more than two weeks late.**

For the financial year 2011/2012 the Board once again used the on-line renewal process. During the year under review the first major review of the approved form LPB Form 1 Application for a Local Practising Certificate was undertaken by the Board. Three areas were identified as problem areas and they were:

- Interstate Admission and Supporting documentation required;
- Show Cause Events; and
- Fitness to Practice – Suitability Matters.

The review of the approved form also incorporated the Annual Practising Certificate Explanatory Notes into the form and the resulting application form increased from a 4 page document to a 12 page document.

The discount for applying on-line was withdrawn in the previous year, once again resulting in on-line application and manual applications paying the standard application fee of \$1000. With the substantial review of the approved form LPB Form 1 Application for the Grant of a local practising certificate having been carried out during the period under review, if a practitioner requested a manual application Board staff no longer pre-populated the application form with information contained within the Board's database. However, the on-line applications continued to be pre-populated with the information contained within the Board's database.

For the second time, this years renewal notices were issued electronically via email. On 01 May 2012 an email was sent to each practitioner who held a current Local practising certificate and every interstate practitioner resident in WA practising on their interstate practising certificate, inviting them to renew their practising certificate on line. Each practitioner was sent a log in and if they could not remember their password from last year was asked to use the forgotten password link to receive a new automatically generated password by email.

Letters were only issued to practitioners who did not have an email address registered with the Board or if an email was returned undelivered. 272 letters were issued to practitioners who did not have an email address registered with the Board and 148 letters were issued as a result of returned emails.

**Application forms received for the renewal of a practising certificate for 2011/2012 period**

Application Format	Standard Renewal Period	Late Fee Period	Total Applications Received
Online Application Form	3572	583	4155
Manual Paper Forms	375	50	425
<b>Total Applications Received</b>	<b>3947</b>	<b>633</b>	<b>4580</b>
Non Renewals	26	4	30

**Format of application forms for the renewal of a practising certificate for the last 3 years**

Reporting Year	Manual Paper	Online Application
2008/2009	4%	96%
2009/2010	3%	97%
2010/2011	5%	95%
2011/2012	10%	90%

**Late application forms for the renewal of a practising certificate for the last 3 years**

Reporting Year	No. Applications 2 weeks late	% of applications 2 weeks late	No. Application over 2 weeks late	% of applications over 2 weeks late	Total applications late
2008/2009	58	56%	46	44%	104
2009/2010	27	24%	86	76%	113
2010/2011	51	43%	69	58%	120
2011/2012	80	47%	89	53%	169

This is an area the Board will be looking to improve on in the coming year.

Once again, an additional “administrator’s” log in was made available upon request to law practices to allow the law practices to monitor the renewals status of their practitioners and to allow for bulk payment of the practising certificate application fees.

By 30 June 2012 a total of 4580 applications for the renewal of practising certificates for the financial year 2011/2012 had been received. Of these, 4155 applications were made on line and 425 were manual applications. In addition a total of 30 non renewal notices had been received by the Board.

During the standard renewal period, a total of 3947 applications for renewal of practising certificates were received. Of these 375 were manual applications. In addition a total of 26 non renewal notices were received.

<b>Composition of the Legal Profession</b>	<b>Resident Females</b>	<b>Non-Resident Females</b>	<b>Resident Males</b>	<b>Non-Resident Males</b>	<b>Totals</b>
Barristers	36	0	167	0	203
Commonwealth Government	30	0	25	0	55
Consultants	15	0	29	1	45
Director	81	0	303	2	386
Employees	1264	50	907	38	2259
Equity Partner	40	0	282	6	328
Fixed Profit-share Partner	11	0	37	0	48
Inhouse	297	17	288	14	616
Lay Associates	0	0	0	0	0
Locum	0	0	0	0	0
Not practising (certificated)	238	12	134	15	399
Salaried Partner	24	1	39	2	66
Sole Practitioners	125	0	354	1	480
Judiciary <sup>^</sup>	1	0	1	0	2
Deceased <sup>^</sup>	1	0	1	0	2
Struck Off /Suspended <sup>^</sup>					0
State Government <sup>*</sup>	43	0	21	0	64
Legal Practitioner Partner of a Multidisciplinary Partnership	1	0	2	0	3
<b>Practice Certificates ISSUED</b>	<b>2207</b>	<b>80</b>	<b>2590</b>	<b>79</b>	<b>4956</b>
<b>S.36 Practitioners</b>					
** State Solicitor's Office	61	0	47	1	109
**Director of Public Prosecutions (State)	60	0	53	0	113
**Other Departments	173	125	4	1	303
<b>TOTAL PRACTITIONERS</b>	<b>2458</b>	<b>205</b>	<b>2673</b>	<b>81</b>	<b>5481</b>

<sup>^</sup> held a practising certificate during 2011/2012, however by 30 June 2012, were appointed judiciary/deceased/struck off/suspended.

<sup>\*</sup> State Government employees who held a practising certificate during 2011 - 2012

<sup>\*\*</sup> State Government employees taken to be certificated pursuant to Section 36 of the Legal Profession Act 2008.

During the late fee period, a total of 633 applications for renewal of practising certificates were received. Of these 50 were manual applications. A further 4 non renewal notices were received during this period.

The number of application received during the standard renewal period fell compared to last year. In the last financial year 94.1% of the applications were received in the standard renewal period compared to 86.2% in the year under review. The reason for the decrease is unknown at this stage.

The number of manual applications received continues to increase. In the period under review the number of manual applications increased to 425 which was an increase of 83.9% on the number received the previous year. The reason for this may have been the review of the approved form and the increase in questions relating to fitness to practice and disclosure issues. Whilst the number of manual applications increased, the online applications continued to account for over 90% of all applications received for the grant or renewal of a local practicing certificate.

## MANAGEMENT COMMITTEE

### Convenor:

Mr R Cock QC  
(until March 2012)

Ms AM Liscia  
(April 2012-present)

### Deputy Convenor:

Ms AM Liscia  
(until March 2012)

### Continuing Members:

Dr J Hockley

Mr J Ley

Ms AM Liscia

Mr S Penglis

Ms S Schlink

Mr J Syminton

Mr S Vandongen SC

Mr I Weldon

Mr M Zilko SC

### Resignations

Mr R Cock QC (March 2012)

### The Role of the Management Committee

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

### Committee Process

The Committee meets every second month and receives and considers information and reports from the Executive Director and the Corporate Support Officer in regard to resourcing and financial issues. When the need arises to address a pressing issue, resolutions are determined by electronic quorum. The Committee's primary focus is on strategic issues and the implementation and maintenance of appropriate policies, systems and processes.

### Closure of the Articles Training Programme

The Articles Training Programme (ATP) was closed as of 31 December 2010, and the only outstanding matter in relation to this is the tenancy of the premises leased for the ATP. The lease of the premises expires on 31 December 2012, and the Committee is currently negotiating end of lease obligations for those premises, which were sublet.

### Reduction in Funding for the Law Library

During 2011, the Board resolved to substantially decrease the funding of the Law Library, after first consulting with the Supreme Court of WA, the Law Society and the Attorney General's office.



Prior to the reduction in funding, the Law Library accounted for approximately 17% of the Board's expenditure, amounting to some \$1,273,598.

This course of action was not one the Board took lightly or with pleasure, but the Board came to the view that it had to allocate its resources to its primary functions and that it was not justified in raising Practising Certificate fees solely, to subsidise the Law Library.

The Board resolved to halve its funding of the Law Library collection for the following reasons:

- The Board has limited sources for funding, with the overwhelming majority of its income being sourced by fees raised from the legal profession;
- The Board is a regulatory authority, not an operator of libraries;
- The legal profession makes very little use of the Law Library facilities; and
- The major user of the Law Library's facilities is the Court and its officers.

The Board had prior to taking this decision, sought to obtain funding from other sources, but without success.

### **Human Resources**

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

The number of staff employed at the end of this financial year decreased by 4 persons from 2010/2011, however the number of approved positions was unchanged, other than a reduction by one position which was no longer required when the Branch Library of the Law Library was closed. This position was funded by the Department of the Attorney General, and its abolition therefore did not impact the Board's finances.

## Physical Resources

The premises of the Legal Profession Complaints Committee at 55 St Georges Terrace were refitted during the financial year to provide an improved work environment for staff located at those premises.

The electronic records management system known as 'Objective' has continued to be implemented throughout the Board with the aim of linking of all of Board records across the Board's three premises.

The Board's website redevelopment was completed and launched in October 2011.

During this period the Management Committee approved the engagement of an information technology consultancy service, being Leap Consulting to perform a review of the IT systems across all divisions of the Board's operations, with the aim of making best use of available technology.

## Financial Resources

The Board is primarily self-funded, with contributions provided by the State government by way of a grant toward the cost of maintaining the Law Library (which is actively used by the Supreme Court) and by funding the cost of accommodation of the Offices of the Board and the Legal Profession Complaints Committee.

Most of the Board's revenue is provided from fees for legal practice certificates, which are applied to meet all other operating costs of the Board. In addition the Board has reserve funds that have been built up over the years.

As a result of all expenses of the Articles Training Programme being likely to cease on 31 December 2012 with the finalization of the lease obligations relating to the premises lease for the ATP, and a reduction in the Board’s commitment to the Law Library subscriptions this year, it is planned to meet the Board’s expenses from its income in the next financial year, without recourse to the Board’s reserve funds.

**Acknowledgements**

I would like to acknowledge the support and assistance of my Deputy Convenor, John Symington, and the dedication of my fellow members of the Committee for their conscientious preparation for debate at our meetings. The amount of time and effort required to prepare for and participate in meetings cannot be overstated and without the selfless dedication of my Committee members, the Board could not function as effectively as it does. Thanks are extended to all of the Board's employees for their efforts during the year, including the Corporate Support Officer Judy Robinson for her management of the Board's finances. The Executive Director, Anne Seghezzi, for her support to the Committee.

Special mention must also be made of the immediate past Executive director Graeme Geldart for the support and guidance which he extended not only to me personally, but also to the Committee.

Anna Liscia  
Convenor  
November 2012

# ADMISSIONS AND REGISTRATION COMMITTEE

## Convenor:

Mr GR Donaldson SC

## Deputy Convenor:

Ms S Schlink

## Continuing Members:

Mr J Fiocco

Dr J Hockley

Ms N Hossen

Mr M Howard SC

Mr L Levy SC

Mr J Ley

Ms AM Liscia

Ms E Macknay

Mr P Quinlan QC

Mr S Vandongen SC

## New Appointments

Mr K Dharmananda SC

(2 Nov 2011 - present)

Mr J McGrath SC

(4 April 2012 - present)

Mr J Thomson SC

(4 April 2012 - present)

Mr R Wilson SC

(30 April 2012 - present)

## Resignations:

Mr K Edwards

(From April 2012)

Pursuant to the instrument of delegation from the Full Board, the Admissions and Registration Committee (**ARC**) is responsible for the functions and powers of the *Legal Profession Act 2008 (Act)* that regulate the admission of lawyers and the registration and practice of foreign lawyers. Until February 2012 the ARC also had power to make the rules for the admission of persons to the legal profession.

Since February 2012 the ARC has also been responsible for many of the functions and powers of the Act that relate to the grant of practising certificates; conditions on the grant of practising certificates and restricted practice.

## Eligibility for Admission

### Approved Academic Qualifications

The following universities continue to offer approved law degrees in Western Australia:

- The University of Western Australia
- Murdoch University
- The University of Notre Dame
- Edith Cowan University (Edith Cowan University has been approved to offer an on-line law degree).

In addition, the ARC continues to recognise as “corresponding” any Australian law degree that meets admission requirements in the State or Territory in which it was obtained, provided all of the prescribed areas of knowledge as set out in the *Uniform Admission Rules*, also known as the “Priestley 11” subjects, have been completed.

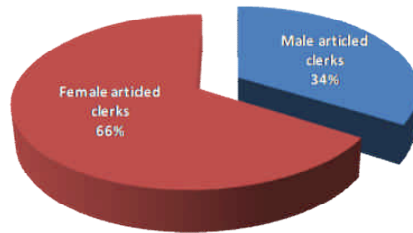
During the year under review the ARC considered and approved an application from the University of Western Australia for approval of a new 3 year post-graduate Juris Doctor law degree.

In April 2012 Curtin University applied for approval of a proposed law degree course to be included as an approved academic qualification under Rule 5 of the *Legal Profession (Admission) Rules 2009 (Admission Rules)*. As of 30 June 2012 the ARC was still considering the application.

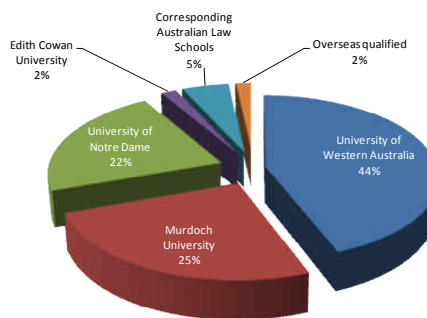
### Approved Practical Legal Training

There are two practical legal training (PLT) options in Western Australia. These are the completion of an approved PLT course or the undertaking of the 12 months articles of clerkship.

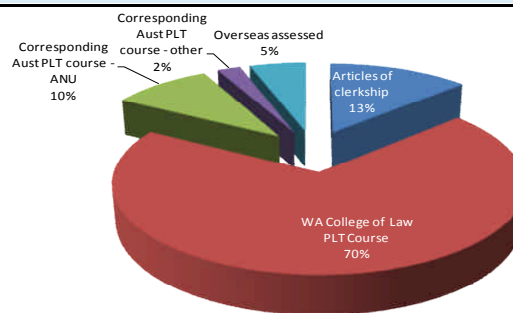
Number of Articles of Clerkship Registrations	
Registrations – female articulated clerks	39
Registrations – male articulated clerks	20
<b>Total Registrations</b>	<b>59</b>



Articled Clerks were graduated from:	
University of Western Australia	26
Murdoch University	15
University of Notre Dame	13
Edith Cowan University	1
Corresponding Australian Law Schools	3
Overseas qualified	1



Practical legal training	
Articles of clerkship	55
WA College of Law PLT Course	289
Corresponding Aust PLT course - ANU	39
Corresponding Aust PLT course - other	9
Overseas assessed	22



### PLT Courses

The WA College of Law PLT Program remains the only approved PLT course in Western Australia.

The ARC continues to recognise as “corresponding” any Australian PLT course that meets admission requirements in the State or Territory in which it was completed.

### Articles of Clerkship

Law graduates who have been offered articles of clerkship must apply for registration with the Board. In addition to completing the 12 month term of articles, the articulated clerks must complete the Leo Cussen Articles Training Program.

Practitioners must apply for Board approval each time they take an articulated clerk. The Executive Director has delegated authority to approve some applications. However, the ARC considers all applications from practitioners who are not principals of a law practice, or who have been subject to disciplinary findings, or who are the subject of a pending complaint.

**Assessment of qualifications**

Qualified	Admitted	Number	Qualified	Admitted	Number
New Zealand	Not admitted	1	South Africa	South Africa/England & Wales	2
England & Wales	Not admitted	15	Singapore	Singapore	2
England & Wales	England & Wales	28	Canada	Canada	2
England & Wales	Republic of Ireland	1	United States	Not admitted	3
England & Wales	Northern Ireland	1	United States	United States	1
England & Wales	England & Wales/ Malaysia	4	Fiji	Not admitted	1
Northern Ireland	Northern Ireland	1	Sri Lanka	Sri Lanka	1
Ireland	Not admitted	3	Argentina	Argentina	1
Ireland	Ireland/England & Wales	1	Brazil	Not admitted	3
Ireland	Ireland	4	Hong Kong	Not admitted	2
Scotland	Not admitted	2	India	India	2
Scotland	Scotland	5	Lebanon	Lebanon	1
South Africa	Not admitted	2	Belgium	Belgium	1
South Africa	South Africa	3	<b>Total assessments</b>		<b>93</b>

As projected, the number of articulated clerk registrations during the year under review was similar to the previous year. No significant fluctuation in the number of registrations is expected in the 2012/2013 year.

**Assessment of Overseas Applicants for Admission**

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

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

There was a 37% increase in the number of assessments of overseas qualified applicants in the year under review.

There was also an increase in the number of overseas legal practitioners admitted to practice in Western Australia. In the year ended 30 June 2012, only 8 new admittees had previously been admitted overseas. In the current year, 24 of the new admittees had previously been admitted overseas.

These increases would seem to be caused by:

- An increase in overseas graduates seeking admission in Australia due to the poor economy in the United Kingdom; and
- An increase in overseas practitioners relocating to WA due to the shortage of experienced lawyers in WA.

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

LACC is a consultative committee that provides recommendations to Australian admitting authorities and admission boards, with the aim of achieving uniformity of admission requirements in Australia. Ms Liscia is the ARC's representative on LACC.

During the year under review the ARC continued to consider matters raised by LACC including:

- Consideration of whether practical legal training should commence during or after completion of the academic qualifications;
- Ongoing consideration of draft Disclosure Guidelines for applicants for admission;
- Ongoing review of the *Uniform Principles for Assessing Overseas Applicants*;
- Review of admission requirements for non-admitted UK law graduates and those who have completed a one year post-graduate legal qualification in the UK;
- Review of English language testing requirements for overseas qualified applicants for admission; and
- Standards for accrediting and reviewing PLT courses and providers.

### **Suitability for Admission and Re-admission**

The ARC considers the suitability for admission of any applicant who has disclosed a suitability matter in their application.

Admissions	
Admitted pursuant to s26 of the <i>Legal Profession Act 2008</i>	414
Admitted pursuant to the <i>Mutual Recognition (WA) Act 2001</i>	9
Admitted pursuant to the <i>Trans-Tasman Mutual Recognition (WA) Act 2008</i>	29
<b>Total Admissions</b>	<b>452</b>

Of the **414** lawyers admitted pursuant to the *Legal Profession Act 2008*, 154 were male and 260 were female, and they were qualified as follows:

Academic Qualifications	
University of Western Australia	152
Murdoch University	133
University of Notre Dame	52
Edith Cowan University	20
Corresponding Australian Law Schools	27*
Overseas qualified	28**

\* Of the 27 persons who held corresponding academic qualifications, 2 had previously been admitted in the United States of America.

\*\*Of the 28 overseas qualified persons admitted, **22** had previously been admitted overseas:

Previously Admitted Overseas	
England & Wales	9
England & Ireland	1
Ireland	1
England and United States of America	1
Malaysia	2
South Africa	4
Sri Lanka	2
USA	1
Israel	1
<b>Total previously admitted overseas</b>	<b>22</b>

In most cases the ARC decides the application on the papers. An applicant with several disclosures or recent disclosures is required to meet with two members of the ARC to discuss the disclosures before the application is progressed. In some cases ARC resolves to hold a formal hearing to consider the application.

In the year under review two formal hearings were held to consider applications that had been lodged in the previous year:

- The applicant had disclosed several matters including two convictions for stealing from her employer and one for Centrelink fraud. The ARC refused to issue a compliance certificate. The applicant appealed the decision at the State Administrative Tribunal (SAT). The SAT upheld the ARC's decision and dismissed the application for appeal.
- The applicant had been struck off the roll, primarily in relation to a conviction for perjury resulting from repeated instances of not disclosing his assets accurately to the Family Court during his divorce proceedings. The ARC ultimately resolved to issue a compliance certificate. However, the Supreme Court held a hearing to consider the application and ultimately dismissed the application on 14 March 2012.



At the end of the year under review there was one partly held application for admission before the ARC. Two days of the proceedings were held in June 2012. Two more full days were scheduled for July 2012 and it is likely that a further two days of proceedings will be required. This application will be reported on in next year's annual report.

The ARC has also resolved to hold a formal hearing to consider an application wherein the applicant has disclosed a conviction for stalking. As at 30 June 2012 the hearing had not been scheduled.

### **Applications for an Early Determination**

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

In the year under review the ARC resolved to hold two hearings to consider applicants for an early determination of suitability:

- From a person seeking to be readmitted who was struck off the roll for perverting the course of justice; and
- From a person who had convictions for threatening to kill.

As at 30 June 2012 the hearings had not been held. These applications will be reported on in next year's annual report.

### **Applications for the Grant of a Practising Certificate**

From February 2012 the ARC considered all applications for the grant of a practising certificate in circumstances where the applicant disclosed a suitability matter in the application. The ARC also considered applications for the grant of a practising certificate from applicants who had not held an Australian practising certificate in the five years preceding their application.

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

From February 2012 the ARC considered submissions from practitioners relating to restricted practice and supervised legal practice including:

- Reductions in the required period of supervised legal practice under s.50(7) of the Act, particularly in relation to practitioners who had recently been admitted in Western Australia, having previously practiced in overseas common law jurisdictions;
- Exemptions under s.50(7) of the Act from the requirement to engage in restricted legal practice, having regard to the practitioner's prior legal practice and supervision arrangements;

- Retrospective approval of part-time employment and supervision arrangements; and
- Approval of proposed supervision arrangements where the supervising practitioner was not located primarily in the same physical location as the restricted practitioner.

The ARC also considered submissions relating to:

- The secondment of restricted practitioners by a law practice to the offices of a client corporation; and
- Whether restricted practice could be undertaken on a voluntary or pro bono basis.

The applications and submissions considered by the ARC in relation to restricted practice are included in the statistics detailed in the report of the Professional Affairs Committee.

### Registered Foreign Lawyers

At 1 July 2011 there were 7 registered foreign lawyers.

One was a UK registered lawyer who was admitted as an Australian lawyer. Another was a Japanese lawyer who did not renew his registration for the 2011/12 year.

There was one new registration of a German lawyer in the year under review.

The renewals approved for the 2011/2012 year were:

France/England & Wales	1
Germany	4
India	1

Grant Donaldson SC  
Convenor

## PROFESSIONAL AFFAIRS COMMITTEE

The Professional Affairs Committee (PAC) convened on 31 occasions between 1 July 2011 and 30 June 2012. This included 11 scheduled meetings and 1 special meeting and included the PAC making resolutions electronically without meeting on 19 occasions.

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; and
- The prosecution of unqualified practice.

### Practising Certificates

The PAC has delegated power to issue annual practising certificates and must only do so if it is satisfied that the applicant is a fit and proper person to hold one.

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

#### Suitability Matters (section 8 of the Act)

Whether a person:

- (a) is currently of good fame and character;
- (b) is or has been an insolvent under administration;
- (c) has been convicted of an offence in Australia or a foreign country;
- (d) has engaged in unauthorised legal practice in Australia;
- (e) has engaged in unauthorised legal practice in a foreign country;
- (f) is currently subject to an unresolved complaint or investigation;
- (g) is the subject of current disciplinary action, or has been the subject of disciplinary action involving a finding of guilt, in another profession or occupation in Australia or a foreign country;
- (h) has had their name removed from the Roll in Australia or a foreign country;

#### Convenor:

Mr MH Zilko SC

#### Deputy Convenor:

Mr GMG McIntyre SC

#### Continuing Members:

Mr GTW Tannin SC  
Mr GR Donaldson SC  
Mr B Fiannaca SC  
Mr PCS van Hattem SC  
Ms PE Cahill SC  
Mr MD Howard SC  
Mr SM Davies SC  
Mr PD Quinlan SC  
Mr SE Creek  
Ms VJ Hodgins\*  
Ms NA Hossen  
Ms AM Liscia  
Ms EE Macknay  
Ms FB Walter\*  
Mr I Weldon

#### New Appointments

Ms V Hodgins  
(2 Nov 2011 - present)

#### Resignations:

Ms FB Walter  
(From April 2012)

- (i) has had their right to engage in legal practice suspended or cancelled in Australia or a foreign country;
- (j) has contravened, in Australia or a foreign country, a law about trust money or trust accounts;
- (k) has had a supervisor, manager or receiver appointed to their law practice under the Act or a corresponding Australian law;
- (l) is or has been disqualified from being involved in a law practice under the Act or corresponding Australian law; and
- (m) is currently unable to carry out the inherent requirements of practice as an Australian legal practitioner.

**Other Matters** (section 38(2) of the Act)

Include whether a person:

- (a) obtained an Australian practising certificate because of incorrect or misleading information;
- (b) has contravened a condition of an Australian practising certificate held by them;
- (c) has contravened the Act or corresponding Australian law;
- (d) has contravened an order of the Legal Profession Complaints Committee or the State Administrative Tribunal or Supreme Court (full bench) or relevant appellate body or an order of a corresponding body exercising jurisdiction under the Act or a previous Act;
- (e) (i) has failed to pay a required contribution or levy to the Guarantee Fund; or  
(ii) has contravened a requirement imposed under this Act about professional indemnity insurance; or  
(iii) has failed to pay other costs, expenses or fines for which the person is liable under this Act or a previous Act; and
- (f) any other matters relating to the person the Board considers are appropriate.

Each practising certificate application disclosing a relevant 'suitability matter' is carefully considered and determined on a case-by-case basis by the PAC to ensure that the applicant is a fit and proper person to hold a practising certificate. The PAC also considers any relevant matters as they arise during the year and may, if necessary, amend, suspend or cancel a practising certificate.

During the 2011-2012 year 76 suitability matters were considered.

Suitability Matter	Outcome	No
Pending disciplinary matter before the Legal Profession Complaints Committee / interstate disciplinary tribunal	Practising certificate issued (71) Certificate issued subject to conditions (2)	73
Disciplinary action relating to another profession or occupation that involved a finding of guilt	Practising certificate already issued, matter taken no further	1
Applicant has not held a local practising certificate within 5 years preceding application / Absence from local legal practice	Unrestricted practising certificate issued (6) Certificate issued subject to conditions requiring legal education and/or supervision (7) Applications refused (1)	14
Applicant has not held a local practising certificate within 5 years preceding application / Absence from local legal practice, and has been insolvent, and subject to interstate disciplinary tribunal proceedings	Practising certificate issued subject to conditions	1
Applicant has not held a local practising certificate within 5 years preceding application / Absence from local legal practice, and has been subject to disciplinary tribunal proceedings	Application refused	1
Traffic offences, including drink driving	Practising certificate issued	8
Convicted of disorderly behaviour in public	Practising certificate issued	1
Conviction of shoplifting with health condition affecting fitness to practise	Practising certificate issued subject to conditions	1
Charged with wilful murder	Certificate issued subject to conditions	1
Convicted of a tax offence	Application refused	1
Name removed from foreign roll but eligible to be reinstated on payment of fee	Practising certificate issued	4
Contravened the Act	Practising certificate issued	2
Contravened a condition on a practising certificate	Practising certificate issued	1

### Suitability matters considered (continued):

Suitability Matter	Outcome	No
Contravened a law about trust money or trust accounts	Practising certificate issued	1
Convicted of a tax offence more than 20 years ago	Practising certificate issued	1
Failure to pay required superannuation guarantee contributions in relation to employees	Practising certificate issued subject to conditions (1) Practising certificate issued (1)	2
Charged with offences under the CCC Act	Practising certificate issued subject to conditions	1
Convicted of common assault more than 10 years ago	Practising certificate issued	1
Has become a bankrupt	Practising certificate issued subject to conditions	1
Health condition affecting fitness to practise	Practising certificate issued (1) Practising certificate issued subject to conditions (3) Applications withdrawn (1)	5
Failure to comply with court order / order of State Administrative Tribunal	Practising certificate issued after full compliance with order	1
Bankruptcy petition filed against applicant but debt paid in full prior to hearing of petition	Practising certificate issued	1
Failure to lodge income tax return by due date	Practising certificate issued	1
Breach of undertaking to provide proof of professional indemnity insurance within 14 days of effective date of certificate with written explanation	Practising certificate issued no further action (21) Notice to cancel practising certificate issued (11) Practising certificate surrendered (3)	35
Non compliance with requirement to provide prescribed fees with application	Practising certificate issued (5) Practising certificate issued subject to provision of fees within a prescribed period (3)	8
Failure to comply with CPD requirements	Practising certificate issued (1) Practising certificate issued subject to conditions (1)	2
Applicant subject to orders of the State Administrative Tribunal imposing conditions on practice	Practising certificate issued subject to conditions (2) Practising certificate surrendered (1) Practising certificate suspended (1)	4
Non disclosure of suitability matter with explanation	Practising certificate issued (2)	2
<b>Total</b>		<b>175</b>

## Conditions on Practising Certificates

In some circumstances, the PAC is only satisfied that a practitioner should be granted a practising certificate if certain conditions are attached to the certificate. These conditions can be concerned with matters such as restricting the holder to particular conditions concerning employment or supervision, restrictions on dealing with trust money, a requirement to undergo medical treatment, further legal education and so on.

All conditions are carefully monitored by the PAC to ensure that the condition is still appropriate and that the condition is sufficient to protect the public.

Between 1 July 2011 and 30 June 2012, 20 practitioners had conditions imposed on their practising certificates. These conditions covered the following circumstances:

Circumstances	Condition	No
Pending disciplinary matter before the Legal Profession Complaints Committee / Interstate disciplinary tribunal	Required to have a mentor approved by the Board providing periodic reports (1) Required to undertake legal education (1)	2
Applicant has not held a local practising certificate within 5 years preceding application / absence from local legal practice	A period of supervised legal practice	7
Applicant has not held a local practising certificate within 5 years preceding application / Absence from local legal practice, and has been insolvent, and subject to interstate disciplinary tribunal proceedings	A period of supervised legal practice	1
Health condition	Practitioner practise only as an employed practitioner, and a requirement to undergo medical treatment, the provision of periodic reports to the Board and to obtain a senior legal practitioner peer to act as a mentor and report to the Board (1) Requirement to undergo medical treatment, the provision of periodic reports to the Board and to obtain a senior legal practitioner peer to act as a mentor and report to the Board (1) Requirement to provide an annual report from a psychiatrist approved by the Board (1)	3
Charged with wilful murder	Restrictions on right to practise	1
Failure to pay required superannuation guarantee contributions in relation to employees	Practitioner to provide to the Board detailed financial documents and statements of the practice on a scheduled basis.	1
Bankruptcy	Requirement for periodic financial reports to the Board including reports from Trustee in Bankruptcy and practitioner must not be involved in the maintenance of a trust account or receive trust money and practitioner practise only as an employee	1

**Conditions and circumstances covered (continued):**

Circumstances	Condition	No
Practitioner who had over 40 years' practice experience and who consented to a condition that they practise only as an employed practitioner in order to obtain an exemption from CPD requirements in accordance with Board policy	Practitioner practise only as an employed practitioner	1
Non compliance with CPD requirements	Complete a minimum number of CPD points for each of the current and following two CPD years and to provide quarterly reports to the Board on progress together with evidence of the completion of appropriate CPD activities.	1
Applicant subject to orders of the State Administrative Tribunal imposing conditions on practice	As per the orders of the State Administrative Tribunal	2
Charged with offences under the CCC Act	Practitioner practise only as an employed practitioner. Requirement to undergo further legal education	1
<b>Total</b>		<b>21</b>

Between 1 July 2011 and 30 June 2012, 2 practitioners had conditions removed from their practising certificates due to the following reasons:

Circumstances	Condition	Reason for removal of condition	No
Health condition	Requirement to undergo medical treatment, the provision of periodic reports to the Board and to obtain a senior legal practitioner peer to act as a mentor and report to the Board	Formed the view that the practitioner was entitled to hold an unrestricted local practising certificate	1
Traffic convictions	Requirement to notify the Board of the particulars of any driving offences over a 12 month period	12 month period expired without event	1
<b>Total</b>			<b>2</b>



## Restricted Practitioners

The Act imposes a statutory condition on each local practising certificate that the holder must engage only in supervised legal practice for a specified period after the grant of his or her first practising certificate. If a practitioner's pathway to admission was articles of clerkship then they are subject to 18 months' supervised legal practice. If a practitioner's pathway to admission was via practical legal training, such as the College of Law Program, the supervised legal practice period is two years.

Until 4 April 2012, the PAC had the delegated power to grant an exemption or reduce a practitioner's required period of supervised legal practice if satisfied that the practitioner did not need to be supervised, or needed to be supervised for a shorter period only. Currently, that delegation lies with the Admissions and Registration Committee of the Board. During 2011-2012, the Board considered 34 applications for exemptions or reductions of the supervised legal practice obligations, approving 26 and disallowing 8.

The Act permits supervised legal practice to be completed on a part-time basis but only if the part-time work arrangements have been approved by the Board and amount to the equivalent of the required period worked on a full-time basis.

The Board's policy regarding part-time supervised legal practice is:

- Supervised legal practice may be undertaken on a part-time basis if a practitioner attends at the office of their employer on at least 3 separate days per week, for a period of not less than 20 hours in total;
- Absent exceptional circumstances, this policy will be strictly adhered to; and
- If any variation is proposed, a practitioner and/or prospective employer will be required to demonstrate why the policy ought not to apply.

The Board recognises the advances in technology used in the workplace providing for flexible work arrangements and now also allows up to 4 hours of the required 20 hours to be worked remotely in a "virtual office" setting.

During 2011-2012, the Board received 5 applications for approval of part-time supervised legal practice. The Board approved 4 applications and 1 application was disallowed.

Although it is ultimately the responsibility of the practitioner seeking to complete their restricted practice to ensure and provide evidence of compliance with the requirements for “supervised legal practice”, the Board developed a policy during 2009/2010 that represents its interpretation of the relevant legislative provisions to help guide practitioners as to the types of arrangements that the Board regards as meeting the requirements.

According to the Board’s policy, the objectives of the supervision requirements include the following:

At least one person (ie the supervisor) must accept responsibility for the supervision of the restricted practitioner during the period of supervised legal practice;

- The period of supervised legal practice can be overseen by more than one supervisor, consecutively, provided that there is continuity of direct supervision over the entire period of supervised legal practice;
- The supervision requirement does not preclude any other Australian legal practitioner employed within the same organisation from settling or supervising work of the restricted practitioner; and
- Similarly, other Australian legal practitioners are not precluded from assisting with the supervision and instruction of the restricted practitioner.

The following minimum arrangements should be put in place:

- That there be daily contact between the supervising practitioner and the restricted practitioner for the purpose of review, guidance and instruction;
- That any legal advice or assistance provided by the restricted practitioner (verbal or written) to a client has been approved by the supervising practitioner before it is provided to the client; and
- That the supervising practitioner scrutinises and signs-off on correspondence and other documents prepared by the restricted practitioner.

The Board is willing to consider circumstances that vary from the above policy. For example, if it is proposed that supervision be provided by a practitioner who is not physically located at the same office as the restricted practitioner, then face to face contact may not be required if the PAC is satisfied that alternative arrangements have been put in place to ensure that the supervising practitioner is fully aware of the work being undertaken by the restricted practitioner and is providing the necessary supervision, guidance and instruction.

During 2011-2012, the PAC received 5 applications for approval of a variation in the supervision arrangements of a restricted practitioner, approving 4 and disallowing 1.

For further information, refer to the Board’s policy on supervised legal practice available on the Board’s website [www.lpbwa.org](http://www.lpbwa.org).

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

During 2011-2012, 54 new Incorporated Legal Practices (ILPs) commenced practice and 7 ILPs ceased practice. This brings the total number of ILPs to 384. 3 new Multi Disciplinary Practices (MDPs) commenced practice and no MDPs ceased practice. This brings the total number of MDPs to 3.

During the 2011-2012 year, the PAC considered no instances of an ILP’s failure to give the Board the required notice of its intention to commence practice before starting to provide legal services. The legislative consequence of failing to comply with this requirement is that the offending ILP is not entitled to recover any amount for any legal services provided during the period of time it was in default (section 102 of the Act).

During the 2011-2012 year, the PAC considered 3 instances of an MDP’s failure to give the Board the required notice of its intention to commence practice before starting to provide legal services. The legislative consequence of failing to comply with this requirement is that the offending MDP is liable to a fine (section 133 of the Act).

The Board’s work on developing an online audit process is an ongoing project and, when established, will assist the PAC in its broad supervisory role in respect of ILPs and MDPs and the legal practitioner directors and legal practitioner partners who control and manage them.

### **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 page 49.

## External Intervention

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

The table below shows the number of external interventions undertaken in 2011-2012.

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

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

## Unqualified Legal Practice

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

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

During 2011-2012, the Board received 6 new complaints regarding possible unqualified legal practice which is consistent with the 6 complaints received during the previous reporting period.

Of the new matters considered,

- One matter was referred to the regulatory body in the appropriate jurisdiction;
- Two matters related to Australian lawyers not holding a local practising certificate;
- One matter was not taken any further due to no or insufficient evidence of a breach; and
- Three matters were resolved after obtaining an undertaking from the unqualified person that he would not repeat the conduct complained of (one of which involved one of the Australian lawyers referred to above); and

Of the matters carried over from the previous reporting period:

- Prosecution proceedings were ongoing in one matter and it was listed for hearing in September 2012.

The PAC does not believe the public interest always requires it to bring prosecution proceedings whenever it is satisfied there are reasonable prospects of success. The PAC recognises that there are 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.

Matthew Zilko SC  
Convenor  
November 2012

# REPORT FROM THE LEGAL EDUCATION COORDINATOR

July 2012 marks the 4<sup>th</sup> year that the mandatory continuing professional development (CPD) compliance scheme has been in operation in Western Australia. The scheme is now well established and accepted within the profession. The scheme is also now quite well known throughout Australia with many applications for approval of activities coming from providers based in other states of Australia.

The number and variety of CPD events now available to practitioners both locally, nationally and internationally would appear to be growing making it easier for practitioners to target events that meet their specific needs and areas of practice.

Due to issues with delegation from the beginning of May 2012 until mid July 2012 the Legal Education Coordinator was unable to approve any CPD applications. All outstanding applications were approved at a special meeting of the Professional Affairs Committee on 19 July 2012.

The Legal Education Coordinator would like to thank practitioners and legal education providers for their patience during this time.

## CPD Audit

The Board undertook a CPD audit for the CPD year 1 April 2010 to 31 March 2011 in August 2011. Some 415 practitioners were contacted for audit. Of these all but 32 replied. Only one practitioner had not completed all the required points. They were contacted and agreed to make the points in the current CPD year. Those that did not respond will be contacted again in the next CPD audit.

## Approval of QA Providers and Activities

Currently the Board has some 93 approved QA Providers of which some 57 are law firms and the remainder include educational institutions, commercial providers, specialist professional bodies and community organisations. There have been 10 new QA Providers approved this year which is on par with last year, however due to the large number of mergers of law firms in the Past year the total number of current QA Providers has increase by 3.

There are also a number of organisations who have chosen not to become QA Providers but who seek on a regular basis to have appropriate activities approved on an individual basis. The number of request for approval of these activities has increased in the past year. In particular there have been applications from new legal education providers several of whom are based

in the Eastern States and one of whom provides seminars regularly all over Australia via webinar.

The Board also continues to regularly receive applications from individual practitioners who have been to events that have not been pre approved by the Board and these have increased in the past year.

Applications for exemptions have remained steady and the majority of these continue to be from practitioners who practice overseas.

### Table of Break down of CPD Applications

Application type (1 July -30 June)	2008/2009	2009/2010	2010/2011	2011/2012	Total approved
QA Providers	64	14	10	9	97
Individual activities by Non QA Provider	36	71	84	93	284
Single activities by an individual practitioner	96	124	117	142	479
Applications for variation/exemptions	103	66	64	57	290

### Practice Certificate Renewal

Of the practising certificate renewals received to date, 35 practitioners indicated that they had not met their CPD compliance this is considerably less than the 85 noted last year. Of these:

- 15 were practising overseas and subsequently applied for exemptions and were awaiting approval,
- 5 were admitted post 1 April 2011 or had not held practising certificates,
- 2 had been on maternity leave,
- 3 were practitioners who had been practising for over 40 years,
- 10 admitted they had not completed by 31 March but had since.

Once again it was pleasing to note that many practitioners who were worried that they had not met their CPD compliance contacted the Legal Education Coordinator before the end of the CPD year, or at least before renewing their practising certificate, and any problems were able to be addressed immediately.

## National Issues

The Board's Legal Education Coordinator is a member of the National CPD taskforce but due to the National Legal Profession Reform process this committee has not met in the past year and the future of the committee is uncertain.

The Board's Legal Education Coordinator attended the annual Continuing Legal Education Association's (CLEAA) Conference in Tasmania during October 2011. At this conference a number of issues were discussed including the national regulation of CPD and trends and issues around providing accountable continuing legal education.

### Julie Bain

Legal Education Coordinator



## REPORT FROM THE LAW LIBRARIAN

The Law Library at the Supreme Court was established in 1898. Under the provisions of the Legal Profession Act 2008 ownership of the Law Library is vested in the Legal Practice Board. The Law Library at the Supreme Court holds one of the major legal research collections of the State of Western Australia and provides an effective reference and research service.

### The Law Library Advisory Committee

The Law Library Advisory Committee assists the Board with management of the assets of the library.

The Hon. Justice Kenneth Martin continued as Chairperson of the Committee for the this year. Following Legal Practice Board committee elections the following members resigned from the Advisory Committee: Mr. Kevin Edwards, Mr. Robert Mitchell SC and Mr. Robert Cock QC.

Thanks are extended to the members of the Committee for the past and continuing advice and support they have provided.

### Library Services

The role of the Law Library is to provide an effective reference and research facility for the legal community of Western Australia, serving the judiciary, legal practitioners and other eligible users. The library provides a high quality legal research collection and associated professional support services.

In 2011-2012 the Law Library saw an increase in all users and in both email and in-person requests. Document Delivery services to practitioners and Inter Library Loans to private and government libraries continue to be heavily used. Country practitioners benefited from both document delivery and reference services provided through the library. Reference and loan services to private practitioners, law firms, government departments and the court staff increased with over 4000 requests being handled by the reference desk staff throughout the year.

Tours and information sessions for articulated clerks; legal support staff in private firms and government; and for the new associates working with the Supreme Court and Court of Appeal judges were coordinated by Ms. Belinda Eisenhauer as customer services librarian. In all 113 participants attended these sessions during the summer of 2012. Three high school students attended the library for work experience and training.

Subscriptions to PLEAS and the catchwords weekly service continue to be

#### Convenor:

Hon. Justice K Martin

#### Continuing Members:

Judge Christopher Stephenson

Hon. Justice S Hall

Chief Magistrate

Elizabeth Woods

Mr Robert Cock QC

(to March)

Ms Sabina Schlink

Mr Robert Mitchell SC

(to April)

Mr Ian Weldon

Mr Kevin Edwards (to

April )

Mr Gavin Jones

(Executive Manager of the Higher Courts and tribunals)

Ms Catherine Macgill

(Law Librarian March—present)

#### Resignations:

Mr Robert Cock QC

Mr Kevin Edwards

Mr Robert Mitchell SC

Ms Alice Anderson

Mr Graeme Geldart

renewed. The services which provide access to the judgments of the Western Australian courts have over 40 subscribers including the major publishers who distribute the judgments through their online products.

### **Library Resources**

The general collection remains stable with a slight growth in monographs to 11,484 volumes in a year that saw the discarding of many duplicated or superseded items. The legislation collection in particular has been culled to remove the superseded loose parts issued by other states and territories of Australia. These are now available online through reputable databases.

Electronic access to law reports and commentary services continue to be the more popular access point for library clients.

### **Accommodation**

Notification was given in June 2012 that the Practitioners' Branch Library at the Central Law Courts building would be closed in July 2012. This measure was undertaken by the Department of the Attorney General to meet their efficiency dividend. The hard copy collection of some 9,000 volumes will be transferred to storage.

### **Staff**

Major changes in staffing at the Law Library took place during this period. Mrs. Alice Anderson retired in November after twelve years as Law Librarian. Mrs. Anderson instigated strategic management for the library which resulted in positive growth in areas of technology, library services and professional development for staff. Under her guidance the library staff undertook a number of projects which improved service delivery and resource development.

Mrs. Jodie Bowen took a secondment to the Board for twelve months as a records officer to assist in the development of the Objective records management system. Jodie had been with the library for fourteen years and we wish her well in a new career opportunity.

After a period of secondment Mr. Stephen Griffiths was appointed Branch librarian and Ms. Nicole Davies took up the position of accounts clerk.

Ms. Catherine Macgill was appointed Law Librarian in March 2012.

Staff attended training courses provided through the Board on issues of

bullying and leadership and in the records management system, Objective. Staff attended specific professional development training courses and also received training from the major publishers in the use of electronic products. An average of 30 hours training per staff member was completed across the year.

The Law Librarian attended the Australian Law Librarians' Association annual conference in Canberra in September 2011.

### **Community Involvement**

Over 50 practitioners from the public and private sector attended the 14 CPD sessions in the libraries at the Supreme Court and at the Central Law Courts. Practitioners qualify for one CPD point for legal skills and practice (Competency Area 1) through attending the hour long session. This year the librarians covered the topics of case law research online and legislation access through free to air products while the major publishers provided training in their databases.

During Law Week the Francis Burt Education Centre staff organised tours of the library for 17 members of the public. These information sessions in the library formed part of the tours of the Supreme Court and the Education Centre which are offered on the Law Week program. As usual the major focus of interest in the library was on the older books, the judicial portraits and the architectural drawings of the court.

### **Future**

Despite significant budget restrictions being instigated for the library in the year ahead the future of the library remains stable for the immediate future. Discussions are being held between the Board and the Department of the Attorney General towards establishing an integrated library as part of the Old Treasury Building project. This project is currently estimated to be completed in 2015.

### **Thanks**

My personal thanks go to the library staff during this past year. Their professionalism and commitment to service has been exemplary. My thanks also go to the former Executive Director Graeme Geldart for his support to the library during his tenure.

Catherine Macgill  
Law Librarian

# REPORT FROM THE SENIOR TRUST ACCOUNT INSPECTOR

The Legal Practice Board (Board) has two full time Trust Account Inspectors in addition to the Trust Account Inspector based with the Legal Profession Complaints Committee.

## Educative Trust Accounts:

### Seminars

Unlike previous years where most seminars were to small groups the 2011-2012 seminars were conducted at larger venues with greater numbers. As a result Perth based seminars decreased from 16 seminars in 2010-2011 with approximately 350 attendees, to 4 seminars for 2011-2012 with approximately 250 attendees.

Two seminars each covered the topics:

“Lessons learnt by supervising and managing solicitors” and “Tales of a Trust inspector” attended by approximately 130 persons and “Practice Certificate Renewal the New LPB Form1” and “Tales of a Trust inspector” attended by approximately 120 persons.

In addition to the Perth based seminars, Board staff presented to regional practitioners in Bunbury and Broome and also co-presented at the Family Law Conference in Broome.

### Reporting of Irregularities

Although irregularities were previously reported under the *Legal Practice Act 2003*, the 2008 Act imposed a specific reporting obligation on legal practitioners to report irregularities.

Reporting of irregularities				
Quarter Ended	30/9/2008	31/12/2008	31/3/2009	30/6/2009
Reported	N/A	4	7	10
Frequency (Days)		19 Days	13 Days	9 Days
Quarter Ended	30/9/2009	31/12/2009	31/3/2010	30/6/2010
Reported	40	44	38	56
Frequency (Days)	2.5 days	2.0 Days	2.3 Days	1.6 Days
Quarter Ended	30/9/2010	31/12/2010	31/3/2011	30/6/2011
Reported	45	54	66	182
Frequency (Days)	2.0 Days	1.7 Days	1.3 Days	0.5 Days
Quarter Ended	30/9/2011	31/12/2011	31/3/2012	30/6/2012
Reported	175	135	198	247
Frequency (Days)	0.53 days	0.69 Days	0.45	0.37

Of particular significance was the reporting by practitioners and practitioners' staff of the misappropriation of trust monies direct to the Board. This direct reporting is considered to be as a direct consequence of increased educational programmes conducted by the Board, the continued lodgement of the law practice declaration and trust money statement with the Board, and a closer liaison with law practices and their staff.

For the 2012 calendar year 755 irregularities were reported. Figures for irregularities do not include irregularities identified and reported as part of the annual external examination, or audit, process. It is believed that the increased incidence of reporting is not due to a deterioration of standards in relation to the maintenance of trust records but rather due to the effectiveness of the educational seminars, increased practitioner awareness of their obligations and the use of a "Law Practice Declaration and Trust Money Statement" provided to the Board as part of the annual external examination process.

One of the more frequently reported irregularities is the client transfer of trust money to the general account of the law practice. Irregularities that resulted in client trust accounts being overdrawn were in excess of 130.

**External Examiners Reports (EER)**

595 law practice trust accounts were maintained as at June 30<sup>TH</sup>.

	2012	2011	2010	2009	2008	2007
Trust Accounts Maintained	595	620	617	492	563	564
EERs Lodged and Approved	586	575	557	465	563	564
Waivers Granted	10	20	9	4		
EERs Outstanding	27	25	51	23		
EERs Qualified & Trivial	77	89	149	53	59	47
EERs Qualified & Trivial %	13%	16%	27%	11%	10%	8%

A law practice that maintains a trust account is required to have its trust records externally examined at least once a year by an external examiner (auditor). The external examiner is required to lodge an external examiner's report ("Report") with the Board by 31 May each year. From 2010 the Board has requested that a Declaration and Trust Money Statement ("Declaration") is also lodged with each report. 2012 is the third year that the Declaration has been used in Western Australia. The Declaration is designed to seek answers to specific areas of concern in relation to trust accounts and has generally been well accepted by law practices.

As the Reports lodged are for the 12 month period ended 31 March and due for lodgement 31 May, detailed statistics are not available as at the end of each financial year due to processing delays and late or non lodgement of the Reports. Many unqualified Reports following review are considered qualified and as a result data relating to qualified reports can be amended in subsequent reporting years when the lodged Reports are reviewed by Board staff.

### **Declaration by a Law Practice Regarding Trust Money**

The majority of the practitioners approached to complete the Declarations have done so without objection. Few Reports were received without the requested Declaration or with an incomplete Declaration.

As a result of reviewing the content of the Declarations lodged, deficiencies not referred to within the Reports lodged were, at times detected.

The most frequent issues identified are unchanged from 2010/2011 and were:

- Bank Reconciliations:
  - Stale cheques being carried forward on bank reconciliations;
  - Unpresented cheques for significant amounts and to Government agencies that remained outstanding for more than 3 months;
- Reconciling items;
- Use of suspense accounts;
- Trust Account Balances: including many small and stagnant balances which should have been returned to clients or transferred to unclaimed monies; and
- Trust Account Statements: With affect from July 2010 it became necessary to issue trust account statements not less than annually.

### **SCAMS**

Local practitioners continue to be targeted as part of international scams. Practitioners are being approached to act on behalf of overseas based clients in respect of debt collection, conveyancing and family law. Scammers will complete client agreements and will provide forged bank cheques in anticipation of the bank cheques being drawn upon before clearance.

## Inspections

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

Inspections conducted:

Year	Commenced	Finalised	Pending	Conducted by
2007/2008	16	16	0	Board & Complaints
2008/2009	50	35	15	Board & Complaints
2009/2010	8	9	6	Board only
2010/2011	8	10	4	Board only
2011/2012	19	21	2	Board only

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

## REPORT FROM THE RECORDS COORDINATOR

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

The Board utilises the Objective Electronic Records and Document Management System (ERDMS) to facilitate the management of all Board records. This year saw the implementation of Objective at the Supreme Court Law Library, on the 1<sup>st</sup> August 2011, the last of the three Board divisions to be implemented. Having all three divisions using Objective is a significant milestone for the Board, encouraging and supporting consistent records management policies, procedures and practices, including language control retention and disposal. Further, this step allows centralised administration and holistic management of all Board records.

In June the Objective system was upgrade to Objective 7.5 providing increased functionality for staff and, most importantly, resolving many system performance issues.

### Recordkeeping Plan

The Board has an approved Recordkeeping Plan dependent on the finalisation of the Retention and Disposal Schedule. This is currently in process in liaison with the State Records Office.

### Policies and Procedures

Recordkeeping policy and procedures are reviewed on an annual basis or as required. Further policies and procedures that are required for records management continue to be developed. Policies and procedures that have been developed this year include *Scanning in-mail and files management*, and *E-mail management*.

Some of the Board's file series occur only occasionally and because of this a documented procedure has never been developed. These have been undertaken in an informal and ad hoc way as staff and ideas have changed. The 2012 – 2013 reporting year will see such processes formalised with documented procedures to not only ensure consistency but also so that appropriate staff know the procedure to be followed when those situations arise.



## Controlled Terminology and Retention and Disposal of Records

The Board has a functional keyword based Business Classification Scheme (BCS) for the classification of the records of the Board. This has undergone some amendments throughout the year as additional needs have been identified.

During 2012 a project was initiated to review all records currently located in intermediate storage. Although an internal register has been maintained, intermediate records have, historically, been less than adequately named making retrieval of specific records difficult. This project will allow the Board to make management of offsite records more systematic, removing items such as externally published items and old training materials that are not actually Board records, and co-locating like records. In addition, this will allow the Board, on completion of our Retention and Disposal Schedule, to execute such disposal sentences that are due or overdue.

## Recordkeeping Training

Both Recordkeeping and ERDMS training are considered by the Board to be essential and ongoing as continuing professional development is viewed as essential for all staff.

All new staff undertake induction, within which records management and ERDMS training is included, as part of their introduction to employment with the Board. This includes documents and handouts that reinforce the content of their induction and provide instruction, guidance, and operational guidelines in relation to their responsibilities as staff members of the Board. All staff are provided with an (internal) Records Management and Objective System Manual that includes records management policies and procedures and Objective procedures, guidelines and quick reference sheets

All staff were provided with further training prior to the EDRMS upgrade that took place in June 2012. One-on-one EDRMS training was on an ad hoc basis, as well as more formalised group sessions. Record keeping training is regularly reviewed and monitored to ensure it meets the needs of the department as well as individual divisional business needs. A scheduled program for both EDRMS and Recordkeeping training has been developed for the 2012 – 2013 reporting year.

Trish Fallen  
Records Coordinator

## DISCLOSURES AND OTHER LEGAL REQUIREMENTS

### Public Sector Standards and Ethical Codes

The Board is committed to maintaining a high standard of accountability, integrity and transparency in all its functions and activities. As a demonstration of this and inline with the Public Sector Commissioner Standards the Board has undertaken a programme to review and update all the Board's policies relating to both its internal and external functions.

The Board participated in the 2011 Employee Perception Survey conducted by the Public Sector Commission, the outcome of which showed that the Board currently has a high level of understanding and commitment to ethical practises and decision making in the public sector.

The Board is in the process of developing its own Code of Conduct policy in line with Commissioners instructions No7 and No8 in the next reporting period.

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

### 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,;
- Western Australia Code of Ethics forms part of staff induction materials; and
- Policies are consistent with ethical principles.

### Occupational Safety, Health and Injury Management

In accordance with the Public Sector Commissions Circular 2009-11 Code of Practice: Occupational Safety and Health (OS&H) in Western Australia Public Sector. The Board is committed to promoting a safe and healthy workplace. To this end the Board has a comprehensive OS&H policy document which outlines the Board's procedures for dealing with OS&H matters.

The Board has a duly appointed OS&H Coordinator and safety representatives for each of the Boards office locations. During this reporting year the OS&H Coordinator attended a 1 week intensive training course conducted by the CPD College and has obtained a Certificate IV in Occupational Safety and Health.

The Board provides information on OS&H to all new staff on induction.

The Board also has an appointed Injury Management Coordinator.

There has only been one injury claim for the reporting period. The injury did not occur on Board premises.

### **Freedom of Information**

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

One new freedom of information application was received and resolved during the period under review. There are no current outstanding applications.

### **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 participates from time to time in Public Sector Misconduct Awareness Surveys received from the Corruption and Crime Commission.

### **Public Interest Disclosure**

In accordance with the Public Interest Disclosure Act 2003 the Board has a duly appointed Public Interest Disclosure Officer and policies and procedures in place for making a public interest disclosure.

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

### **Substantive Equality**

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.





**LEGAL PRACTICE BOARD  
OF WESTERN AUSTRALIA**


**Special Purpose Financial Report  
For the financial year ended 30 June 2012**



LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
SPECIAL PURPOSE FINANCIAL REPORT  
FOR THE FINANCIAL YEAR ENDED 30 JUNE 2012



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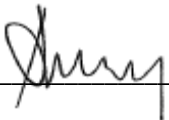
LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
STATEMENT BY EXECUTIVE DIRECTOR

**For the year ended 30 June 2012**

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

The Board declares that:

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



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Ms Anne Seghezzi  
Executive Director

Date: 20 November 2012  
Perth WA

# **Independent Auditor's Report to the Board of 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, which comprises the statement of financial position as at 30 June 2012, the statement of comprehensive income, the statement of cash flows and the statement of changes in equity for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information, and statement by the Executive Directors as set out on pages 1, 4 to 25.

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

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

## *Auditor's Responsibility*

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

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

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

## *Opinion*

In our opinion, the financial report presents fairly, in all material respects, the financial position of Legal Practice Board as at 30 June 2012 and its financial performance for the year then ended in accordance with the financial reporting requirements of the Section 549, 550 and 551 of the Legal Professional Act 2008 as described in Note 1.

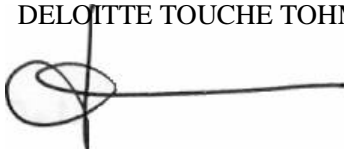


*Basis of Accounting and Restriction on Distribution and Use*

Without modifying our opinion, we draw attention to Note 1 to the financial report, which describes the basis of accounting. The financial report has been prepared to assist Legal Practice Board of Western Australia to meet the financial reporting requirements of the Sections 549, 550 and 551 of the Legal Profession Act 2008. As a result, the financial report may not be suitable for another purpose. Our report is intended solely for the Board and should not be distributed to or used by parties other than the Board.

*Deloitte Touche Tohmatsu*

DELOITTE TOUCHE TOHMATSU

A handwritten signature in black ink, consisting of a circular loop followed by a long horizontal line extending to the right.

**Leanne Karamfiles**

Partner

Chartered Accountants

Perth, 21 November 2012

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2012

	Note	<u>2012</u> \$	<u>2011</u> \$
<b>CURRENT ASSETS</b>			
Cash and Cash Equivalents	3	6,358,575	6,037,302
Trade and Other Receivables	4	345,041	257,365
Other Current Assets	5	39,278	52,791
<b>TOTAL CURRENT ASSETS</b>		<u>6,742,894</u>	<u>6,347,458</u>
<b>NON-CURRENT ASSETS</b>			
Plant and Equipment	6	610,622	429,846
Software Systems	7	191,657	287,583
<b>TOTAL NON-CURRENT ASSETS</b>		<u>802,279</u>	<u>717,429</u>
<b>TOTAL ASSETS</b>		<u>7,545,173</u>	<u>7,064,887</u>
<b>CURRENT LIABILITIES</b>			
Trade and Other Payables	8	441,611	378,104
Provisions	9	331,496	379,549
Income in Advance	10	4,901,449	4,457,157
<b>TOTAL CURRENT LIABILITIES</b>		<u>5,674,556</u>	<u>5,214,810</u>
<b>NON-CURRENT LIABILITIES</b>			
Provisions	11	188,567	134,830
<b>TOTAL NON-CURRENT LIABILITIES</b>		<u>188,567</u>	<u>134,830</u>
<b>TOTAL LIABILITIES</b>		<u>5,863,123</u>	<u>5,349,640</u>
<b>NET ASSETS</b>		<u>1,682,050</u>	<u>1,715,247</u>
<b>EQUITY</b>			
Retained Earnings	12	1,682,050	1,715,247
<b>TOTAL EQUITY</b>		<u>1,682,050</u>	<u>1,715,247</u>

Notes to the financial Statements are included on Pages 8 to 25

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
STATEMENT OF COMPREHENSIVE INCOME  
FOR THE YEAR ENDED 30 JUNE 2012

	Note	<u>2012</u> \$	<u>2011</u> \$
<b>REVENUE</b>			
Office of the Board	13	5,899,519	5,180,418
Trust Account Inspector	15	468,322	370,635
Legal Profession Complaints Committee	16	464,443	220,609
Law Library	17	436,461	369,143
Income from State Government	18	858,935	640,940
<b>TOTAL REVENUE</b>		<u>8,127,680</u>	<u>6,781,745</u>
<b>EXPENDITURE</b>			
Office of the Board	13	2,677,671	2,325,495
Trust Account Inspector	15	429,326	393,327
Legal Profession Complaints Committee	16	2,980,674	2,765,980
Law Library	17	1,214,271	1,273,598
Expenditure from State Government	18	858,935	640,940
<b>TOTAL EXPENDITURE</b>		<u>8,160,877</u>	<u>7,399,340</u>
<b>(Loss)/ Profit for the year from continuing operations</b>		<u>(33,197)</u>	<u>(617,595)</u>
<b>DISCONTINUED OPERATIONS</b>			
<b>(Loss)/ Profit for the year from discontinuing operations</b>	14	-	103,743
<b>(Loss)/profit for the year</b>	12	-	(513,852)
<b>Total comprehensive (loss)/ profit for the year</b>	12	<u>-</u>	<u>(513,852)</u>

The combined results from the discontinued operations included in the Statement of Comprehensive Income are included in Note 14.

Notes to the financial Statements are included on Pages 8 to 25

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
 STATEMENT OF CASH FLOWS  
 FOR THE YEAR ENDED 30 JUNE 2012

	Note	<u>2012</u>	<u>2011</u>
		\$	\$
<b>Cash flows from operating activities</b>			
Receipts from customers		7,571,711	6,660,112
Payments to suppliers and employees		(7,194,478)	(7,205,744)
Interest received		<u>268,857</u>	<u>268,233</u>
Net cash provided by operating activities	20(b)	646,090	(277,399)
<b>Cash flows from investing activities</b>			
Payment for property, plant and equipment		<u>(324,817)</u>	<u>(134,487)</u>
Net cash used in investing activities		(324,817)	(134,487)
<b>Net increase in cash and cash equivalents</b>			
		321,273	(411,886)
Cash and cash equivalents at the beginning of the financial year		<u>6,037,302</u>	<u>6,449,188</u>
Cash and cash equivalents at the end of the financial year	20(a)	<u>6,358,575</u>	<u>6,037,302</u>

Notes to the financial Statements are included on Pages 8 to 25

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
STATEMENT OF CHANGES IN EQUITY  
FOR THE YEAR ENDED 30 JUNE 2012

	<b>Retained Earnings</b>
	\$
<b>Balance at 1 July 2010</b>	<b>2,229,099</b>
Loss for the year	<u>(513,852)</u>
Total comprehensive income	<u>(513,852)</u>
<b>Balance at 30 June 2011</b>	<b>1,715,247</b>
<b>Balance at 1 July 2011</b>	<b>1,715,247</b>
Loss for the year	<u>(33,197)</u>
Total comprehensive income	<u>(33,197)</u>
<b>Balance at 30 June 2012</b>	<b>1,682,050</b>

Notes to the financial Statements are included on Pages 8 to 25

## 1. Significant Accounting Policies

### Financial Reporting Framework

The Legal Practice Board is not a reporting entity because in the opinion of the Board there are unlikely to exist users of the financial report who are unable to command the preparation of the report tailored so as to satisfy specifically all of their information needs. Accordingly, these special purpose financial statements have been prepared to satisfy the Board's accountability requirements under Section 549, 550 and 551 of the Legal Profession Act 2008.

### Statement of Compliance

The financial statements have been prepared on the basis of accounting specified by all Accounting Standards and Interpretations, and the disclosure requirements of Accounting Standards AASB 101 'Presentation of Financial Statements', AASB 107 'Cash Flow Statements', 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 financial statements have been prepared on the basis of historical cost, except for certain non-current assets and financial instruments that are measured at revalued amounts or fair values, as explained in the accounting policies below. Historical cost is generally based on the fair values of the consideration given in exchange for assets. All amounts are presented in Australian dollars, unless otherwise noted.

### 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 2012; the comparative information presented in these financial statements for the year ended 30 June 2011.

#### **a. Depreciation**

All assets are carried at cost less provision for depreciation.

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

Office of the Board	15 – 50%
Law Library	15 – 27%
Legal Profession Complaints Committee	15 – 27%
Trust Account Inspector	15 – 27%

## **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 reporting period, with the effect of any changes in estimate accounted for on a prospective basis.

Library publications have a carrying value of \$100,000 being their deemed cost. All purchases incurred for library publications or replacement publications, are 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 are measured at their nominal values using the remuneration rate expected to apply at the time of settlement. Liabilities recognised in respect of long term employee benefits are measured as the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

#### Defined Contribution Plans

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

### **c. Property, Plant and Equipment**

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

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at each 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 arising on disposals or retirement of an item of property, plant and equipment is determined as the difference between sales proceeds and the carrying amount of the asset. It is recognised in profit or loss.

### **d. Intangible Assets**

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

### **e. Income Tax**

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

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

### f. Revenue Recognition

#### Interest Revenue

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

#### Government Grants

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

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

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

#### Certifications

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

#### Rendering of Services

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

### g. Goods and Services Tax

Revenues, expenses and assets are recognised net of the amount of goods and services tax (GST), except where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO). In these circumstances, the GST is 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.

### h. Impairment of assets

At each reporting date the Legal Practice Board 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.

### i. Cash and Cash Equivalents

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



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

### j. Provisions

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

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

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

#### Onerous Contracts

Present obligations arising under onerous contracts are recognised and measured as provisions. An onerous contract is considered to exist where the Legal Practice Board has a contract under which the unavoidable costs of meeting the obligations under the contract exceed the economic benefits expected to be received from the contract.

### k. Financial Assets

#### Trade and Other Receivables

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

### l. Trade and Other Payables

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

### m. Resources received Free of Charge or for Nominal Cost

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

### n. Discontinued Operations

On 31 December 2010, the entity discontinued the operation of Articles Training Program. Details of the calculations of the profit or loss, is disclosed in note 13.

### o. Restatement of Statement of Comprehensive Income for the financial year ended 30 June 2011

A reclassification of prior year's comparatives to conform with current year presentation has occurred in the current year.

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
 NOTES TO THE FINANCIAL STATEMENTS  
 FOR THE YEAR ENDING 30 JUNE 2012

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

**p. Application of new and revised Accounting Standards**

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

The following new and revised Standards and Interpretations have been adopted in these financial statements. Their adoption has not had any significant impact on the amounts reported in the financial statements but may affect accounting for future transactions or arrangements.

Standard / Interpretation	Effective for annual reporting periods beginning/ending on or after	Expected to be initially applied in the financial year ending
AASB 124 Related Party Disclosures (2009) and AASB 2009-12 Amendments to Australian Accounting Standards	1 January 2011	30 June 2012
AASB 2010-4 Further Amendments to Australian Accounting Standards arising from Annual Improvements Project	1 January 2011	30 June 2012
AASB 2010-5 Amendments to Australian Accounting Standards	1 January 2011	30 June 2012
AASB 2010-6 Amendments to Australian Accounting Standards – Disclosures on Transfers of Financial Assets	1 July 2011	30 June 2012

**Standards and Interpretations in issue but not yet adopted**

At the date of authorisation of the financial statements, the Standards and Interpretations listed below were in issue but not yet adopted.

Standard / Interpretation	Effective for annual reporting periods beginning/ending on or after	Expected to be initially applied in the financial year ending
AASB 9: Financial Instruments, AASB 2009-11 Amendments to Australian Accounting Standards arising from AASB 9 and AASB 2010-9 Amendments to Australian Accounting Standards arising from AASB 9 (December 2010)	1 January 2013	30 June 2014
IFRS 13 Fair Value Measurement	1 January 2013	30 June 2014

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
 NOTES TO THE FINANCIAL STATEMENTS  
 FOR THE YEAR ENDING 30 JUNE 2012

	<u>2012</u>	<u>2011</u>
	\$	\$
<b>2 Auditors Remuneration</b>		
Deloitte Touche Tohmatsu Audit of the financial report	<u>20,000</u>	<u>19,500</u>
<b>3 Cash and Cash Equivalents</b>		
Cash at Bank	457,729	316,606
Cash on Hand	935	958
Term Deposits	5,899,911	5,719,738
	<u>6,358,575</u>	<u>6,037,302</u>
<b>4 Trade and Other Receivables</b>		
Trade Receivables	605,611	379,860
Less Allowance for Doubtful Debts	(284,041)	(167,059)
Other Receivables	23,471	44,564
	<u>345,041</u>	<u>257,365</u>
Refer to Note 1(j)		
<b>5 Other Current Assets</b>		
Accrued Interest	<u>39,278</u>	<u>52,791</u>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
 NOTES TO THE FINANCIAL STATEMENTS  
 FOR THE YEAR ENDING 30 JUNE 2012

6. Plant and Equipment

	Office of the Board \$	Law Library \$	Legal Profession Complaints Committee \$	Trust Account Inspectors \$	Articles Training Program \$	Library Books \$	Total \$
<b>Gross Carrying Amount</b>							
Balance at 30 June 2010	965,886	229,300	299,926	22,750	242,038	100,000	1,859,900
Additions	46,216	26,334	58,222	-	-	-	130,772
Disposals	(29,297)	(46,549)	(31,512)	(7,800)	(177,949)	-	(293,107)
Transfers	63,689	400	-	-	(64,089)	-	-
Balance at 30 June 2011	1,046,494	209,485	326,636	14,950	-	100,000	1,697,565
<b>Accumulated Depreciation</b>							
Balance at 30 June 2010	(744,710)	(209,031)	(240,980)	(12,854)	(225,665)	-	(1,433,240)
Current Depreciation	(60,115)	(11,591)	(30,850)	(198)	(2,067)	-	(104,821)
Disposals	27,342	46,549	28,112	-	168,340	-	270,343
Transfers	(59,392)	-	-	-	59,392	-	-
Balance at 30 June 2011	(836,875)	(174,073)	(243,718)	(13,052)	-	-	(1,267,718)
<b>Net Book Value</b>							
As at 30 June 2010	221,176	20,269	58,946	9,896	16,373	100,000	426,660
As at 30 June 2011	209,619	35,411	82,918	1,898	-	100,000	429,846

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 2012

6. Plant and Equipment (cont'd)

	Office of the Board \$	Law Library \$	Legal Profession Complaints Committee \$	Trust Account Inspectors \$	Library Books \$	Total \$
<b>Gross Carrying Amount</b>						
Balance at 30 June 2011	1,046,494	209,485	326,636	14,950	100,000	1,697,565
Additions	33,323	22,147	245,918	-	-	301,388
Disposals	(8,422)	(18,032)	(34,379)	(1,567)	-	(62,400)
Balance at 30 June 2012	<u>1,071,395</u>	<u>213,600</u>	<u>538,175</u>	<u>13,383</u>	<u>100,000</u>	<u>1,936,553</u>
<b>Accumulated Depreciation</b>						
Balance at 30 June 2011	(836,875)	(174,074)	(243,718)	(13,052)	-	(1,267,719)
Current Depreciation	(64,246)	(12,536)	(43,123)	(178)	-	(120,083)
Disposals	8,422	18,032	33,850	1,567	-	61,871
Balance at 30 June 2012	<u>(892,699)</u>	<u>(168,578)</u>	<u>(252,991)</u>	<u>(11,663)</u>	<u>-</u>	<u>(1,325,931)</u>
<b>Net Book Value</b>						
As at 30 June 2011	<u>209,619</u>	<u>35,411</u>	<u>82,918</u>	<u>1,898</u>	<u>100,000</u>	<u>429,846</u>
As at 30 June 2012	<u>178,696</u>	<u>45,022</u>	<u>285,184</u>	<u>1,720</u>	<u>100,000</u>	<u>610,622</u>

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 2012

7. Software Systems

	<b>EDRMS</b>	<b>iMIS Database</b>	<b>Total</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>Gross Carrying Amount</b>			
Balance at 30 June 2010	287,842	217,975	505,817
Additions	3,715	-	3,715
Balance at 30 June 2011	<u>291,557</u>	<u>217,975</u>	<u>509,532</u>
<b>Accumulated Depreciation</b>			
Balance at 30 June 2010	(2,130)	(93,543)	(95,673)
Current Depreciation	(74,514)	(51,762)	(126,276)
Balance at 30 June 2011	<u>(76,644)</u>	<u>(145,305)</u>	<u>(221,949)</u>
<b>Net Book Value</b>			
As at 30 June 2010	<u>285,712</u>	<u>124,432</u>	<u>410,144</u>
As at 30 June 2011	<u>214,913</u>	<u>72,670</u>	<u>287,583</u>

	<b>EDRMS</b>	<b>iMIS Database</b>	<b>Total</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>Gross Carrying Amount</b>			
Balance at 30 June 2011	291,557	217,975	509,532
Additions	1,969	21,460	23,429
Balance at 30 June 2012	<u>293,526</u>	<u>239,435</u>	<u>532,961</u>
<b>Accumulated Depreciation</b>			
Balance at 30 June 2011	(76,644)	(145,305)	(221,949)
Current Depreciation	(79,153)	(40,202)	(119,355)
Balance at 30 June 2012	<u>(155,797)</u>	<u>(185,507)</u>	<u>(341,304)</u>
<b>Net Book Value</b>			
As at 30 June 2011	<u>214,913</u>	<u>72,670</u>	<u>287,583</u>
As at 30 June 2012	<u>137,729</u>	<u>53,928</u>	<u>191,657</u>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
 NOTES TO THE FINANCIAL STATEMENTS  
 FOR THE YEAR ENDING 30 JUNE 2012

	<u>2012</u>	<u>2011</u>
	\$	\$
<b>8 Trade and Other Payables</b>		
Trade Payables	163,209	105,414
Other Payables	116,937	109,147
Accruals	161,465	163,543
	<hr/>	<hr/>
	441,611	378,104
	<hr/>	<hr/>
<b>9 Current Provisions</b>		
Provision for Annual Leave	237,229	254,305
Provision for Long Service Leave	94,267	125,244
	<hr/>	<hr/>
	331,496	379,549
	<hr/>	<hr/>
<b>10 Income in Advance</b>	<u>2012</u>	<u>2011</u>
	\$	\$
Publication Sales in Advance	6,500	6,500
Continuing Professional Development Fees in Advance	62,365	125,591
Course Fees in Advance	-	-
Photocopying in Advance	22,228	24,813
PLEAS - Subscriptions in Advance	105,655	11,600
Practice Certificates in Advance	4,660,605	4,270,760
Solicitors Guarantee Fund	31,100	5,260
Rent in Advance	12,996	12,633
	<hr/>	<hr/>
	4,901,449	4,457,157
	<hr/>	<hr/>
<b>11 Non-Current Provisions</b>		
Provision for Long Service Leave	<hr/> 188,567	<hr/> 134,830
	<hr/>	<hr/>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
 NOTES TO THE FINANCIAL STATEMENTS  
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	<u>2012</u>	<u>2011</u>
<b>12 Retained Earnings</b>	\$	\$
Balance at Beginning of the year	1,715,247	2,229,099
Net (Loss) for the year	(33,197)	(513,852)
Balance at End of Year	<u>1,682,050</u>	<u>1,715,247</u>
<b>13 Office of the Board</b>	<u>2012</u>	<u>2011</u>
	\$	\$
<b>Income</b>		
Assessment of Qualifications	36,100	23,300
Admissions	161,100	128,820
Articles Registration Fees	12,000	12,600
Bank Interest	255,344	253,778
Continuing Professional Development	137,386	133,615
Evidentiary Certificates	17,450	20,800
Fines	42,508	-
Foreign Lawyers	11,750	8,950
Interest charge	-	153
External Examiner Reimbursement	124,779	173,152
Practice Certificates	4,928,360	4,423,036
Miscellaneous Income	81	2,214
Rent – Alvan St	172,661	-
	<u>5,899,519</u>	<u>5,180,418</u>
<b>Expenditure</b>		
Advertising	23,874	22,449
Audit and Accounting Fees	20,975	20,691
Bad Debts Written Off	42,508	66
Bank Charges	39,451	32,513
Computer Expenses	107,150	99,307
Conference	20,021	13,787
Depreciation	183,601	186,391
Facsimile & Phone	781	1,303
Fringe Benefits Tax	6,367	8,227
Insurance	2,558	2,128
Legal Costs – LPB	381,647	283,675
Loss on Sale of Non-Current Assets	-	1,955
Miscellaneous Costs	11,717	12,567
Parking	7,208	5,739
Payroll Tax	65,105	65,612
Postage and Petties	27,367	24,196



LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
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<b>Office of the Board (cont'd)</b>	<b><u>2012</u></b>	<b><u>2011</u></b>
	\$	\$
<b>Expenditure (cont'd)</b>		
Professional Memberships	3,640	4,002
Printing and Stationery	21,564	15,006
Allowance for Doubtful Debts	-	16,327
Records Management	-	10,734
Reference Materials	379	419
Rent – Alvan St	176,549	-
Salaries	1,367,653	1,331,980
Seminars	804	-
Service and Maintenance	4,103	3,452
Storage	10,686	8,930
Superannuation Contributions	113,039	111,115
Training	18,717	14,717
Transcripts	6,388	3,741
Travel & Accommodation	9,251	19,767
Workers' Compensation	4,568	4,699
	<u>2,677,671</u>	<u>2,325,495</u>

**14 Articles Training Program**

On 31 December 2010, the entity discontinued the operations of the Articles Training Program.

The combined results from the discontinued operations included in the Statement of Comprehensive Income are set out below. The comparative profit and cash flows from discontinued operations have been represented to include those operations classified as discontinued in the current period.

**(Loss)/ Profit for the year from discontinued operations**

	<b><u>2012</u></b>	<b><u>2011</u></b>
	\$	\$
Revenue	-	427,016
Expenses	-	323,273
<b>Profit/ (Loss) for the year from discontinued operations</b>	-	103,743

**Cash flows from discontinued operations**

Net cash outflows from operating activities	<u>(315,747)</u>
Net cash outflows	<u>-</u>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
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15 Trust Account Inspector	<u>2012</u>	<u>2011</u>
	\$	\$
<b>Income</b>		
TAI Reimbursements	460,906	370,635
	7,41	
Seminar Fees	6	
-		
	<hr/>	<hr/>
	468,322	370,635
	<hr/>	<hr/>
<b>Expenditure</b>		
Conference Attendance	6,207	1,249
CPA Membership	2,073	2,610
Depreciation	178	198
Fringe Benefits Tax	2,040	1,444
Insurance	257	181
Mileage	1,462	2,270
Parking	7,874	6,075
Payroll Tax	20,988	19,539
Printing & Stationery	135	13
Salary	346,966	325,880
Seminars	7,004	-
Superannuation Contributions	30,838	28,278
Telephone Reimbursement	-	-
Training	1,701	3,246
Travel and Accommodation	414	1,198
Workers' Compensation	1,189	1,146
	<hr/>	<hr/>
	429,326	393,327
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LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
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<b>16 Legal Profession Complaints Committee</b>	<b><u>2012</u></b>	<b><u>2011</u></b>
	\$	\$
<b>Income</b>		
Costs Recovered	362,460	141,172
Fines	93,850	69,302
Fines – Summary Jurisdiction	8,000	10,000
Miscellaneous Income	133	135
	<hr/>	<hr/>
	464,443	220,609
	<hr/>	<hr/>
<b>Expenditure</b>		
Advertising	3,449	53,916
Bad Debts Written Off	1,000	38,502
Computer Expenses	5,086	3,601
Conference Attendance	11,902	4,557
Depreciation	43,123	30,849
Fringe Benefits Tax	1,797	1,505
Insurance	580	529
Legal Costs	337,599	324,591
Loss on Sale of Non-Current Assets	529	11,200
Payroll Tax	94,088	94,143
Postage and Petties	22,280	20,483
Printing and Stationery	20,260	25,573
Allowance for Doubtful Debts	264,304	(13,091)
Professional Fees & Memberships	21,567	19,729
Reference Materials	12,780	11,593
Salaries	1,919,316	1,918,602
Service and Maintenance	5,176	6,676
Storage	11,785	11,855
Superannuation Contributions	167,901	164,240
Training	12,631	17,989
Transcripts	4,547	3,641
Workers' Compensation	8,095	5,963
Miscellaneous Expenses	10,879	9,334
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	2,980,674	2,765,980
	<hr/>	<hr/>

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
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17 Law Library	<u>2012</u>	<u>2011</u>
	\$	\$
<b>Income</b>		
Library Photocopier and other income	42,234	46,880
PLEAS	105,654	54,850
Reimbursement- Department of Attorney General	38,573	17,413
Annual Grant	250,000	250,000
	<hr/>	
	436,461	369,143
	<hr/>	
<b>Expenditure</b>		
Serials	448,346	520,227
Monographs	29,542	30,310
Electronic Publications	232,107	210,086
Online/Library Services	699	403
Bank Charges	1,077	1,003
Cleaning and Binding	19,974	18,686
Computer Consultancy	38,225	41,083
Conferences and Meetings	3,812	2,878
Depreciation	12,536	11,591
Fringe Benefits Tax	547	1,460
Institutional & Professional Memberships	585	1,022
Insurance	10,654	10,535
Minor Assets/ Office Equipment	883	491
Payroll Tax	17,060	16,828
Postage and Petties	4,140	3,841
Printing and Stationery	1,358	998
Promotions	1,340	1,535
Salaries	344,002	344,049
Staff Professional Memberships	229	789
Superannuation Contributions	30,242	30,624
Training	2,804	2,203
Workers' Compensation	1,226	1,180
Miscellaneous Expenses	1,422	936
Photocopier Costs	8,440	8,932
PLEAS - Costs	3,021	11,908
	<hr/>	
	1,214,271	1,273,598
	<hr/>	

LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA  
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**18 Income from State Government**

<b>Resources received free of charge</b>	<b><u>2012</u></b>	<b><u>2011</u></b>
	\$	\$
Determined on the basis of the following estimates provided by the Department of the Attorney General:		
<b>Office space rental</b>	<u>858,935</u>	<u>640,940</u>

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.

**19 Employee Benefits**

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

Provision for employee benefits:	<b><u>2012</u></b>	<b><u>2011</u></b>
	\$	\$
Current (note 9)	331,496	379,549
Non-current (note 11)	188,567	134,830
	<u>520,063</u>	<u>514,379</u>

**20 Notes to the cash flow statement**

**20(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	<u>6,358,575</u>	<u>6,037,302</u>
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**20(b) Reconciliation of profit for the period to net cash flows from operating activities**

	<b><u>2012</u></b>	<b><u>2011</u></b>
	\$	\$
(Loss)/ Profit for the year	(33,197)	(513,852)
Loss on sale or disposal of non-current assets	529	22,765
Depreciation and amortisation of non-current assets	239,438	231,097

**20(b) Reconciliation of profit for the period to net cash flows from operating activities (cont'd)**

<b>Changes in net assets and liabilities:</b>	<b><u>2012</u></b>	<b><u>2011</u></b>
	\$	\$
(Increase)/decrease in assets:		
Current receivables	(87,676)	(13,697)
Other current assets	13,513	14,455
Increase/(decrease) in liabilities:		
Current payables	63,507	(24,928)
Current provisions	(48,053)	(164,505)
Income in advance	444,292	158,071
Non-current provisions	53,737	13,195
<b>Net cash from operating activities</b>	<b><u>646,090</u></b>	<b><u>(277,399)</u></b>

**21 Subsequent events**

The branch library at the Central Law Courts closed in July 2012. The branch library premises and staff were funded by the Department of Attorney General, and the Legal Practice Board of WA paid for materials and subscriptions. This event has resulted in limited savings in relation to library subscription fees in 2012 -2013, and is not expected to result in any additional costs.

No adjustment has been made to the accounts at balance sheet date.

**22 Additional Company Information**

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

*Registered Office and Principal Place of Business*

5th Floor

Kings Building

533 Hay Street

PERTH WA 6000

Tel: (08) 6211 3600

**23 Commitments for Expenditure**

Operating Lease

Commitments

Not longer than 1 year	77,974	154,619
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Longer than 1 year and not longer than 5 years	-	78,825
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Longer than 5 years	-	-
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	<b><u>77,974</u></b>	<b><u>233,444</u></b>
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**24 Contingent liabilities**

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

**25 Related party transactions**

During the financial year ended 30 June 2012, the following transactions occurred between the Legal Practice Board and Board members:

- Board Member Patricia Cahill SC provided legal services amounting to \$107,268;
- Board Member Sam Vandongen SC provided legal services amounting to \$66,459;
- Board Member Peter Quinlan SC provided legal services amounting to \$21,682.