



LEGAL
PROFESSION
BOARD OF
TASMANIA

ANNUAL REPORT 2009 -2010

This report is submitted in accordance with section 601 (2) of the Legal Profession Act, 2007, pursuant to which the Legal Profession Board of Tasmania is to prepare and present to the Minister a report on its operations for the financial year.

PART ONE: CHAIRMAN'S REPORT

The period ending 30 June 2010 marks the first full reporting year for the Legal Profession Board of Tasmania since commencing its operations on 1 January 2009. The report highlights some of the challenges encountered and achievements attained over the past twelve months.

THE WORKLOAD OF THE BOARD

Complaints and Investigations:

The number of complaints received during the course of the reporting period, together with those complaints that remained unfinalised as at 30 June 2009, totalled 174, of which 44 were in the investigation phase at the commencement of the reporting period and a further 36 investigations were commenced within that period.

Having encountered some delays which it considered unacceptable, the Board undertook a review of its organisational structure and workload in the latter part of 2009 and it was evident that the organisation required additional investigative resources. In an effort to expedite discharge of the investigative workload and reduce the attendant backlog, a portion of this workload was outsourced to external Investigators. This outsourcing strategy, although effective, was considered financially unsustainable as a single investigation may, dependant on its complexity, cost up to \$10,000. The Board, therefore, resolved to employ an additional Investigations Officer. This new officer has been selected and will commence employment by mid August 2010 and should have a considerable impact on the backlog of complaint investigations.

In addition, the Board is moving from an administrative support structure comprising an Administrative Officer and Receptionist to one comprising two full-time Administrative Officers who together will provide for the full investigative workload, Executive Officer and reception.

Mediation:

Since the commencement of operations in early 2009, it has been the strategy of the Board to endeavour, where appropriate, to achieve resolution of complaints against legal practitioners via mediation. It is with great satisfaction that I am able to report that we have had significant success in this area in the reporting period, with 27% of all finalisations having been assisted by some form of mediatory intervention of the Board's officers.

Meetings and Determinations of the Board:

The Board convened 20 complaints meetings during the reporting period, together with monthly administrative meetings. Details of complaint finalisations appear at Table 9.

The Board is obliged to provide to the complainant, practitioner and the Law Society a written determination and reasons for determination following the finalisation of a complaint. The Board produced in excess of 100 written determinations and reasons during the reporting period.

The Minister's Remuneration Determination:

The Attorney-General, the Honourable Lara Giddings MHA, in recognition of the need for Board Members to undertake significant pre-meeting preparation and the workload involved in decision writing, provided an amended remuneration determination in February 2010.

NATIONAL LEGAL PROFESSION REFORM

The National Legal Profession Reform Taskforce is undertaking a reform project that endeavours to simplify and increase the effectiveness of legal profession regulation across Australia. The proposed reforms are intended to ensure that all Australians have consistent legal rights and remedies, regardless of where they live.

The Executive Officer of the Board has actively participated in the preliminary stages of these proposed reforms in order to keep the Board informed of the reform agenda and progress generally. The Board will be reviewing the draft legislation with view of making submissions to the Reform Taskforce in the early part of the next reporting period. The impact which the proposed changes will have upon the work of the Board, and their ongoing cost, is as yet unclear.

STRATEGIC DIRECTION:

In my previous report, the Board foreshadowed that the strategic direction for the second half of the 2009/10 reporting period would focus more sharply on the Board's educative and advisory role in relation to the legal profession and the Tasmanian community in general. Due to the workload presented by the complaint investigation backlog and necessity for the Board to prioritise its dealing with this backlog, the educative focus has been reprioritised for the reporting period commencing 1 July 2010.

BOARD MEMBERSHIP

In March 2010, Mr Michael Brett, an inaugural member of the Board, was appointed as a Magistrate and was obliged to retire from the Board consequent upon his appointment. On behalf of all Members and employees of the Board, I thank Mr Brett for his efforts and dedication to the Board's work during his tenure, and wish him every success in his future endeavours on the bench.

I also welcome Mr Duncan Fairley who succeeded Mr Brett as a Member of the Board in May 2010.

I take this opportunity to thank the members of the Board for their significant contribution to the work of the Board throughout the reporting period. On their behalf I gratefully acknowledge also the work of the employees of the Board, whose hard work and dedication are pivotal to the efficiency and effectiveness of the Board.

William Bale QC
Chair, Legal Profession Board of Tasmania

PART TWO: THE LEGAL PROFESSION BOARD OF TASMANIA

THE FUNDAMENTAL PURPOSE OF THE BOARD

The Board's fundamental purpose is to:

- protect consumers of legal services within Tasmania against unsatisfactory professional conduct and professional misconduct of Australian legal practitioners;
- promote and enforce the application of professional standards, competence and honesty within the legal profession in Tasmania; and
- provide an effective and efficient redress mechanism for persons unhappy with the conduct of Australian legal practitioners in Tasmania.

THE VISION OF THE BOARD

The Board, through its regulatory functions, aims to better ensure a legal profession in Tasmania which meets the highest standards of propriety and efficiency. To this end, the Board seeks to maintain a complaints handling process which will be as good as or better than any other in the Nation.

THE BOARD MEMBERS

The Board is an independent statutory body responsible for receiving and investigating complaints about the conduct of lawyers. It consists of six Members appointed by the Governor of Tasmania for a term of five years.

Chairman of the Board:

Mr William Bale QC was re-elected by the members of the Board in July 2009 as the Board's Chairman. Mr Bale previously held the position of Solicitor General of Tasmania from 1986 until his retirement in September 2007 and has been a Tasmanian legal practitioner since 1964.

Lay Members:

Ms Judith Paxton JP was the Tasmanian Legal Ombudsman from 1994 until 2008, the State Director of the Commonwealth Merit Protection and Review Agency and the Chairperson of a number of tribunals responsible for determining disputes and grievances.

Mr Peter Dane is currently the State Manager Pricing and Regulation for Aurora Energy and has held senior management positions in the telecom and electricity industries since 1983. Mr Dane has a Master of Business Administration from the University of Tasmania.

Legal Members:

Mr David Bessell is a senior legal practitioner who retired in 2007 from his position as senior partner in a prominent Hobart law practice.

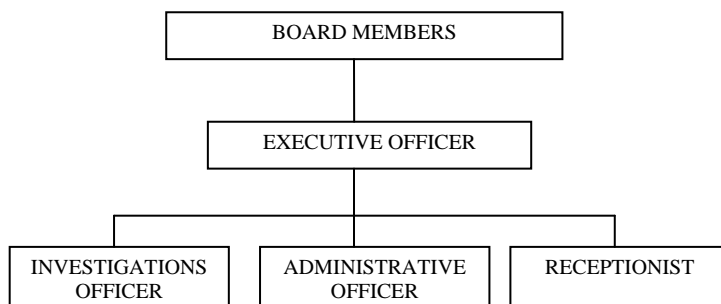
Mr John Upcher is a senior legal practitioner who is currently practising as a consultant in a prominent Hobart law practice.

Mr Duncan Fairley is a partner in a prominent North West Coast legal practice and has been President of the Tasmanian Bar Association since 2008. Mr Fairley is also a member of the Mental Health Tribunal. Mr Fairley was appointed to the Board on 18 May 2010 following the retirement of Mr Michael Brett.

Retirements:

Mr Michael Brett, an inaugural Board member from June 2008, retired following his appointment as a Magistrate in March 2010.

ORGANISATIONAL CHART



The Legal Profession Board is supported by an administrative and investigative team as represented in the organisational chart above.

STATUTORY FUNCTIONS OF THE BOARD

Pursuant to section 591 of the Act, the Board has the following statutory functions:

- to maintain the Register (of legal practitioners);
- to monitor the standard and provision of legal professional services;

- to receive, investigate and determine complaints made under Chapter 4 and, as necessary, refer complaints to the Tribunal or Supreme Court for hearing and determination;
- to approve terms and conditions of professional indemnity insurance policies provided to law practices;
- to advise the profession on appropriate standards of conduct;
- to monitor and identify trends and issues that emerge within the legal profession;
- to approve courses of continuing legal education;
- to advise the Minister on any matters relating to this Act;
- such other functions as may be imposed by this or any other Act; and
- to conduct education programs relating to client-lawyer relationships for members of the public.

FUNDING OF THE BOARD

Pursuant to section 359 of the Act, the Board is to submit to the Minister an application for funding by 30 April in each year. The Minister approves an amount to be paid from the Solicitors' Guarantee Fund and directs the Solicitors' Trust to pay the approved amount from the Fund to the Board.

PART THREE: THE YEAR IN REVIEW

PERFORMANCE OF THE LEGAL PROFESSION BOARD OF TASMANIA

The following statistical information regarding the Board's performance is based on the twelve month period, 1 July 2009 to 30 June 2010.

COMPLAINT HANDLING

Table 1: Number of complaint enquiries received from 1 July 2009 to 30 June 2010

Month	Enquiries by phone	Enquiries in person	Enquiries by email	Enquiries by letter	Total Enquiries
Jul-09	14				14
Aug-09	9				9
Sep-09	22	5	2	2	31
Oct-09	24	4	3	2	33
Nov-09	25	3	2	1	31
Dec-09	14	1			15
Jan-10	14				14
Feb-10	17	1	1	1	20
Mar-10	24	6		3	33
Apr-10	30		1	1	32
May-10	33		1	1	35
Jun-10	22	1			23
Total Enquiries	248	21	10	11	290

The Board recognises the importance of dealing effectively with complaints at the time of the initial enquiry as, on occasions and where appropriate, it provides an opportunity to resolve a problem before it escalates into a formal complaint. The majority (85%) of all complaint enquiries are dealt with by telephone, although members of the public are always encouraged to attend the Board's offices to discuss their potential complaint in person.

Dealing with complaint enquiries represents a significant part of the Board's overall workload. Table 1 demonstrates that the Board has dealt with, on average, 24 enquiries per calendar month, or 1.4 complaint enquiries per available day.

The Board records the total time spent per enquiry throughout the period. The average time spent dealing with each enquiry for the period is 35 minutes, or a total of 102 hours (approximately 14 days).

Table 2: Number of written complaints received from 1 July 2009 to 30 June 2010

Month	Complaints Received 2009/10	Complaints Received 2008/09	Variance 2009/10 – 2008/09
July	12	Legal Profession Board commenced operations on 1 January 2009	12
August	12		12
September	12		12
October	11		11
November	8		8
December	15		15
January	3	56*	<53>
February	6	2	4
March	9	14	<5>
April	8	18	<10>
May	6	11	<5>
June	4	3	1
Total Complaints	106	104	2

(* In January 2009, The Board received 53 transitional complaints from the Law Society (44) and the Legal Ombudsman (9) at the commencement of the Act pursuant to schedule 9 clause 24 of the savings and transitional provisions.)

A complaint may be made about the conduct of an Australian legal practitioner by any person. In order for the Board to be able to deal with a complaint, the complaint must be in writing. The Board takes all reasonable steps to ensure that any person wishing to make a complaint is given the appropriate assistance to do so.

When a complaint is received by the Board, a preliminary assessment is made and often further information is sought from the complainant in relation to particularising the conduct that is alleged to have occurred. Once the complaint has been appropriately particularised, a 'Notice of Complaint Received' together with a copy of the complaint is sent to the practitioner, accompanied by an invitation to provide comment (submissions) in relation to it. Once received, the practitioner's submissions are provided to the complainant for further comment. The complaint material is then considered by the Board and either proceeds to the investigation phase, or is summarily dismissed. This preliminary process prior to an investigation of the complaint commencing, or the complaint being summarily dismissed, can take several months and provides transparency and procedural fairness to both the complainant and practitioner.

The Board received 106 complaints in the reporting period, compared to 104 complaints for 2008/09 (which included a total of 53 transitional complaints received from the Law Society of Tasmania and the Legal Ombudsman at the commencement of the Act on 31 December 2008).

Table 3: Complaints carried forward at 1 July 2009

Complaints	Number	%
Complaints under investigation	44	65%
Pending complaints (not under investigation)	24	35%
Total Pending Complaints	68	100%

In addition to the 106 complaints received in the reporting period, the Board's workload comprised a further 68 complaints that had not been finalised from the 2008/09 period.

Table 3 shows that the majority of complaints (44 or 65%) carried forward into the reporting period were subject to investigations that had not been completed as at 30 June 2009.

Table 4: Principal allegations against legal practitioners

Principal Allegation	2009/10 Complaints	2009/10 %	2008/09 Complaints	2008/09 %
<i>Abuse of position as a legal practitioner</i>	3	3%	0	0%
<i>Abusive/Rude/Threat</i>	8	8%	7	7%
<i>Breach of Act, rules, court order or undertaking</i>	8	8%	4	3%
<i>Communication with client - including failure to communicate</i>	3	3%	3	3%
<i>Communication with other party</i>	1	1%	1	1%
<i>Confidentiality breach</i>	1	1%	3	3%
<i>Conflict of interest</i>	4	3%	4	3%
<i>Costs/Bills/Fees/overcharging</i>	16	15%	21	21%
<i>Court performance</i>	4	3%	5	5%
<i>Criminal allegations</i>	4	3%	1	1%
<i>Delay</i>	8	8%	10	10%
<i>Dishonest/Misleading (including misleading the Court)</i>	18	18%	10	10%
<i>Documents - including retention or lost</i>	0	0%	3	3%
<i>Instructions - failure to act or to comply</i>	12	12%	12	12%
<i>Instructions - acting without instructions</i>	4	3%	1	1%
<i>Investigate – Failure or inappropriate investigation</i>	0	0%	9	9%
<i>Negligence - including poorly handling of case</i>	10	9%	8	8%
<i>Trust money - including failure to account</i>	2	2%	2	2%
Totals	106	100%	104	100%

A complaint may include any number of allegations against a legal practitioner or law firm. If a complainant is not able to clearly particularise the specific allegations of conduct against a practitioner, the Board is required, under section 427 (5) of the Act, to take all reasonable steps to ensure that they are given the necessary assistance to do so.

Generally a complaint does not contain a single allegation of “inappropriate” conduct, but rather multiple allegations of conduct which can range in seriousness from the very minor through to criminal allegations.

Table 4 identifies the principal allegation for each complaint received to 30 June 2010. Where a complaint included more than one allegation, the principal allegation is the one identified, being the most serious in nature.

As can be seen from Table 4, allegations relating to dishonesty, costs, failure to act and negligence comprised the majority (54%) of all complaint allegations received by the Board in the reporting period.

Table 5: Area of law to which complaints related

Area of the Law	2009/10 Complaints	2009/10 %	2008/09 Complaints	2008/09 %
<i>Administrative</i>	2	2%	1	1%
<i>Anti-discrimination</i>	4	4%	0	0%
<i>Building</i>	0	0%	1	1%
<i>Commercial/Contract</i>	11	10%	10	10%
<i>Commonwealth/Constitutional</i>	0	0%	1	1%
<i>Conveyancing</i>	7	7%	12	12%
<i>Crimes compensation</i>	1	1%	4	3%
<i>Criminal</i>	9	8%	11	10%
<i>Debt collection</i>	2	2%	2	2%
<i>Family/defacto</i>	26	25%	14	13%
<i>Industrial relations</i>	4	4%	2	2%
<i>Investigation by Law Society</i>	0	0%	9	9%
<i>Personal injury</i>	14	13%	8	8%
<i>Planning</i>	0	0%	3	2%
<i>Probate/estate/wills</i>	11	10%	11	10%
<i>Workers' compensation</i>	2	2%	6	7%
<i>Other</i>	13	12%	9	9%
Total	106	100%	104	100%

Often the areas of law that feature in complaints are those that most closely affect the complainant’s private affairs. When an individual seeks legal services from a legal practitioner, a great deal may be at stake for them, leading to strains both emotionally and financially.

Table 5 indicates the area of law most often involved in complaints received by the Board to 30 June 2010, was family law. This is consistent with the previous reporting period and complaints data across comparable Australian jurisdictions from previous years.

Areas of law also highly represented in the reporting period were personal injury, probate and estate, commercial, criminal and conveyancing.

Table 6: Complainant’s profile (region & gender)

MALE/FEMALE	2009/10 No. Complainants	%	2008/09 No. Complainants	%
<i>Male</i>	57	53%	65	63%
<i>Female</i>	42	40%	37	35%
<i>Complaints made by the Board</i>	7	7%	2	2%
Total	106	100%	104	100%

COMPLAINTS BY REGION	2009/10 No. Complainants	%	2008/09 No. Complainants	%
<i>South</i>	52	49%	64	62%
<i>North</i>	34	31%	16	15%
<i>North West</i>	10	10%	14	13%
<i>Interstate/International</i>	10	10%	10	10%
Total	106	100%	104	100%

Table 6 highlights a moderate shift in the regional origin of complaints received by the Board in the reporting period. The North of the State represented 31% of all complaints received, being an increase of 100% from the previous reporting period. The Board will continue to monitor this trend to appropriately direct future resources in relation to its educative role within the community.

During the investigation of a complaint, the Board may discover either unsatisfactory professional conduct or professional misconduct of a practitioner that has not been the subject of the initial complaint made by the complainant, or a practitioner may fail to comply with a directive of the Board. In these circumstances, the Board may elect to make a complaint of its own motion.

In the reporting period, the Board initiated 7 “own motion complaints” against practitioners.

INVESTIGATIONS

Table 7: Investigations commenced and finalised from 1 July 2009 to 30 June 2010

Month	Investigations Commenced 2009/10	Investigations Completed 2009/10	Investigations Commenced 2008/09	Investigations Completed 2008/09
July	3	2	Legal Profession Board commenced operations on 1 January 2009	
August	0	4		
September	5	4		
October	5	2		
November	3	4		
December	4	1		
January	4	1		
February	3	0	9	0
March	1	10	10	0
April	2	2	7	1
May	3	4	10	1
June	3	4	7	4
Total	36	38	44	6

Upon receiving a written complaint, the Board ensures that, as soon as practicable and once all the relevant information has been gathered, the legal practitioner is notified of the complaint and its details. Submissions are sought from the practitioner and the procedural fairness provisions of the Act are strictly followed. If a complaint is not summarily dismissed or subsequently withdrawn by the complainant, the Board is obliged to investigate it under s.440 of the Act.

The length of time required for the investigation phase of a complaint will largely depend on the complexity and seriousness of the complaint (see Table 8 below). During the reporting period, the Board contracted additional external investigatory resources in an effort to ensure complaint investigations were being dealt with as quickly and efficiently as possible. An additional internal Investigations Officer position has been approved by the Board for the financial year commencing 1 July 2010, and an appointment has been made.

Table 7 highlights that a total of 36 investigations were commenced in the reporting period, or an average of 3 investigations commenced per month.

38 investigations were finalised within the reporting period, which equates to an investigation clearance rate of 105% for the reporting period, meaning that the Board is keeping up with its investigation's workload, whilst moderately eroding the backlog of investigations.

Table 8: Complexity of investigations

Category of Investigation	Investigation Criteria	Number	%
<i>Simple</i>	Basic investigation, low volume of documentary evidence, no witness or 3rd party involvement	16	45%
<i>Intermediate</i>	Medium volume of documentary evidence, single witness or 3rd party involvement	9	25%
<i>Complex</i>	Multiple witnesses, significant volume of evidence	7	19%
<i>Very Complex</i>	High volume of evidence, multiple witnesses, interaction with commercial entities	4	11%
Total		36	100%

At the time an investigation is commenced, each investigation is classified in relation to its apparent complexity. The complexity of an investigation may alter through the investigation process and will be reclassified accordingly. The classification of investigations relates predominantly to the volume of documentation, the involvement of witnesses or third parties and the legal or factual complexity of the issues.

In general terms, the greater the complexity of the investigation, the longer period of time that is required to complete it. The length of time to complete an investigation is also greatly dependant on such matters as the willingness of the parties to resolve the complaint via mediation, and the Investigations Officer's ability to readily access information held by either the practitioner or complainant.

In the reporting period to 30 June 2010, the Board classified 30% of all investigations commenced in the period as either complex or very complex. Simple and intermediate investigations formed the majority of all investigations at 70%.

FINALISATIONS AND OUTCOMES

Table 9: Complaints finalised and method of finalisation from 1 July 2009 to 30 June 2010

Method of Finalisation	Relevant Section of Act	Description	Number Finalised	%
<u>Finalisations Prior To An Investigation:</u>				
<i>Summarily dismissed</i>	s.433 (1) (a)	<i>Complaint lacking in substance, vexatious, misconceived or frivolous</i>	34	32%
<i>Summarily dismissed</i>	s.433 (1) (e)	<i>Complaint is not one that the Board has the power to deal with</i>	7	6%
<i>Summarily dismissed</i>	s.433 (1) (b)	<i>Complaint made more than 6 years after the conduct is alleged to have occurred</i>	5	5%
<i>Summarily dismissed</i>	s.433 (2) (a)	<i>Further information not given or complaint not verified</i>	4	4%
<i>Summarily dismissed</i>	s.433 (3)	<i>Complaint requires no further investigation</i>	1	1%
<i>Withdrawal</i>	s.434	<i>Complaint withdrawn by complainant prior to an investigation</i>	15	14%
Sub Total Finalisations			66	62%
<u>Finalisations Following An Investigation:</u>				
<i>Dismissed following an investigation</i>	s.451 (a)	<i>No reasonable likelihood that the practitioner will be found guilty</i>	20	19%
<i>Dismissed following an investigation</i>	s.433 (1) (a)	<i>Complaint lacking in substance, vexatious, misconceived or frivolous</i>	1	1%
<i>Dismissed following an investigation</i>	s.433 (3)	<i>Complaint requires no further investigation</i>	3	2%
<i>Withdrawal</i>	s.434	<i>Complaint withdrawn via mediation following an investigation</i>	14	13%
Sub Total Finalisations			38	35%
<u>Finalisations Following a Hearing/Meeting of the Board:</u>				
<i>Practitioner found guilty of unsatisfactory professional conduct</i>	s.456 (7) (a)	<i>Practitioner cautioned or reprimanded</i>	1	1%
<i>Practitioner found guilty of unsatisfactory professional conduct</i>	s.456 (7) (a)	<i>Practitioner required to make an apology</i>	1	1%
<i>Complaint dismissed</i>	s.456 (6)	<i>Matter not substantiated</i>	1	1%
Sub Total Finalisations			3	3%
TOTAL FINALISATIONS			107	100%

Table 9 shows that the Board finalised a total of 107 complaints for the reporting period to 30 June 2010. The majority (62%) of those finalisations occurred prior to an investigation having commenced and involved complaints which were either summarily dismissed or withdrawn by the complainant.

34 complaints were summarily dismissed pursuant to s.433 (1) (a) of the Act as either lacking in substance or being vexatious, misconceived or frivolous. The Board encourages the early resolution of complaints and general disputes between a practitioner and client where there is no evidence of professional misconduct. In most cases the Board will attempt to mediate the complaint where appropriate, either formally or informally, to achieve an agreed resolution. Of the total complaints finalised in the reporting period, 27% or 29 complaints were withdrawn by the complainant following some mediatory intervention by the Board, either prior to, or during an investigation.

A total of 38 complaints were finalised following an investigation by the Board. The majority (19%) of these finalisations were complaints dismissed pursuant to s.451 (a) of the Act where the Board determined there was no reasonable likelihood the practitioner would be found guilty of either unsatisfactory conduct or professional misconduct.

The Board finalised 3 complaints under s.456 (procedure for less serious complaint). In 2 cases, the practitioner was required to appear in person before the Board to provide and explanation.

Outcome of Disciplinary action:

Of the 3 complaints the Board dealt with under s.456 of the Act, 1 complaint was dismissed and 2 practitioners were found guilty of unsatisfactory professional conduct. 1 practitioner was cautioned by the Board and 1 practitioner was required to make an apology to the complainant.

Table 10: Complaints referred (or resolved to be referred) to Disciplinary Tribunal, Supreme Court or for Board Hearing/Meeting

Complaints Referred	Section of Act	Number
Board Meeting (s.456 procedure for less serious complaint)	s.450 (b)	3
Board Hearing	s.450 (a)	1
Disciplinary Tribunal	s. 450 (c) (d)	10
Supreme Court	s.450 (e)	0
Total Complaints Referred		14

At the conclusion of a complaint investigation, the Board may hold a formal hearing, deal with the complaint in accordance with s.456 (procedure for less serious complaint), make an application to either the Disciplinary Tribunal or Supreme Court for the complaint to be heard and determined or, dismiss the complaint.

In the reporting period, the Board referred, or resolved to refer, a total of 14 complaints pursuant to s.450 of the Act.

Table II: Number of pending complaints as at 30 June 2010

Complaint Source	Number of Complaints	%
Unfinalised complaints under investigation as at 30 June 2009	44	25%
Unfinalised complaints pending (not yet under investigation) as at 30 June 2009	24	14%
Sub total Pending Complaints as at 30 June 2009	68	39%
Complaints received 1 July 2009 to 30 June 2010	106	61%
Sub total complaints for period	174	100%
Finalised complaints 1 July 2009 to 30 June 2010	<107>	61%
Referrals to Disciplinary Tribunal	<10>	6%
Balance of complaints as at 30 June 2010	57	33%

Table II above indicates that 57 complaints were not finalised as at 30 June 2010. The 10 complaints referred to the Disciplinary Tribunal, although having been dealt with by the Board, will continue to require the Board’s resources as it must undertake the prosecution.

Of the 57 complaints outstanding at 30 June 2010, 36 complaints or 63% are under investigation, 5 complaints or 9% have been referred for a hearing or meeting of the Board and the remaining 16 complaints or 28% are in the preliminary stages of the complaint process.

PART FOUR: REPORT OF THE DISCIPLINARY TRIBUNAL

The following attached report is provided by the Disciplinary Tribunal in satisfaction of section 617 (1) of the *Legal Profession Act, 2007*.

DISCIPLINARY TRIBUNAL

ANNUAL REPORT

The Tribunal heard and determined five matters pursuant to the Legal Profession Act 2007 during the reporting period. Two matters are listed for hearing and determination and three matters await hearing and determination. Seven appeals from decisions of the Legal Profession Board await hearing and determination three of which are listed for hearing and one of which has been adjourned sine die. The Tribunal has conducted directions hearing in all matters during the reporting period.

MATTER A

The Practitioner was found guilty of professional misconduct pursuant to s 421(1)(a) of the Act in that he failed

- (a) to keep and maintain a register of Unclaimed Monies
- (b) to properly deal with the unclaimed monies; and
- (c) to properly complete business in a reasonable time

The Practitioner was

- (a) reprimanded,
- (b) ordered to pay a fine of \$5,000.00 which was suspended upon condition that the Practitioner commit no instance of unsatisfactory professional conduct or professional misconduct for a period of three years; and
- (c) ordered to pay the Law Society's costs as agreed in the sum of \$18,858.00 over a period of two years

MATTER B

The Practitioner was found guilty of unsatisfactory professional conduct by downloading from a firm's server and a personal computer the firm's commercial precedent library' GST clauses and the precedent library of another practitioner in the firm and over five hundred client files to a USB drive on cessation of his employment with the firm and without the firm's consent. The Practitioner was reprimanded, ordered to pay a fine of \$2,500 and the costs of the Legal Profession Board in the sum of \$1,500.00 plus GST.

MATTER C

The Practitioner was found guilty of unsatisfactory professional conduct for failing to properly advise a client to seek independent legal advice when selling a property to the Practitioner. The Practitioner was reprimanded, fined \$1,000.00 and ordered to pay the Law Society's costs of the application, including the costs incurred in investigating the matters that formed the basis of the application.

MATTER D

Two separate complaints were made by two clients of the practitioner was reprimanded in relation to the first complaint for a period of delay in dealing with the client's matter and on the second complaint was found guilty of professional misconduct for misleading the client. The Practitioner was also fined \$2,000.00 and

ordered to pay the Law Society's costs and expenses of and incidental to the investigation of the complaints

MATTER E

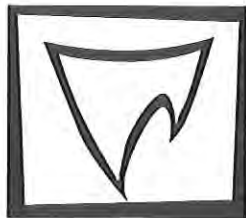
An appeal by a member of the public against a decision of the Legal Profession Board was dismissed by the Tribunal on the basis that the Board was right to conclude in its findings that the complaint the complainant brought against a Practitioner was lacking in substance. The Tribunal also concluded that the complaint was vexatious and largely, if not wholly, concocted.

A handwritten signature in blue ink, appearing to read 'D Coates', is written over a dotted horizontal line.

D Coates SC
Chairman
31 July 2010

PART FIVE: REPORT OF THE PRESCRIBED AUTHORITY

The following attached report is provided by the Law Society of Tasmania in satisfaction of section 653 (3) of the *Legal Profession Act*, 2007.



Our ref:L4.2:MH/VMC

27 July 2010

Mr Frank Ederle
Executive Officer
Legal Profession Board of Tasmania
Level 3, 147 Macquarie Street
HOBART TAS 7000

Dear Mr Ederle

Following please find the Society's report in satisfaction of the requirement in s653(3) of the *Legal Profession Act 2007* (the *Act*).

Practising Certificates

The following types and numbers of practising certificates were issued under the *Legal Profession Act 2007* during the period 1 July 2009 to 30 June 2010:

- Principal – 206
- Employee – 213
- Barrister – 42
- Corporate – 15
- Locum - 6
- Community legal centre - 19

Trust Account Inspections

Routine trust account inspections for the period ending 31 December 2009 were conducted by approved inspectors on 119 practices. Six practices did not operate trust accounts or were exempt from inspection. No significant issues arose as a result of those inspections.

Appointment of Supervisor of Trust Money

On 16 December 2009 the Society appointed Bruce Edward Davies as the supervisor of the trust account of Ben Lillis pursuant to s525 of the *Act*. The appointment was terminated on 30 April 2010.

On 1 February 2010 the Society appointed Glen Wayne Stevens as the supervisor of the trust account of Catherine Patterson pursuant to s525 of the *Act*. The appointment was terminated on 19 February 2010.

Appointment of Manager

On 19 February 2010 the Society appointed Glen Wayne Stevens as the manager of the practice Pattisons Legal pursuant to s531 of the *Act*. The appointment was made pursuant to a delegation from the Legal Profession Board of Tasmania dated 19 February 2010.

On 30 June 2010 the appointment of Glen Wayne Stevens as manager of the practice of Pattisons Legal was terminated. The termination was made pursuant to a delegation from the Legal Profession Board of Tasmania dated 12 May 2010. Although not within the reporting period, it should be noted that on 1 July 2010, the Society appointed Peter John Joyce as the Manager of the practice Pattisons Legal pursuant to s531 of the *Act*. The appointment was made pursuant to a delegation from the Legal Profession Board of Tasmania dated 19 February 2010.

On 1 April 2010 the Society appointed Leanne Shirley Topfer as the Manager of the practice S M Ritchie & Co pursuant to s531 of the *Act*. The appointment was made pursuant to a delegation from the Legal Profession Board of Tasmania dated 24 November 2009.

Conduct Rules

The *Rules of Practice* 1994 continue to have effect, other than where they are inconsistent with the *Act* or *Legal Profession Regulations* 2008. The development of new Tasmanian conduct rules has been postponed pending an assessment of the progress of the National Legal Profession Reform Project currently being conducted under the auspices of the Council of Australian Governments. It is likely that nationally consistent conduct rules will emerge from that project. A decision on whether to implement new Tasmanian rules prior to the conclusion of the COAG project will be considered towards the end of 2010.

Conduct Complaints

On 19 November 2009 two prosecutions by the Law Society of Tasmania v Christopher Young were heard by the Disciplinary Tribunal and written reasons for decision have been published.

On 7 December 2009 the matter of the Law Society of Tasmania v Aloysius Wong was heard by the Disciplinary Tribunal. Written reasons have yet to be issued.

On 26 April 2010 the matter of the Law Society of Tasmania v Paul McGrath was heard by the Disciplinary Tribunal and written reasons for decision have been published.

Yours sincerely



MARTYN HAGAN
EXECUTIVE DIRECTOR

**PART SIX: INDEPENDENT AUDIT REPORT AND
FINANCIAL STATEMENTS AS AT 30 JUNE 2010**

The independent audit report and financial statements 2009-10 is attached in satisfaction of section 601 of the *Legal Profession Act*, 2007.



INDEPENDENT AUDIT REPORT

To Members of the Parliament of Tasmania

LEGAL PROFESSION BOARD OF TASMANIA

Financial Statements for the Year Ended 30 June 2010

Report on the Financial Statements

I have audited the accompanying financial statements of the Legal Profession Board of Tasmania (the Board), which comprise the statement of financial position as at 30 June 2010, the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year ended on that date, a summary of significant accounting policies, other explanatory notes and the certification by the directors.

Chair's responsibility for the Financial Statements

The Chair of the Board is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards (including Australian Accounting Interpretations) and Section 27 (1) of the *Financial Management and Audit Act 190*. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based upon my audit. My audit was conducted in accordance with Australian Auditing Standards. These Auditing Standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance as to whether the financial statements are free of material misstatement.

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

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting this audit, I have complied with the independence requirements of Australian Auditing Standards and other relevant ethical requirements. The *Audit Act 2008* further promotes independence by:

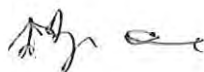
- providing that only Parliament, and not the executive government, can remove an Auditor-General, and
- mandating the Auditor-General as auditor of State Entities but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Tasmanian Audit Office are not compromised in their role by the possibility of losing clients or income.

Auditor's Opinion

In my opinion the financial statements of the Legal Profession Board of Tasmania:

- a) present fairly, in all material respects, the financial position of the Legal Profession Board of Tasmania at 30 June 2010, and its financial performance, cash flows and changes in equity for the year then ended; and
- b) are in accordance with the *Financial Management and Audit Act 1990* and Australian Accounting Standards (including Australian Accounting Interpretations).

TASMANIAN AUDIT OFFICE



H M Blake
AUDITOR-GENERAL

HOBART
3rd August 2010

Legal Profession Board of Tasmania

Financial Statements 2009-10

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Statement of Comprehensive Income for the year ended 30 June 2010

		30 June 2010	31 Dec 2008 to 30 June 2009
	Notes	\$'000	\$'000
Revenue and other income			
Revenue from Solicitor's Guarantee Fund	1.5(a), 3.1	480	896
Other revenue	1.5(b), 3.2	30	12
Total revenue and other income		510	908
Expenses			
Employee benefits	1.6(a), 4.1	394	276
Depreciation and amortisation	1.6(e), 4.4	21	7
Supplies and consumables	1.6(d), 4.2	222	141
Other expenses	1.6(d), 4.3	30	16
Total expenses		667	440
Net surplus (deficit)		(157)	468
Other economic flows			
Total other economic flows		-	-
Comprehensive result		(157)	468

This Statement of Comprehensive Income should be read in conjunction with the accompanying notes.

Statement of Financial Position as at 30 June 2010

		2010	2009
	Notes	\$'000	\$'000
Assets			
<i>Financial Assets</i>			
Cash and cash equivalents	1.7(a), 7.1	263	719
Receivables	1.7(b), 5.1	17	201
Total Financial Assets		280	920
<i>Non-financial Assets</i>			
Prepayments		-	3
Office improvements, plant and equipment	1.7(d), 5.3	80	95
Intangible assets	1.7(c), 5.2	3	3
Total Non-financial Assets		83	101
Total assets		363	1,021
Liabilities			
Payables	1.8(a), 6.1	18	533
Employee benefits	1.8(a), 6.2	34	20
Total liabilities		52	553
Net assets		311	468
Equity			
Accumulated funds		311	468
Total equity		311	468

This Statement of Financial Position should be read in conjunction with the accompanying notes.

Statement of Cash Flows for the year ended 30 June 2010

		30 June 2010	31 Dec 2008 to 30 June 2009
	Notes	\$'000	\$'000
		Inflows (Outflows)	Inflows (Outflows)
Cash flows from operating activities			
Cash inflows			
Solicitor's Guarantee Fund Receipts		669	707
Other revenue receipts		29	12
GST Receipts		19	-
Total cash inflows		717	719
Cash outflows			
Employee benefits		(636)	-
Supplies and consumables		(357)	-
Other expenses		(47)	-
GST payments		(23)	-
Total cash outflows		(1,063)	-
Net cash generated from operating activities	7.2	(345)	719
Cash flows from investing activities			
Cash outflows			
Payments for acquisition of non-financial assets		(111)	-
Net cash generated from investing activities		(111)	-
Net increase in cash held		(456)	719
Cash and cash equivalents at the beginning of the reporting period		719	-
Cash and cash equivalents at the end of the reporting period	7.1	263	719

This Statement of Cash Flows should be read in conjunction with the accompanying notes.

Statement of Changes in Equity for the year ended 30 June 2010

	Accumulated Total equity surplus / deficit	
	\$'000	\$'000
Balance at 1 July 2009	468	468
Total comprehensive result	(157)	(157)
Total	(157)	(157)
Balance as at 30 June 2010	311	311

	Accumulated Total equity surplus / deficit	
	\$'000	\$'000
Balance at 31 December 2008	-	-
Total comprehensive result	468	468
Total	468	468
Balance as at 30 June 2009	468	468

This Statement of Changes in Equity should be read in conjunction with the accompanying notes.

Notes to and forming part of the Financial Statements for the year ended 30 June 2010

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Note 1 Significant Accounting Policies

1.1 Objectives and Funding

The Legal Profession Board of Tasmania (the Board) is an independent statutory body whose purpose is to:

- Protect consumers of legal services within Tasmania against unsatisfactory professional conduct and professional misconduct of legal practitioners;
- Promote and enforce the application of professional standards, competence and honesty within the legal profession in Tasmania; and
- Provide an effective and efficient redress mechanism for persons unhappy with the conduct of Australian legal practitioners in Tasmania.

The Legal Profession Act 2007 (the Act) received Royal Assent on 15 August 2007 and the Board commenced operations on 31 December 2008. The Board consists of six Board Members appointed by the Governor of Tasmania for a term of five years. Pursuant to section 589 of the Act, the Board is established as a body corporate with perpetual succession. The functions of the Board were in part previously performed by the Law Society of Tasmania and the Legal Ombudsman.

Pursuant to section 359 of the Act, the Board is to submit to the Minister an application for funding by 30 April in each year. The Minister approves an amount to be paid from the Solicitors' Guarantee Fund and directs the Solicitors' Trust to pay the approved amount from the Fund to the Board.

1.2 Basis of Accounting

The Financial Statements are a general purpose financial report and have been prepared in accordance with:

- Australian Accounting Standards (AAS) and Australian Accounting Interpretations issued by the Australian Accounting Standards Board (AASB); and
- The Treasurer's Instructions issued under the provisions of the *Financial Management and Audit Act 1990*.

The financial statements were signed by the Chairman and the Executive Officer on 23 August 2010.

Compliance with the AAS may not result in compliance with International Financial Reporting Standards (IFRS), as the AAS include requirements and options available to not-for-profit organisations that are inconsistent with IFRS. The Board is considered to be not-for-profit and has adopted some accounting policies under the AAS that do not comply with IFRS.

The Financial Statements have been prepared on an accrual basis and, except where stated, are in accordance with the historical cost convention.

1.3 Functional and Presentation Currency

These financial statements are presented in Australian dollars, which is the Board's functional currency.

1.4 Changes in Accounting Policies

(a) Impact of new and revised Accounting Standards

In the current year, the Board has adopted all of the new and revised Standards and Interpretations issued by the AASB that are relevant to its operations and effective for the current annual reporting period. These include:

- AASB 101 Presentation of Financial Statements – This Standard has been revised and introduces a number of terminology changes as well as changes to the structure of the Statement of Changes in Equity and the Statement of Comprehensive Income. It is now a requirement that owner changes in equity be presented separately from non-owner changes in equity. There is no financial impact resulting from the application of this revised Standard to the Board.

- AASB 2009-2 Amendments to Australian Accounting Standards: Improving Disclosures about Financial Instruments – Introduces new disclosure requirements for fair value measurement and refines existing disclosures on liquidity risk for financial instruments. There is no financial impact from the application of this Standard to the Board.
- AASB 2008-10 *Amendments to Australian Accounting Standards: Reclassification of Financial Instruments* permits the reclassification of certain non-derivative financial assets. The Board did not reclassify any of its financial assets in the current period, accordingly there is no financial impact to the Board.

(b) Impact of new and revised Accounting Standards yet to be applied

The following new standards relevant to the Board have been issued by the AASB and are yet to be applied:

- AASB 2007-10 *Further Amendments to Australian Accounting Standards arising from AASB 101* - revised Standard to be applied from reporting periods beginning on or after 1 January 2010. This Standard changes the term “general purpose financial report” to “general purpose Financial Statements” and the term “financial report” to “Financial Statements”, where appropriate, in Australian Accounting Standards (including Interpretations) and the *Framework* to better align with IFRS terminology. The Standard will not have a financial impact on the Board’s Financial Statements.
- AASB 2009-5 *Amendments to Australian Accounting Standards arising from the Annual Improvements Project* – revised Standard to be applied from reporting periods beginning on or after 1 January 2010. The amendments to some Standards result in accounting changes for presentation, recognition or measurement purposes, while some amendments that relate to terminology and editorial changes are expected to have no or minimal effect on accounting. The Standard will not have a material financial impact on the Board’s Financial Statements.
- AASB 9 ‘Financial Instruments’ was issued in December 2009 and is Phase I of the IASB’s comprehensive project to replace IAS 39 (AASB 139). This standard is effective for periods beginning on or after 1 January 2013, however can be early adopted. The standard represents a significant change in the accounting for financial assets and now only contains two primary measurement categories (fair value or amortised cost) and removes the previous categories of held to maturity, available for sale and loans and receivables. The impacts of these amendments, which become mandatory for the Board’s 30 June 2014 financial statements, have not yet been quantified.

The future adoption of these standards is not expected to have a material impact on the financial statements of the Board.

1.5 Income

Income is recognised in the Statement of Comprehensive Income when an increase in future economic benefits related to an increase in an asset or a decrease of a liability has arisen that can be measured reliably.

(a) Revenue from Solicitor’s Guarantee Fund

Funding from the Solicitor’s Guarantee Fund is recognised in accordance with AASB 1004 *Contributions* whereby ‘non-reciprocal’ contributions are recognised as revenue when the funds are received or receivable.

(b) Other Revenue

Revenue from other sources is recognised when the Board gains control of the funds and it is probable that the inflow of funds has occurred and can be reliably measured.

1.6 Expenses

Expenses are recognised in the Statement of Comprehensive Income when a decrease in future economic benefits related to a decrease in asset or an increase of a liability has arisen that can be measured reliably.

(a) Employee Benefits

Employee benefits include, where applicable, entitlements to wages and salaries, annual leave, sick leave, long service leave, superannuation and any other post-employment benefits.

(b) Impairment – Financial Assets

Financial assets are assessed at each reporting date to determine whether there is any objective evidence that there are any financial assets that are impaired. A financial asset is considered to be impaired if objective evidence indicates that one or more events have had a negative affect on the estimated future cash flows of that asset.

An impairment loss, in respect of a financial asset measured at amortised cost, is calculated as the difference between its carrying amount, and the present value of the estimated future cash flows discounted at the original effective interest rate.

All impairment losses are recognised in the Statement of Comprehensive Income.

An impairment loss is reversed if the reversal can be related objectively to an event occurring after the impairment loss was recognised. For financial assets measured at amortised cost, the reversal is recognised in profit or loss.

(c) Impairment – Non-financial assets

All non-financial assets are assessed to determine whether any impairment exists. Impairment exists when the recoverable amount of an asset is less than its carrying amount. Recoverable amount is the higher of fair value less costs to sell and value in use. The Board's assets are not used for the purpose of generating cash flows, therefore value in use is based on depreciated replacement cost where the asset would be replaced if deprived of it.

All impairment losses are recognised in Statement of Comprehensive Income. Impairment losses recognised in prior periods are assessed at each reporting date for any indications that the loss has decreased or no longer exists. An impairment loss is reversed if there has been a change in the estimates used to determine the recoverable amount. An impairment loss is reversed only to the extent that the asset's carrying amount does not exceed the carrying amount that would have been determined, net of depreciation or amortisation, if no impairment loss had been recognised.

(d) Other Expenses and Supplies & Consumables

Other expenses from ordinary activities, supplies and consumables are recognised when it is probable that the consumption or loss of future economic benefits resulting in a reduction of assets or an increase in liabilities has occurred and can be reliably measured.

(e) Depreciation and amortisation

All applicable non-financial assets having a limited useful life are systematically depreciated over their useful lives in a manner which reflects the consumption of their service potential.

Depreciation is provided for on a straight line basis, using rates which are reviewed annually. Major depreciation rates are as follows:

Plant & equipment: 20%

Office improvements: 20%

All intangible assets having a limited useful life are systematically amortised over their useful lives reflecting the pattern in which the asset's future economic benefits are expected to be consumed by the Board.

Major amortisation rates are:

Software: 25%

1.7 Assets

Assets are recognised in the Statement of Financial Position when it is probable that the future economic benefits will flow to the Board and the asset has a cost or value that can be measured reliably.

(a) Cash and Cash equivalents

Cash means notes, coins, any deposits held at call with a bank or financial institution. Deposits are recognised at amortised cost, being their face value.

(b) Receivables

Receivables are recognised at amortised cost, less any impairment losses, however, due to the short settlement period, receivables are not discounted back to their present value.

(c) Intangible assets

An intangible asset is recognised where:

- it is probable that an expected future benefit attributable to the asset will flow to the Board; and
- the cost of the asset can be reliably measured.

The costs in respect to the Boards Case Management System are valued at cost.

(d) Office improvements, plant and equipment

(i) Valuation basis

Office improvements, plant and equipment is valued at historic cost less accumulated depreciation and accumulated impairment losses (where relevant).

Cost includes expenditure that is directly attributable to the acquisition of the asset.

When parts of an item of office improvements, plant and equipment have different useful lives, they are accounted for as separate items (major components) of office improvements, plant and equipment.

(ii) Subsequent costs

The cost of replacing part of an item of office improvements, plant and equipment is recognised in the carrying amount of the item if it is probable that the future economic benefits embodied within the part will flow to the Board and its costs can be measured reliably. The carrying amount of the replaced part is derecognised. The costs of day-to-day servicing of office improvements, plant and equipment are recognised in profit or loss as incurred.

(iii) Asset recognition threshold

The asset capitalisation threshold adopted by the Board is \$5,000. Assets valued at less than \$5,000 are charged to the Statement of Comprehensive Income in the year of purchase (other than where they form part of a group of similar items which are material in total).

1.8 Liabilities

Liabilities are recognised in the Statement of Financial Position when it is probable that an outflow of resources embodying economic benefits will result from the settlement of a present obligation and the amount at which the settlement will take place can be measured reliably.

(a) Payables

Payables, including goods received and services incurred but not yet invoiced, are recognised at amortised cost, which due to the short settlement period, equates to face value, when the Board becomes obliged to make future payments as a result of a purchase of assets or services.

(b) Employee Benefits

Liabilities for wages and salaries and annual leave are recognised when an employee becomes entitled to receive a benefit. Those liabilities expected to be realised within 12 months are measured as the amount expected to be paid. Other employee entitlements are measured as the present value of the benefit at 30 June 2010, where the impact of discounting is material, and at the amount expected to be paid if discounting is not material.

A liability for long service leave is recognised, and is measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date.

(c) Superannuation

The Board does not recognise a liability for the accruing superannuation benefits of Board employees. This liability is held centrally and is recognised within the Finance-General Division of the Department of Treasury and Finance.

1.9 Leases

The Board has entered into a number of operating lease agreements for property, plant and equipment, where the lessors effectively retain all the risks and benefits incidental to ownership of the items leased. Equal instalments of lease payments are charged to the Statement of Comprehensive Income over the lease term, as this is representative of the pattern of benefits to be derived from the leased property.

The Board is prohibited by Treasurer's Instruction 502 *Leases* from holding finance leases.

1.10 Judgements and Assumptions

In the application of Australian Accounting Standards, the Board is required to make judgements, 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 circumstances, the results of which form the basis of making the judgements. 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.

Judgements made by the Board that have significant effects on the financial statements are disclosed in the relevant notes to the financial statements.

The Board has made no assumptions concerning the future that may cause a material adjustment to the carrying amounts of assets and liabilities within the next reporting period.

1.11 Budget Information

Budget information is not prepared for the Board and accordingly, it is unable to disclose budget information for the 2009/2010 financial year.

1.12 Rounding

All amounts in the Financial Statements have been rounded to the nearest thousand dollars, unless otherwise stated. Where the result of expressing amounts to the nearest thousand dollars would result in an amount of zero, the financial statement will contain a note expressing the amount to the nearest whole dollar.

1.13 Taxation

The Board is exempt from all forms of taxation except Fringe Benefits Tax and GST. All taxation issues are managed by the Department of Justice on the Board's behalf.

1.14 Goods and Services Tax

Revenue, expenses and assets are recognised net of the amount of Goods and Services Tax, except where the GST incurred is not recoverable from the Australian Taxation Office. Receivables and payables are stated inclusive of GST. The net amount recoverable, or payable, to the ATO is recognised as an asset or liability within the Statement of Financial Position.

In the Cash Flow Statement, the GST component of cash flows arising from operating, investing or financing activities which is recoverable from, or payable to, the Australian Taxation Office is, in accordance with the Australian Accounting Standards, classified as operating cash flows.

Note 2 Events Occurring After Balance Date

There have been no events subsequent to the balance date which would have a material effect of the Board's Financial Statements as at 30 June 2010.

Note 3 Income

3.1 Solicitor's Guarantee Fund

	31 Dec 2008	
	30 June 2010	to 30 June 2009
	\$'000	\$'000
Solicitor's Guarantee Fund Revenue for 2008/2009	-	576
Solicitor's Guarantee Fund Revenue for 2009/2010	480	320
Total revenue from Solicitor's Guarantee Fund	480	896

3.2 Other Revenue

	31 Dec 2008	
	30 June 2010	to 30 June 2009
	\$'000	\$'000
Interest Revenue	19	2
Other Revenue	11	10
Total	30	12

Note 4 Expenses

4.1 Employee Benefits

	31 Dec 2008	
	30 June 2010	to 30 June 2009
	\$'000	\$'000
Wages and salaries (Staff)	286	160
Wages and salaries (Board members)	66	91
Superannuation – contribution scheme	36	22
Other employee expenses	6	3
Total	394	276

Superannuation expenses relating to defined benefits schemes relate to payments into the Superannuation Provision Account (SPA) held centrally and recognised within the Finance-General Division of the Department of Treasury and Finance. The amount of the payment is based on an employer contribution rate determined by the Treasurer, on the advice of the State Actuary. The current employer contribution is 11 per cent of salary.

Superannuation expenses relating to the contribution scheme are paid directly to the superannuation fund at a rate of nine per cent of salary. In addition, departments are also required to pay into the SPA a "gap" payment equivalent to two per cent of salary in respect of employees who are members of the contribution scheme.

4.2 Depreciation and Amortisation

	31 Dec 2008	
	30 June	to 30 June
	2010	2009
	\$'000	\$'000
Depreciation – office improvements and plant and equipment	20	6
Amortisation – software	1	1
Total	21	7

4.3 Supplies and Consumables

	31 Dec 2008	
	30 June	to 30 June
	2010	2009
	\$'000	\$'000
Audit fees	9	-
Operating leases	61	32
Consultants	50	14
Property expenses	28	17
Communications	9	5
Information technology	40	28
Travel and transport	4	5
Plant and Equipment	8	10
Other supplies and consumables	13	30
Total	222	141

4.4 Other Expenses

	31 Dec 2008	
	30 June	to 30 June
	2010	2009
	\$'000	\$'000
Legal costs	16	-
Other Expenses	14	16
Total	30	16

Note 5 Assets

5.1 Receivables

	2010	2009
	\$'000	\$'000
GST Receivables	16	12
Revenue from Solicitor's Guarantee Fund – 2009-10 funding	-	189
Other	1	-
Total	17	201
Settled within 12 months	17	201
Total	17	201

5.2 Intangible assets

	2010	2009
	\$'000	\$'000
Intangible assets		
Cost – case management system	4	4
Less Accumulated Amortisation	(1)	(1)
Total	3	3

Note: The software, acquired during 2008-09, is valued at cost and during 2009-10 the Board assessed the software as not being impaired. The software is being amortised over 4 years.

(a) Reconciliation of movements

	2010	2009
	\$'000	\$'000
Carrying amount at beginning of period	3	-
Additions – case management system	-	4
Amortisation expense	(1)	(1)
Carrying amount at 30 June	3¹	3

¹ Note that due to rounding, the closing carrying amount is still \$3,000.

5.3 Office improvements, plant and equipment

(a) Carrying amount

	2010	2009
	\$'000	\$'000
Office improvements		
At cost	65	60
Less: Accumulated amortisation	(14)	(2)
Total	51	58
Plant and equipment		
At cost	41	41
Less: Accumulated depreciation	(12)	(4)
Total	29	37
Total office improvements, plant and equipment	80	95

(b) Reconciliation of movements

Reconciliations of the carrying amounts of each class of Office improvements, plant and equipment are set out below. Carrying value means the net amount after deducting accumulated depreciation and accumulated impairment losses (if relevant).

2010	Office improvements \$'000	Plant & equipment \$'000	Total \$'000
Carrying value at beginning of the period	58	37	95
Additions	5	-	5
Disposals	-	-	-
Depreciation	(12)	(8)	(20)
Carrying value at 30 June	51	29	80
<hr/>			
2009	Office improvements \$'000	Plant & equipment \$'000	Total \$'000
Carrying value at beginning of the period	-	-	-
Additions	60	41	101
Disposals	-	-	-
Depreciation	(2)	(4)	(6)
Carrying value at 30 June	58	37	95

Note 6 Liabilities

6.1 Payables

	2010	2009
	\$'000	\$'000
Payables	13	529
Other accrued expenses	5	4
Total	18	533
Settled within 12 months	18	533
Total	18	533

Settlement is usually made within 30 days. In 2008-09 Payables comprised amounts due to the Department of Justice who funded the Board's activities during that period. This included \$101,000 for items capitalised into office improvements, plant & equipment.

6.2 Employee Benefits

	2010	2009
	\$'000	\$'000
Accrued salaries	10	6
Annual leave	19	12
Long service leave	5	2
Total	34	20
Settled within 12 months	24	18
Settled in more than 12 months	10	2
Total	34	20

Note 7 Cash Flow Reconciliation

7.1 Cash and Cash Equivalents

	2010	2009
	\$'000	\$'000
Operating Account	263	719
Total cash and cash equivalents	263	719

7.2 Reconciliation of Operating Surplus to Net Cash used by Operating Activities

	30 June 2010 \$'000	31 Dec 2008 to 30 June 2009 \$'000
Net operating surplus (deficit)	(157)	468
Non-cash items		
Depreciation and amortisation	21	7
Movements in operating assets		
(Increase) / Decrease in Receivables	184	(201)
(Increase) / Decrease in Prepayments	3	(3)
Increase / (Decrease) in Employee benefits	14	20
Increase / (Decrease) in Payables	(410)	428
Net cash generated from operating activities	(345)	719

7.3 Financing Facilities

	2010 \$'000	2009 \$'000
Tas Government Card - Credit card facility		
Amount used	-	-
Amount unused	2	10
Total	2	10

Note 8 Financial Instruments

8.1 Risk exposures

(a) Risk management policies

The Board has exposure to liquidity risk from its use of financial instruments.

The Chairman has overall responsibility for the establishment and oversight of the Board's risk management framework. Risk management policies are established to identify and analyse risks faced by the Board, to set appropriate risk limits and controls, and to monitor risks and adherence to limits. The Board's funding is legislated and therefore the Board does not have any material exposure to credit risk. The Board currently has no material exposure to market risks.

(b) Liquidity risk

Liquidity risk is the risk that the Board will not be able to meet its financial obligations as they fall due. The Board's approach to managing liquidity is to ensure that it will always have sufficient liquidity to meet its liabilities when they fall due.

Financial Instrument	Accounting and strategic policies (including recognition criteria and measurement basis)	Nature of underlying instrument (including significant terms and conditions affecting the amount. Timing and certainty of cash flows)
Financial Liabilities		
Payables	Payables are recognised at amortised cost, which due to the short settlement period, equates to face value, when the Board becomes obliged to make future payments as a result of a purchase of assets or services.	Payables, including goods received and services incurred but not yet invoiced arise when the Board becomes obliged to make future payments as a result of a purchase of assets or services. The Board's terms of trade are 30 days.

Monitoring of expenditure against budget is undertaken by the Board on an ongoing basis.

The following tables detail the undiscounted cash flows payable by the Board by remaining contractual maturity for its financial liabilities. It should be noted that as these are undiscounted, totals may not reconcile to the carrying amounts presented in the Statement of Financial Position:

2010

	Maturity analysis for financial liabilities		
	1 Year	Undiscounted Total	Carrying Amount
Financial liabilities			
Payables	18	18	18
Total	18	18	18

2009

	Maturity analysis for financial liabilities		
	1 Year	Undiscounted Total	Carrying Amount
Financial liabilities			
Payables	533	533	533
Total	533	533	533

8.2 Categories of Financial Assets and Liabilities

	2010 \$'000	2009 \$'000
Financial assets		
Cash and cash equivalents	263	719
Receivables	17	201
Total	280	920
Financial Liabilities		
Payables	13	529
Other accrued expenses	5	4
Total	18	533

8.3 Net Fair Values of Financial Assets and Liabilities

2010

	Carrying Amount 2010 \$'000	Net Fair Value 2010 \$'000	Carrying Amount 2009 \$'000	Net Fair Value 2009 \$'000
Financial assets				
Cash and cash equivalents	263	263	719	719
Receivables	17	17	201	201
Total financial assets	280	280	920	920
Financial liabilities				
Payables	13	13	529	529
Other accrued expenses	5	5	4	4
Total financial liabilities	18	18	533	533

The Board does not have any financial assets or financial liabilities carried at fair value through the profit and loss or any available for sale financial assets.

Financial Assets

The net fair values of Cash and cash equivalents and Receivables approximate their carrying amounts as this is the amount the Board expects to be able to settle on these items.

Financial Liabilities

The net fair values for Payables and Other accrued expenses approximate their carrying amounts as this is the amount the Board expects to be able to settle on these items.

Note 9 Schedule of Commitments

	2010	2009
	\$'000	\$'000
By type		
<i>Lease Commitments</i>		
Operating leases	506	562
<i>Total lease commitments</i>	506	562
By maturity		
<i>Operating lease commitments</i>		
One year or less	61	63
From one to five years	233	227
Greater than five years	212	272
<i>Total operating lease commitments</i>	506	562

Note: The Operating Lease commitments include buildings, car park and motor vehicles.

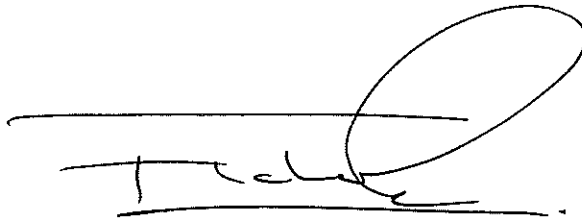
Statement by Chairman and Principal Accounting Officer

The accompanying Financial Statements of the Legal Profession Board of Tasmania are in agreement with the relevant accounts and records and have been prepared in compliance with Treasurer's Instructions issued under the provision of the *Financial Management and Audit Act 1990* and Section 599 of the *Legal Profession Act 2007* to present fairly the financial transactions for the period ended 30 June 2010 and the financial position as at the end of the year.

At the date of signing, I am not aware of any circumstances which would render the particulars included in the financial statements misleading or inaccurate.



William Bale
CHAIRMAN



Frank Ederle
EXECUTIVE OFFICER