



LEGAL  
PROFESSION  
BOARD OF  
TASMANIA

# ANNUAL REPORT 2011 -2012

*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: CHAIRPERSON'S REPORT

The following report provides a summary of the activities of the Board in the reporting period and highlights a number of achievements that have been attained within the financial year ending on 30 June 2012.

### THE WORKLOAD OF THE BOARD

#### Complaints and Investigations:

Complaint handling and complaint investigations are the core activities of the Board and consume the majority of the Board's resources. The number of complaints received during the course of the reporting period, together with those complaints that remained unfinalised as at 30 June 2011, totalled 168.

The Board brought 99 complaints to finality within the reporting period, which was a 32% increase over the previous period's result of 75 finalised complaints. I am pleased to report that the Board was able to reduce its backlog of complaints significantly. At the end of this reporting period the balance of all complaints on hand was 69 matters compared with last year's total of 104.

Further in-depth commentary in relation to the complaints and investigations statistical information can be found in Part 3 of this report.

I pause here to note the hard work and dedication of all Board Members and employees in achieving this year's clearance results. Board Members have also asked me to make special note in this year's report of the quality and attention to detail provided by the Board's Officers and support staff in their reports and advice provided to the Board in relation to complaint investigations.

#### Mediation:

The Board remains committed to the early resolution of complaints in appropriate circumstances. Since the commencement of operations in early 2009, it has been the strategy of the Board to endeavour, where appropriate and in accordance with the Act, to achieve resolution of complaints against legal practitioners via mediation. It is again with satisfaction that I am able to report that the Board has had continued success in this area, with one quarter of all finalised complaints having been resolved within the reporting period through the mediatory intervention by the Board, either prior to or during an investigation.

The mediation process is only available in relation to less serious matters of complaint.

#### Meetings and Determinations of the Board:

The Board convened 14 complaints-specific meetings during the reporting period. This has been a modest reduction of 2 meetings from the previous reporting period as the Board, where possible, continues to combine its administrative meetings with complaints meetings in an effort to reduce time and costs.

The Board is obliged to provide to the complainant, the practitioner and the Law Society a written determination and reasons following its decision finalising a complaint. The Board produced 69

written complaint determinations and reasons during the reporting period, which represented a 53% increase compared to last financial year. The writing of determinations and associated research can be an extremely time-consuming task for Board members, and is necessarily undertaken outside of meeting times.

#### Board Performance Review:

Whilst not specifically mandated by the Act, the Board instituted in the reporting period a formal annual process to review its performance and effectiveness in the interests of good governance.

This year's review encompassed the Board's operation as a whole; members' individual contributions; conduct of meetings; and the Board's relationship with management. The scope of the Board's Performance Review will be extended in coming years to cover other Board processes and the Board's wider relationship with both management and stakeholders.

As part of the review each member was required to complete a questionnaire, which remained confidential to encourage frank and constructive responses. This year's review revealed that a key issue for members was the urgent need for action by government in relation to the Board's previously proposed list of amendments to the *Legal Profession Act 2007*.

#### Amendments to the *Legal Profession Act 2007*:

Section 591 (h) of the Act provides that the Board is to advise the Minister on any matters relating to the Act. In previous reporting periods, the Board provided to the Minister a list of proposed amendments to the Act and maintains an up to date and expanding list of proposed changes.

The Board has been informed that a process of consultation between the Department of Justice and relevant stakeholders will commence in the near future in an effort to crystallise all of the necessary changes to the Act. The Board encourages the commencement of this process as soon as possible.

#### Public Education:

One of the Board's functions relates to providing education and advice to the Tasmanian community relating to client-lawyer relationships. The Board has, over the course of the reporting period, again focused its community educative role on dealing comprehensively with the community's enquiries when contact is made with the Board. 325 such enquiries were made in the reporting period and the Board's officers have dedicated substantial time per enquiry by way of assistance to the public in developing their understanding of the legal and complaints processes as well as addressing their substantive issues regarding their legal representative or legal matter. In the majority of cases, the Board's officers attempt to provide, for each enquirer, guidance on how to manage their relationship with their respective legal representatives and to provide assistance generally on the legal process.

In my previous report, I indicated that the Board's Executive Officer was aiming to organise the delivery of a series of presentations to the wider community as part of the Board's educative function. I am pleased to now report that a significant relationship has been established with LINC Tasmania, an organisation which brings together the services of the State Library of Tasmania, Adult Education and Online Access Centres. The Board has, in conjunction with LINC Tasmania, confirmed that a number of educative sessions will be delivered on a state-wide basis in the coming financial year that will further fulfil the Board's community educative obligations under the Act.

### Other statutory functions of the Board

The Board continued in the reporting period to delegate to the Law Society its statutory function regarding the maintaining of the register of names of Australian lawyers to whom the Law Society grants local practising certificates as well as the register of names of locally registered foreign lawyers.

The Board has not, within the reporting period, been called upon to approve any new courses of continuing legal education, nor to approve terms and conditions of professional indemnity insurance policies.

### **STRATEGIC DIRECTION**

The Board will continue to focus on its core activities being the handling and investigation of complaints against legal practitioners and its educative and advisory roles with regard to the community and legal profession.

The Board notes that almost all of the more serious complaints that were received prior to the current reporting period have now been thoroughly investigated and have proceeded to the formal prosecution stage before either the Disciplinary Tribunal or Supreme Court. I particularly note that one practitioner was struck from the local roll within the reporting period as a result of the Board's investigation and subsequent prosecution.

The Board's focus in the coming reporting period will necessarily include the effective prosecution of matters which warrant such a course in order to ensure the good reputation of the legal profession prospers and that public confidence in the integrity of the legal profession is enhanced.

I again thank the members of the Board for their significant contribution generally to the work of the Board throughout the reporting period. On their behalf I gratefully acknowledge also the work of all the employees of the Board, whose professionalism and dedication are pivotal to the ongoing efficiency and effectiveness of the Board.



**William Bale QC**  
Chairperson, Legal Profession Board of Tasmania

## **PART TWO: THE LEGAL PROFESSION BOARD OF TASMANIA**

### **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, where appropriate, 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 the 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.

### **THE PURPOSE OF THE DISCIPLINARY PROVISIONS**

The Board exercises its functions under section 591 of the Act with the following aims in mind:

- 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 BOARD MEMBERS

The Board is the 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.

### Chairperson of the Board:

*Mr William Bale QC* is the inaugural Chairperson of the Board since July 2009. 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*, an inaugural member of the Board, 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*, an inaugural member of the Board, 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.

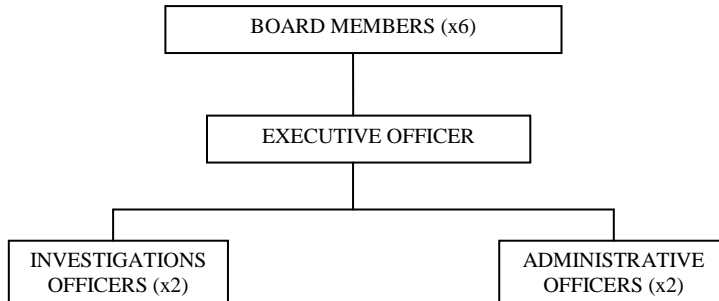
### Legal Members:

*Mr David Bessell*, an inaugural member of the Board, is a senior legal practitioner who retired in 2007 from his position as senior partner in a prominent Hobart legal firm. Mr Bessell held the position of Chairperson of the Board from 8 March 2011 to 9 August 2011.

*Mr John Upcher*, an inaugural member of the Board, is an experienced legal practitioner who was formerly the senior partner of a prominent Hobart legal firm. He is also Chairman of the Property Agents Board.

*Mr Duncan Fairley* is a partner in a prominent North West Coast legal firm and has been a past President of the Tasmanian Bar Association. Mr Fairley is a member of the Mental Health Tribunal and was appointed to the Board on 18 May 2010 to fill a casual vacancy.

## ORGANISATIONAL CHART



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

The Board also retains the services of external Counsel when prosecuting practitioners in either the Disciplinary Tribunal or Supreme Court.

## THE VISION OF THE BOARD

The Board, through its statutory functions, aims to assist the legal profession in Tasmania to meet the highest standards of propriety and efficiency and to give effective redress to members of the public adversely affected by any shortfall in meeting those standards. To this end, the Board seeks to maintain a complaints handling process which is as good as or better than any other in the nation.

## 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 2011 to 30 June 2012.

### COMPLAINT HANDLING

#### COMPLAINT ENQUIRIES:

Table 1: Number of complaint enquiries received from 1 July 2011 to 30 June 2012

Month	Enquiries by phone	Enquiries in person	Enquiries by email	Enquiries by letter	Total Enquiries 2012	Total Enquiries 2011
Jul-11	18		1		19	31
Aug-11	28	2		1	31	24
Sep-11	19	2	1		22	18
Oct-11	21		4	2	27	26
Nov-11	27	1			28	34
Dec-11	14	1	3		18	15
Jan-12	31	2	2	2	37	22
Feb-12	29	2	1	1	33	27
Mar-12	29		4		33	29
Apr-12	17	1	3		21	13
May-12	26	1	3		30	31
Jun-12	21		4	1	26	24
<b>Total Enquiries</b>	<b>280</b>	<b>12</b>	<b>26</b>	<b>7</b>	<b>325</b>	<b>294</b>

Dealing with complaint enquiries represents a significant part of the Board's overall workload. The table above shows that the Board has dealt with a total of 325 enquiries for the reporting period, representing a small increase of 10%, or 31 enquiries, in comparison to last financial year. The number of enquiries has remained, in the main, constant since the Board commenced operations.

The Board records the total time spent per enquiry throughout the period. The time spent dealing with each enquiry for the reporting period was on average 19 minutes per enquiry.



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. Not all enquiries to the Board involve a person who is experiencing difficulties with their legal representative. The Board on occasion receives enquiries that are required to be referred for independent legal advice or other appropriate action.

A total of 21 enquiries in the reporting period resulted in a written complaint. This represents a conversion rate of 6.5%, and is a reduction of 16 complaint enquiry conversions when compared to the same period last year.

The majority (86%) 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 issues in person should they wish to.

The majority of all enquiries made to the Board relate to Family Law and Probate/Estate matters.

## WRITTEN COMPLAINTS

Table 2: Number of written complaints received from 1 July 2011 to 30 June 2012

Month	Complaints Received 2011/12	Complaints Received 2010/11	Variance 2011/12 – 2010/11
July	9	3	6
August	12	11	1
September	8	9	<1>
October	4	13	<9>
November	7	5	2
December	1	6	<5>
January	3	7	<4>
February	4	6	<2>
March	5	7	<2>
April	3	11	<8>
May	6	13	<7>
June	2	12	<10>
<b>Total Complaints</b>	<b>64</b>	<b>103</b>	<b>&lt;39&gt;</b>

A complaint may be made about the conduct of an Australian legal practitioner by any person. For the Board to be able to deal with a complaint, it must be in writing. The Board takes all reasonable steps to ensure that any person wishing to make a written 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 to specifically identify the conduct that is alleged to have occurred. Once the complaint has been appropriately particularised by the complainant, 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. All relevant information is collated and reviewed by one of the Board's officers and a report prepared. The report, together with all relevant material, is then considered by the Board. The complaint then either proceeds to the investigation phase, or is summarily dismissed.

This statutory preliminary process prior to investigation of a complaint commencing, or the complaint being summarily dismissed, can take several months in order to satisfy the statutory requirement for transparency and procedural fairness to both the complainant and practitioner.

The Board received a total of 64 complaints in the reporting period, compared with 103 complaints for 2010/11 reporting period. This represented a decrease of 39 complaints or 37%. As can be seen from Table 2 above, the number of complaints received by the Board commenced retracting from approximately January 2012. It is too early to predict whether the decrease in complaints represents an ongoing trend or simply an isolated abnormality. It may be that the reduction in the number of complaints relating to relevantly minor matters is in part due to the Board's good offices in assisting to resolve issues at the enquiry stage. The Board will continue to monitor any continuing trends closely.

**Table 3: Complaints carried forward at 1 July 2011**

Complaints	Carried forward as at 1 July 2011	%
Complaints under investigation	35	34%
Unfinalised complaints pending (not yet under investigation or awaiting hearing) as at 30 June 2011	69	66%
<b>Total Complaints carried forward as at 1 July 2011</b>	<b>104</b>	<b>100%</b>

In addition to the 64 complaints received in the reporting period, the Board's workload involved continuing to deal with a further 104 complaints carried forward from the 2010/11 period, which included; complaints under investigation; complaints which had been referred for hearing to either the Board or Disciplinary Tribunal; and complaints being dealt with in accordance with the preliminary statutory process prior to an investigation having been commenced.

Table 4: Principal allegations against legal practitioners

Principal Allegation	2011/12 Complaints	2011/12 %	2010/11 Complaints	2010/11 %
<i>Abuse of position as a legal practitioner</i>	0	0%	3	3%
<i>Abusive/Rude/Threat</i>	2	3%	11	11%
<i>Breach of Act, rules, court order or undertaking</i>	2	3%	6	6%
<i>Communication with client - including failure to communicate</i>	1	2%	0	0%
<i>Confidentiality breach</i>	2	3%	0	0%
<i>Conflict of interest</i>	0	0%	9	9%
<i>Costs/Bills/Fees/Overcharging</i>	17	26%	17	16%
<i>Court performance</i>	6	9%	2	2%
<i>Delay</i>	5	8%	7	7%
<i>Dishonest/Misleading (including misleading the Court)</i>	10	16%	11	11%
<i>Instructions - failure to act or to comply</i>	10	16%	16	15%
<i>Instructions - acting without instructions</i>	2	3%	3	3%
<i>Negligence - including poorly handling of case</i>	7	11%	14	13%
<i>Trust money - including failure to account</i>	0	0%	4	4%
<b>Totals</b>	<b>64</b>	<b>100%</b>	<b>103</b>	<b>100%</b>

A complaint may include any number of allegations against a legal practitioner or law firm. If a complainant is not able to clearly describe the specific matters of complaint 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.

Table 4 (above) identifies the principal allegation for each complaint received in the reporting period. Where a complaint included more than one allegation, only the principal allegation is the one identified.

As can be seen from Table 4, allegations relating to costs, failing to act or comply with legal instruction and dishonesty/misleading conduct comprised the majority (58%) of all complaint allegations received by the Board in the reporting period.

Notably, the proportion of allegations relating to costs and dishonesty/misleading conduct significantly increased within the reporting period in comparison to the previous reporting period.

Table 5: Area of law to which complaints related

Area of the Law	2011/12 Complaints	2011/12 %	2010/11 Complaints	2010/11 %
<i>Administrative</i>	4	6%	0	0%
<i>Anti-discrimination</i>	0	0%	2	2%
<i>Building</i>	0	0%	1	1%
<i>Commercial/Contract</i>	7	11%	25	24%
<i>Commonwealth/Constitutional</i>	1	2%	2	2%
<i>Conveyancing</i>	8	13%	9	9%
<i>Criminal</i>	4	6%	8	7%
<i>Debt collection</i>	1	2%	1	1%
<i>Family/defacto</i>	21	32%	28	27%
<i>Industrial relations</i>	0	0%	1	1%
<i>Personal injury</i>	0	0%	8	8%
<i>Probate/estate/wills</i>	12	19%	11	11%
<i>Workers' compensation</i>	2	3%	2	2%
<i>Restraint Orders</i>	4	6%	0	0%
<i>Other</i>	0	0%	5	5%
<b>Total</b>	<b>64</b>	<b>100%</b>	<b>103</b>	<b>100%</b>

Table 5 indicates that the area of law most often involved in complaints received by the Board in the reporting period was Family Law, which constituted nearly a third of all complaints made. This is consistent with previous reporting periods and complaint data across comparable Australian jurisdictions from previous years.

The areas of law also highly represented in the reporting period were Probate/Estate and Conveyancing matters.

Table 6: Complainant's profile (region &amp; gender)

MALE/FEMALE	2011/12 No. Complainants	%	2010/11 No. Complainants	%
<i>Male</i>	31	48%	55	53%
<i>Female</i>	32	50%	46	45%
<i>Complaints made by the Board</i>	1	2%	2	2%
<b>Total</b>	<b>64</b>	<b>100%</b>	<b>103</b>	<b>100%</b>

COMPLAINTS BY REGION	2011/12 No. Complainants	%	2010/11 No. Complainants	%
<i>South</i>	37	58%	61	59%
<i>North</i>	13	20%	16	16%
<i>North West</i>	8	12%	8	8%
<i>Interstate/International</i>	6	10%	18	17%
<b>Total</b>	<b>64</b>	<b>100%</b>	<b>103</b>	<b>100%</b>

Table 6 suggests a small shift in the regional origin of complaints received by the Board in the reporting period. The North and North West of the State represented 32% of all complaints received, being an increase of 6% from the previous reporting period. The Board will continue to monitor this trend with a view to establishing whether it indicates a need to actively develop its educative role within these regions.

The gender profile of complainants has remained essentially even and consistent since the Board commenced its operations in 2009.

As a result of the ever-increasing popularity of the internet, the Board is able to effectively deal with complaints made to it by people residing outside of Tasmania. In the reporting period, 6 complaints were received by the Board from either interstate or overseas complainants.

During the investigation of a complaint, the investigator may become aware of facts which the investigator thinks may constitute unsatisfactory professional conduct or professional misconduct not already the subject of a complaint. In such a case, the investigator must refer the matter to the Board to consider whether disciplinary action should be taken. Further, circumstances may arise where a practitioner may fail to comply with a direction 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 1 “own motion complaint” against a practitioner.

## INVESTIGATIONS

Table 7: Investigations commenced and finalised from 1 July 2011 to 30 June 2012

Month	Investigations Commenced 2011/12	Investigations Completed 2011/12	Investigations Commenced 2010/11	Investigations Completed 2010/11
July	3	1	1	1
August	8	6	6	6
September	4	3	1	2
October	9	6	8	4
November	4	6	6	7
December	6	3	2	4
January	4	4	13	1
February	0	3	3	1
March	3	2	3	2
April	0	4	3	0
May	2	4	3	2
June	0	4	4	4
<b>Total</b>	<b>43</b>	<b>46</b>	<b>53</b>	<b>34</b>

Table 7 shows that a total of 43 investigations were commenced in the reporting period, or an average of 3.6 investigations commenced per calendar month. This was a decrease of 10 investigations commenced from the previous reporting period. The decrease is attributable to the overall decrease in complaints received within the reporting period.

46 investigations were completed within the reporting period, representing an increase of 12 investigations compared to the previous reporting period. The investigation clearance rate for the reporting period was 107%. The Board therefore, in the reporting period, was able to reduce its backlog of investigations.

Table 8: Complexity of investigations

Category of Investigation	Investigation Criteria	Investigations Commenced 2011/12	%	Investigations Commenced 2010/11	%
<i>Simple</i>	Basic investigation, low volume of documentary evidence, no witness or 3rd party involvement	11	26%	18	33%
<i>Intermediate</i>	Medium volume of documentary evidence, single witness or 3rd party involvement	22	51%	18	33%
<i>Complex</i>	Multiple witnesses, significant volume of evidence	7	16%	11	22%
<i>Very Complex</i>	High volume of evidence, multiple witnesses, interaction with commercial entities	3	7%	6	12%
<b>Total</b>		<b>43</b>	<b>100%</b>	<b>53</b>	<b>100%</b>

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 dependant on such matters as the willingness of the parties to resolve the complaint via mediation (if appropriate), and the Investigations Officer's ability to readily access information held by either the practitioner or complainant.

In the reporting period to 30 June 2011, the Board classified nearly one quarter (23%) of all investigations commenced in the period as either complex or very complex.

## FINALISATIONS AND OUTCOMES

Table 9: Complaints finalised and method of finalisation from 1 July 2011 to 30 June 2012

Method of Finalisation	Relevant Section of Act	Description	Number Finalised 2011/12	% finalised compared to total finalisations	Number Finalised 2010/11
<b><u>Finalisations Prior To An Investigation:</u></b>					
<i>Summarily dismissed</i>	s.433 (1) (a)	<i>Complaint lacking in substance, vexatious, misconceived or frivolous</i>	22	22%	13
<i>Summarily dismissed</i>	s.433 (1) (e)	<i>Complaint is not one that the Board has the power to deal with</i>	5	5%	0
<i>Summarily dismissed</i>	s.433 (1) (b)	<i>Complaint made more than 6 years after the conduct is alleged to have occurred</i>	2	2%	4
<i>Summarily dismissed</i>	s.433 (2) (a)	<i>Further information not given or complaint not verified</i>	1	1%	0
<i>Summarily dismissed</i>	s.433 (3)	<i>Complaint requires no further investigation</i>	3	3%	0
<i>Withdrawal</i>	s.434	<i>Complaint withdrawn by complainant prior to an investigation</i>	20	21%	19
<b>Sub Total</b>			<b>53</b>	<b>54%</b>	<b>36</b>
<b><u>Finalisations Following An Investigation:</u></b>					
<i>Dismissed following an investigation</i>	s.451 (a)	<i>No reasonable likelihood that the practitioner will be found guilty</i>	27	27%	13
<i>Dismissed following an investigation</i>	s.433 (3)	<i>Complaint requires no further investigation</i>	1	1%	3
<i>Dismissed following an investigation</i>	s.433 (4)	<i>No public interest to continue</i>	1	1%	0
<i>Withdrawal</i>	s.434	<i>Complaint withdrawn (after mediation) following an investigation</i>	5	5%	12
<b>Sub Total</b>			<b>34</b>	<b>34%</b>	<b>28</b>



Method of Finalisation	Relevant Section of Act	Description	Number Finalised 2011/12	% finalised compared to total finalisations	Number Finalised 2010/11
<b><u>Finalisations Following a Hearing/Meeting of the Board:</u></b>					
<i>Practitioner found guilty of unsatisfactory professional conduct</i>	s.456 (7) (a)	<i>Practitioner cautioned or reprimanded</i>	2	2%	0
<i>Practitioner found guilty of unsatisfactory professional conduct</i>	s.456 (7) (a)	<i>Practitioner required to make an apology</i>	0	0%	5
<i>Complaint dismissed</i>	s.456 (6)	<i>Matter not substantiated</i>	0	0%	1
<i>Complaint dismissed</i>	s.451 (a)	<i>No reasonable likelihood that the practitioner will be found guilty</i>	0	0%	1
<i>Withdrawal</i>	s.434	<i>Complaint withdrawn (following mediation)</i>	0	0%	1
<i>Practitioner found guilty of unsatisfactory professional conduct</i>	s.454 (2)	<i>Practitioner admonished, fined &amp; required to pay costs</i>	1	1%	1
<b>Sub Total</b>			3	3%	9
<b><u>Finalisations Following a Hearing of the Disciplinary Tribunal:</u></b>					
<i>Practitioner found guilty of professional misconduct</i>	s.471 (a)	<i>Recommendation that the Supreme Court remove the practitioner's name from the local role</i>	7	7%	0
<i>Practitioner found guilty of professional misconduct</i>	s.471 (e)	<i>Practitioner reprimanded</i>	1	1%	0
<i>Practitioner found guilty of professional misconduct</i>	s.471 (b)	<i>Practitioner's practicing certificate suspended</i>	0	0%	1
<i>Practitioner found guilty of professional misconduct</i>	s.473 (a)	<i>Practitioner to pay fine</i>	0	0%	1
<i>Dismissal of complaint</i>	s.466 (7) (c)	<i>Complaint dismissed</i>	1	1%	0
<b>Sub Total</b>			9	9%	2
<b>TOTAL FINALISATIONS</b>			99	100%	75

### Finalisations:

Table 9 shows that the Board finalised a total of 99 complaints for the reporting period to 30 June 2012, which was an increase from the previous reporting period of 24 complaints or 32%. The majority (54%) of those finalisations occurred prior to an investigation having commenced and involved complaints which were either summarily dismissed or withdrawn by the complainant.

A total of 34 complaints were finalised by the Board following an investigation which was an increase from the previous reporting period of 6 complaints or 21%. The majority of these finalisations (27) were dismissals 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 professional conduct or professional misconduct.

### Clearance Rate:

The Board received 64 complaints within the reporting period and finalised a total of 99 complaints to 30 June 2012. The clearance rate achieved for the reporting period was therefore 154.7%. The Board was able to successfully reduce the backlog of complaints, which should result in a more rapid disposition of complaints received in the coming financial year.

### Outcome of Disciplinary action:

The Board commenced and completed 3 individual hearings (either by way of formal hearing or procedure for less serious complaints (section 456 meeting) in the reporting period.

Each of the 3 complaints the Board dealt with at hearing resulted in the practitioner being found guilty of unsatisfactory professional conduct.

The Board also brought 9 complaints (7 relating to one practitioner) to finality by way of application to the Disciplinary Tribunal. Of those 9 complaints, one practitioner was ultimately struck from the local roll by the Supreme Court and one practitioner was reprimanded by the Disciplinary Tribunal.

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

Complaints Referred	Section of Act	Referred 2011/12	Referred 2010/11
Board Meeting (s.456 procedure for less serious complaint)	s.450 (b)	9	7
Board Hearing	s.450 (a)	5	4
Disciplinary Tribunal	s. 450 (c) (d)	7	16
Supreme Court	s.450 (e)	1	0
<b>Total Complaints Referred</b>		<b>22</b>	<b>27</b>

At the conclusion of a complaint investigation, the Board may hold a formal hearing (s.453); 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. Table 10 shows that the Board referred, or resolved to refer for hearing, a total of 22 complaints.

**Table 11: Number of pending complaints as at 30 June 2012**

Complaint Source	2011/12
Unfinalised complaints under investigation as at 30 June 2011	35
Unfinalised complaints pending (not yet under investigation or awaiting hearing) as at 30 June 2011	69
<b>Sub total Pending Complaints as at 30 June 2011</b>	<b>104</b>
Complaints received 1 July 2011 to 30 June 2012	64
<b>Sub total complaints for current reporting period</b>	<b>168</b>
Finalised complaints 1 July 2011 to 30 June 2012	99
<b>Balance of complaints on hand as at 30 June 2012</b>	<b>69</b>

Table 11 above indicates that 69 complaints remain unfinalised as at 30 June 2012. That number included: 30 complaints under investigation; 22 complaints which have been referred for hearing to either the Board or Disciplinary Tribunal; and 17 complaints being dealt with in accordance with the preliminary statutory procedures.

## **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

2012

The Tribunal heard and determined three matters pursuant to the *Legal Profession Act 2007* during the reporting period. The Tribunal heard and dismissed three appeals from decisions of the Legal Profession Board. Twelve matters await hearing, five of which are against one practitioner. Eleven of these matters have been the subject of one or more directions hearings and one is a costs application for one of the completed matters. There are three appeals from decisions of the Legal Profession Board, two of which await final hearing and determination and the other requiring hearing and determination.

### MATTER A (*Warmbrunn*)

The Practitioner was found guilty of professional misconduct for failing to properly attend to matters on several files over a period of approximately three years.

The Tribunal:

- (a) recommended that the Supreme Court remove the Practitioner's name from the local roll
- (b) suspended the Practitioner's practising certificate pending decision of the Supreme Court

### MATTER B (*Henry*)

The Practitioner was found guilty of unsatisfactory professional conduct in that it was found the Practitioner had not properly advised a testatrix of the effect of a commission clause being inserted in her will in 2004 even though the practitioner had previously done so in earlier wills prepared by the practitioner for the testatrix. The practitioner had also initially demanded not to release the balance of the estate until a Deed of Release had been executed but in fact continued to release funds from the estate. The tribunal found that as the Practitioner had not been asked to do anything that he was not required to do by the will he therefore had no right to request such a release

The Practitioner was:

- (a) reprimanded
- (b) ordered to apply to the Supreme Court of Tasmania pursuant to the Administration and Probate Act 1935, s 64, for the fixing of costs, if any, payable to him as executor of the estate within 90 days of the order

- (c) ordered to notify the Board of the outcome of proceedings in order (b) or appeals within 30 days of such proceedings or appeals
- (d) ordered to pay the Board's costs of \$11,400.00

MATTER C (*Kimber*)

Two matters of complaint were brought against the Practitioner both of which were dismissed.

A handwritten signature in black ink, appearing to be 'H. H. H.', written in a cursive style.

.....  
Chairman

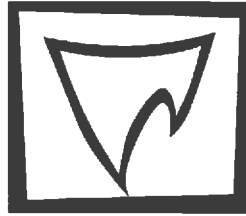
31 July 2012

## **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

31 July 2012

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*) for the period 1 July 2011 to 30 June 2012.

**Practising Certificates**

The following types and numbers of practising certificates were issued under the *Act* during the period 1 July 2011 to 30 June 2012:

- Principal – 205
- Employee – 223
- Barrister – 48
- Corporate – 19
- Locum - 11
- Community legal centre - 26

**Trust Account External Examinations**

External examinations were conducted on 34 law practices by the designated external examiner for the period ending 31 December 2011. The remaining 89 examinations are to be completed by 31 August 2012. Eleven firms did not operate trust accounts or were exempt from an examination.

**Appointment of Supervisor of Trust Money**

On 1 September 2011 the Society appointed David Pete Cordell as the supervisor of trust money of the law practice of Ritchie & Parker Alfred Green & Co pursuant to s525 of the *Act* for the period of one month to the 30 September 2011.

On 3 October 2011 Mr Cordell was re-appointed for the period 5 October 2011 to 4 November 2011.

On 5 November 2011, the Society appointed Matthew John Charles Pawson as the supervisor of trust money of the law practice of Ritchie & Parker Alfred Green & Co pursuant to s525 of the *Act* for the period of three months to 4 February 2012.

On 4 February 2012 Mr Pawson was re-appointed for the period 4 February 2012 to 30 June 2012.

**Appointment of an Investigator**


On 20 April 2012 the Society appointed Ross Byrne as an Investigator of the law practice of O'Rourke & Kelly pursuant to s260 of the *Act*.

**Appointment of Manager**

On 24 April 2012, the Society appointed Josephine Anne Kelly as the Manager of the practice O'Rourke & Kelly pursuant to s531 of the *Act* for the period 24 April 2012 to 23 October 2012.

The appointment was made pursuant to a delegation from the Legal Profession Board of Tasmania dated 24 April 2012.

Yours sincerely



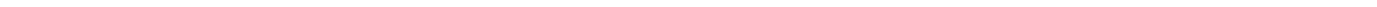
MARTYN HAGAN  
EXECUTIVE DIRECTOR

**PART SIX: INDEPENDENT AUDIT REPORT AND  
FINANCIAL STATEMENTS AS AT 30 JUNE 2012**

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

Legal Profession Board of Tasmania

Financial Statements 2011-12



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## Statement of Comprehensive Income for the year ended 30 June 2012

	Notes	2012 \$'000	2011 \$'000
<b>Revenue and other income from transactions</b>			
Revenue from Solicitor's Guarantee Fund	1.5(a), 3.1	811	757
Other revenue	1.5(b), 3.2	68	40
<b>Total revenue and other income from transactions</b>		<b>879</b>	<b>797</b>
<b>Expenses from transactions</b>			
Employee benefits	1.6(a), 4.1	555	551
Depreciation and amortisation	1.6(e), 4.2	29	26
Supplies and consumables	1.6(d), 4.3	302	297
Other expenses	1.6(d), 4.4	31	18
<b>Total expenses from transactions</b>		<b>917</b>	<b>892</b>
<b>Net result from transactions</b>		<b>(38)</b>	<b>(95)</b>
<b>Comprehensive result</b>		<b>(38)</b>	<b>(95)</b>

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

## Statement of Financial Position as at 30 June 2012

	Notes	2012 \$'000	2011 \$'000
<b>Assets</b>			
<i>Financial Assets</i>			
Cash and cash equivalents	1.7(a), 7.1	208	193
Receivables	1.7(b), 5.1	4	5
<i>Total Financial Assets</i>		<b>212</b>	<b>198</b>
<i>Non-financial Assets</i>			
Office improvements, plant and equipment	1.7(d), 5.3	48	76
Intangible assets	1.7(c), 5.2	1	2
<i>Total Non-financial Assets</i>		<b>49</b>	<b>78</b>
<b>Total assets</b>		<b>261</b>	<b>276</b>
<b>Liabilities</b>			
Payables	1.8(a), 6.1	14	20
Employee benefits	1.8(b), 6.2	69	40
<b>Total liabilities</b>		<b>83</b>	<b>60</b>
<b>Net assets</b>		<b>178</b>	<b>216</b>
<b>Equity</b>			
Accumulated funds		178	216
<b>Total equity</b>		<b>178</b>	<b>216</b>

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

## Statement of Cash Flows for the year ended 30 June 2012

	Notes	2012 \$'000	2011 \$'000
		Inflows (Outflows)	Inflows (Outflows)
<b>Cash flows from operating activities</b>			
<b>Cash inflows</b>			
Solicitor's Guarantee Fund Receipts		811	757
GST Receipts		31	39
Other cash receipts		68	41
<b>Total cash inflows</b>		<b>910</b>	<b>837</b>
<b>Cash outflows</b>			
Employee benefits		(531)	(543)
GST payments		(303)	(68)
Supplies and consumables		(42)	(247)
Other expenses		(19)	(29)
<b>Total cash outflows</b>		<b>(895)</b>	<b>(887)</b>
<b>Net cash generated from (used in) operating activities</b>	7.2	<b>15</b>	<b>(50)</b>
<b>Cash flows from investing activities</b>			
<b>Cash outflows</b>			
Payments for acquisition of non-financial assets		-	(20)
<b>Net cash generated from (used in) investing activities</b>		<b>-</b>	<b>(20)</b>
<b>Net increase (decrease) in cash and cash equivalents held</b>		<b>15</b>	<b>(70)</b>
<b>Cash and deposits at the beginning of the reporting period</b>		<b>193</b>	<b>263</b>
<b>Cash and deposits at the end of the reporting period</b>	7.1	<b>208</b>	<b>193</b>

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 2012

	Accumulated surplus / deficit \$'000	Total equity \$'000
<b>Balance at 1 July 2011</b>	<b>216</b>	<b>216</b>
Total comprehensive result	(38)	(38)
<b>Total</b>	<b>(38)</b>	<b>(38)</b>
<b>Balance as at 30 June 2012</b>	<b>178</b>	<b>178</b>

	Accumulated surplus / deficit \$'000	Total equity \$'000
<b>Balance at 31 December 2010</b>	<b>311</b>	<b>311</b>
Total comprehensive result	(95)	(95)
<b>Total</b>	<b>(95)</b>	<b>(95)</b>
<b>Balance as at 30 June 2011</b>	<b>216</b>	<b>216</b>

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 2012

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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 the Australian Accounting Standards (AAS) and Australian Accounting Interpretations issued by the Australian Accounting Standards Board (AASB).

While the Board is not bound by the *Financial Management and Audit Act 1990*, it has elected to prepare these financial statements in accordance with 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 14 August 2012.

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 1054 Australian Additional Disclosures – This Standard in conjunction with AASB 2011-1 Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project, removes disclosure requirements from other Standards and incorporates them in a single Standard to achieve convergence between Australian and New Zealand Accounting Standards. There is no financial impact.

- AASB 2009-12 Amendments to Australian Accounting Standards [AASBs 5, 8, 108, 110, 112, 119, 133, 137, 139, 1023 & 1031 and Interpretations 2, 4, 16, 1039 & 1052] – This Standard makes editorial amendments to a range of Australian Accounting Standards and Interpretations. There is no financial impact.
- AASB 2010-4 Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project [AASBs 1, 7, 101, & 134 and Interpretation 13] – This Standard amends a range of Australian Accounting Standards and Interpretations as a consequence of the annual improvements project. There is no financial impact.
- AASB 2010-5 Amendments to Australian Accounting Standards [AASBs 1, 3, 4, 5, 101, 107, 112, 118, 119, 121, 132, 133, 134, 137, 139, 140, 1023 & 1038 and Interpretations 112, 115, 127, 132 & 1042] – This Standard makes editorial amendments to a range of Australian Accounting Standards. There is no financial impact.
- AASB 2010-6 Amendments to Australian Accounting Standards – Disclosures on Transfers of Financial Assets [AASBs 1 & 7] – This Standard introduces additional disclosure relating to transfers of financial assets in AASB 7. An entity shall disclose all transferred financial assets that are not derecognised and any continuing involvement in a transferred asset, existing at the reporting date, irrespective of when the related transfer transaction occurred. There is no financial impact.
- AASB 2011-1 Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project [AASBs 1, 5, 101, 107, 108, 121, 128, 132 & 134 and Interpretations 2, 112 & 113] – this Standard, in conjunction with AASB 1054, removes disclosure requirements from other Standards and incorporates them in a single Standard to achieve convergence between Australian and New Zealand Accounting Standards. There is no financial impact.
- AASB 2011-15 Amendments to Australian Accounting Standards – Extending Relief from Consolidation, the Equity Method and Proportionate Consolidation [AASBs 127, 128 & 131] – this Standard extends the relief from consolidation, the equity method and proportionate consolidation by removing the requirement for the consolidated financial statements prepared by the ultimate or any intermediate parent entity to be IFRS compliant, provided that the parent entity, investor or venturer and the ultimate or intermediate parent entity are not-for-profit non-reporting entities that comply with Australian Accounting Standards. There is no financial impact.

**(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 9 *Financial Instruments* – This Standard supersedes AASB 139 *Financial Instruments: recognition and Measurement*, introducing a number of changes to accounting treatments. The Standard was reissued in December 2010. The Board has not yet determined the potential financial impact of the standard.
- AASB 10 *Consolidated Financial Statements* – This Standard supersedes requirements under AASB 127 *Consolidated and Separate Financial Statements* and Interpretation 112 *Consolidation – Special Purpose Entities*, introducing a number of changes to accounting treatments. The standard was issue in August 2011. The Board has not yet determined the application or the potential impact of the Standard.
- AASB 11 *Joint arrangements* – this Standard supersedes AASB 131 *Interest in Joint Ventures*, introducing a number of changes to accounting treatments. The Standard was issued in August 2011. The Board has not yet determined the application or the potential impact of the Standard.
- AASB 12 *Disclosure of Interests in Other Entities* – This Standard supersedes disclosure requirements under AASB 127 *Consolidated and Separate Financial Statements* and AASB 131 *Interests in Joint Ventures*. The Standard was issue in August 2011. The Board has not yet determined the application or the potential impact of the Standard.
- AASB 13 *Fair Value Measurement* – This Standard defines fair value, sets out a framework for measuring fair value and requires disclosures about fair value measurements.
- AASB 119 *Employee Benefits* – This Standard supersedes AASB 119 *Employee Benefits*, introducing a number of changes to accounting treatments. The Standard was issued in September 2011. The Board has not yet determined the application or the potential impact of the Standard.

- AASB 127 *Separate Financial Statements* – This standard supersedes requirements under AASB 127 *Consolidated and Separate Financial Statements*, introducing a number of changes to accounting treatments. The Standard was issued in August 2011. The Board has not yet determined the application or the potential impact of the Standard.
- AASB 128 *Investments in Associates and Joint Ventures* – This Standard supersedes AASB 128 *Investments in Associates* and introduces a number of changes to accounting treatments. The Standard was issued in August 2011. The Board has not yet determined the application or the potential impact of the Standard.
- AASB 1053 *Application of Tiers of Australian Accounting Standards* – This Standard establishes a differential financial reporting framework consisting of two tiers of reporting requirements for preparing general purpose financial statements. The Standard does not have any financial impact on the Board. However, it may affect disclosures if reduced disclosure requirements apply.
- AASB 2010-2 Amendments to Australian Accounting Standards arising from Reduced Disclosure Requirements [AASBs 1, 2, 3, 5, 7, 8, 101, 102, 107, 108, 110, 111, 112, 116, 117, 119, 121, 123, 124, 127, 128, 131, 133, 134, 136, 137, 138, 140, 141, 1050, & 1052 and Interpretations 2, 4, 5, 15, 17, 127, 129, & 1052] – This Standard makes amendments to Australian accounting Standards and Interpretations to introduce reduced disclosure requirements for certain types of entities.
- AASB 2010-7 Amendments to Australian Accounting Standards arising from AASB 9 (December 2010) [AASBs 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 120, 121, 127, 128, 131, 132, 136, 137, 139, 1023 & 1038 and Interpretations 2, 5, 10, 12, 19, & 127] – This Standard makes consequential amendments to other Australian Accounting Standards and Interpretations as a result of issuing AASB 9 in December 2010.
- AASB 2011-2 Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project – Reduced Disclosure Requirements [AASBs 101 & 1054] – This Standard makes amendments to introduce reduced disclosure requirements for certain types of entities. There is no expected financial impact of applying these changes, as the Board is a Tier 1 entity.
- AASB 2011-6 Amendments to Australian Accounting Standards – Extending Relief from Consolidation, the Equity Method and Proportionate Consolidation – Reduced Disclosure Requirements [AASBs 127, 128 & 131] – This Standard extends relief from consolidation, the equity method and proportionate consolidation by removing the requirement for the consolidated financial statements prepared by the ultimate or any intermediate parent entity to be IFRS compliant, provided that the parent entity, investor or venturer and the ultimate or intermediate parent entity comply with Australian Accounting Standards or Australian Accounting Standards – Reduced Disclosure Requirements.
- AASB 2011-7 Amendments to Australian Accounting Standards arising from the Consolidation and Joint Arrangements Standards [AASBs 1, 2, 3, 5, 7, 9, 2009-11, 101, 107, 112, 118, 121, 124, 132, 133, 136, 138, 139, 1023 & 1038 and Interpretations 5, 9, 16 and 17] – This Standard replaces the existing definition and fair value guidance in other Australian Accounting Standards and Interpretations as the result of issuing AASB 13 in September 2011.
- AASB 2011-8 Amendments to Australian Accounting Standards arising from AASB 13 [AASBs 1, 2, 3, 4, 5, 7, 9, 2009-11, 2010-7, 101, 102, 108, 110, 116, 117, 118, 119, 120, 121, 128, 131, 132, 133, 134, 136, 138, 139, 140, 141, 1004, 1023 & 1038 and Interpretations 2, 4, 12, 13, 14, 17, 19, 131 & 132] – This Standard replaces the existing definition of fair value guidance in other Australian Accounting Standards and Interpretations as the result of issuing AASB 13 in September 2011.
- AASB 2011-9 Amendments to Australian Accounting Standards – Presentation of Items of Other Comprehensive Income [AASBs 1, 5, 7, 101, 112, 120, 121, 132, 133, 134, 1039 & 1049] – This Standard requires to group items presented in other comprehensive income on the basis of whether they are potentially reclassifiable to profit or loss subsequently (reclassification adjustments).
- AASB 2011-10 Amendments to Australian Accounting Standards arising from AASB 119 (September 2011) [AASBs 1, 8, 101, 124, 134, 1049 & 2011-8 and Interpretations 14] – This Standard makes amendments to other Australian Accounting Standards and Interpretation as a result of issuing AASB 119 Employee Benefits in September 2011.
- AASB 2011-11 *Amendments to AASB 119 (September 2011) arising from Reduced Disclosure Requirements* – This Standard gives effect to Australian Accounting Standards – Reduced Disclosure Requirements for AASB 119 (September 2011).

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

### **1.5 Income from Transactions**

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 from Transactions**

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 effect 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 and 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.

Intangible assets held by the Board are valued at fair value less any subsequent accumulated amortisation and any subsequent accumulated impairment losses where an active market exists. Where no active market exists, intangibles are valued at cost less any accumulated amortisation and any accumulated impairment losses.

### **(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 \$4,000. Assets valued at less than \$4,000 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 2012, 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.

## **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 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.

### **1.12 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.

### **1.13 Goods and Services Tax**

Revenue, expenses and assets are recognised net of the amount of GST, 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 Statement of Cash Flows, 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 2012.

## Note 3 Income from Transactions

### 3.1 Solicitor's Guarantee Fund

	2012	2011
	\$'000	\$'000
Solicitor's Guarantee Fund Revenue	811	757
<b>Total revenue from Solicitor's Guarantee Fund</b>	<b>811</b>	<b>757</b>

### 3.2 Other Revenue

	2012	2011
	\$'000	\$'000
Interest Revenue	13	14
Other Revenue	55	26
<b>Total</b>	<b>68</b>	<b>40</b>

## Note 4 Expenses from Transactions

### 4.1 Employee Benefits

	2012	2011
	\$'000	\$'000
Wages and salaries (Staff)	405	407
Wages and salaries (Board members)	96	95
Superannuation – defined contribution scheme	40	31
Superannuation – defined benefit scheme	7	11
Other employee expenses	7	7
<b>Total</b>	<b>555</b>	<b>551</b>

Superannuation expenses relating to defined benefits schemes relate to payments into the Superannuation Provision Account 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 12.3 per cent of salary.

Superannuation expenses relating to contribution schemes 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 3.3 per cent of salary in respect of employees who are members of the contribution schemes.

#### 4.2 Depreciation and Amortisation

	2012	2011
	\$'000	\$'000
Depreciation – office improvements and plant and equipment	28	25
Amortisation – software	1	1
<b>Total</b>	<b>29</b>	<b>26</b>

#### 4.3 Supplies and Consumables

	2012	2011
	\$'000	\$'000
Audit fees	3	11
Operating leases	72	65
Consultants	117	94
Property expenses	28	35
Communications	10	11
Information technology	49	42
Travel and transport	5	5
Plant and Equipment	5	21
Other supplies and consumables	13	13
<b>Total</b>	<b>302</b>	<b>297</b>

#### 4.4 Other Expenses

	2012	2011
	\$'000	\$'000
Legal costs	-	1
Other Expenses	31	17
<b>Total</b>	<b>31</b>	<b>18</b>

## Note 5 Assets

#### 5.1 Receivables

	2012	2011
	\$'000	\$'000
GST Receivables	4	5
<b>Total</b>	<b>4</b>	<b>5</b>
Settled within 12 months	4	5
<b>Total</b>	<b>4</b>	<b>5</b>

## 5.2 Intangible Assets

	2012	2011
	\$'000	\$'000
<b>Intangible assets</b>		
Cost – case management system	4	4
Less Accumulated Amortisation	(3)	(2)
<b>Total</b>	<b>1</b>	<b>2</b>

Note: The software, acquired during 2008-09, is valued at cost and during 2010-11 the Board assessed the software as not being impaired. The software is being amortised over 4 years.

### (a) Reconciliation of Movements

	2012	2011
	\$'000	\$'000
<b>Carrying amount at 1 July</b>	<b>2</b>	<b>3</b>
Amortisation expense	(1)	(1)
<b>Carrying amount at 30 June</b>	<b>1</b>	<b>2</b>

## 5.3 Office Improvements, Plant and Equipment

### (a) Carrying amount

	2012	2011
	\$'000	\$'000
<b>Office improvements</b>		
At cost	85	85
Less: Accumulated depreciation	(50)	(30)
<b>Total</b>	<b>35</b>	<b>55</b>
<b>Plant and equipment</b>		
At cost	42	42
Less: Accumulated depreciation	(29)	(21)
<b>Total</b>	<b>13</b>	<b>21</b>
<b>Total office improvements, plant and equipment</b>	<b>48</b>	<b>76</b>

**(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.

2012	Office improvements \$'000	Plant & equipment \$'000	Total \$'000
Carrying value at beginning of the period	55	21	76
Depreciation	(20)	(8)	(28)
Carrying value at 30 June	35	13	48

2011	Office improvements \$'000	Plant & equipment \$'000	Total \$'000
Carrying value at beginning of the period	51	29	80
Additions	20	-	20
Disposals	-	-	-
Depreciation	(16)	(9)	(25)
Carrying value at 30 June	55	21	76

**Note 6 Liabilities**

**6.1 Payables**

	2012 \$'000	2011 \$'000
Payables	-	4
Other accrued expenses	14	16
<b>Total</b>	<b>14</b>	<b>20</b>
Settled within 12 months	14	20
<b>Total</b>	<b>14</b>	<b>20</b>

Settlement is usually made within 30 days.

## 6.2 Employee Benefits

	2012	2011
	\$'000	\$'000
Accrued salaries	16	8
Annual leave	38	27
Long service leave	15	5
<b>Total</b>	<b>69</b>	<b>40</b>
Settled within 12 months	40	23
Settled in more than 12 months	29	17
<b>Total</b>	<b>69</b>	<b>40</b>

## Note 7 Cash Flow Reconciliation

### 7.1 Cash and Cash Equivalents

	2012	2011
	\$'000	\$'000
Operating Account	208	193
<b>Total cash and cash equivalents</b>	<b>208</b>	<b>193</b>

### 7.2 Reconciliation of Net Result to Net Cash from Operating Activities

	2012	2011
	\$'000	\$'000
Net result	(38)	(95)
<b>Non-cash items</b>		
Depreciation and amortisation	29	26
<b>Movements in operating assets</b>		
(Increase) / Decrease in Receivables	1	11
Increase / (Decrease) in Employee benefits	29	6
Increase / (Decrease) in Payables	(6)	2
<b>Net cash generated from operating activities</b>	<b>15</b>	<b>(50)</b>

## Note 8 Financial Instruments

### 8.1 Risk Exposures

#### (a) Risk Management Policies

The Board has exposure to the following risks from its use of financial instruments:

- liquidity risk; and
- market risk.

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)
<b>Financial Liabilities</b>		
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:

#### 2012

	Maturity analysis for financial liabilities		
	1 Year	Undiscounted Total	Carrying Amount
<b>Financial liabilities</b>			
Payables	14	14	14
<b>Total</b>	<b>14</b>	<b>14</b>	<b>14</b>

2011

	Maturity analysis for financial liabilities		
	1 Year	Undiscounted Total	Carrying Amount
<b>Financial liabilities</b>			
Payables	20	20	20
<b>Total</b>	<b>20</b>	<b>20</b>	<b>20</b>

(c) Market Risk

Market risk is the risk that the fair value of future cash flows of a financial instrument will fluctuate because of changes in market prices. The primary market risk that the Board is exposed to is interest rate risk.

The Board's exposure to interest rate risk is considered to be minimal. All of the Board's interest bearing financial instruments are managed by the Westpac Bank.

At the reporting date the interest rate profile of the Board's interest bearing financial instruments was:

	2012 \$'000	2011 \$'000
<b>Variable rate instruments</b>		
<i>Financial assets</i>		
Cash and cash equivalents	208	193
<b>Total</b>	<b>208</b>	<b>193</b>

Changes in variable rates of 100 basis points at reporting date would have the following effect on the Board's profit or loss and equity:

	Statement of Comprehensive Income		Equity	
	100 basis points increase \$'000	100 basis points increase \$'000	100 basis points increase \$'000	100 basis points increase \$'000
30 June 2012				
Cash in Special Deposits and Trust Fund	2	(2)	2	(2)
Net sensitivity	<b>2</b>	<b>(2)</b>	<b>2</b>	<b>(2)</b>
30 June 2011				
Cash in Special Deposits and Trust Fund	2	(2)	2	(2)
Net sensitivity	<b>2</b>	<b>(2)</b>	<b>2</b>	<b>(2)</b>



## 8.2 Categories of Financial Assets and Liabilities

	2012 \$'000	2011 \$'000
<b>Financial assets</b>		
Cash and cash equivalents	208	193
Receivables	4	5
<b>Total</b>	<b>212</b>	<b>198</b>
<b>Financial Liabilities</b>		
Financial liabilities measured at amortised cost	14	20
<b>Total</b>	<b>14</b>	<b>20</b>

## 8.3 Comparison between Carrying Amount and Net Fair Value of Financial Assets and Liabilities

	Carrying Amount 2012 \$'000	Net Fair Value 2012 \$'000	Carrying Amount 2011 \$'000	Net Fair Value 2011 \$'000
<b>Financial assets</b>				
Cash and cash equivalents	208	208	193	193
Receivables	4	4	5	5
<b>Total financial assets</b>	<b>212</b>	<b>212</b>	<b>198</b>	<b>198</b>
<b>Financial liabilities</b>				
Payables	14	14	20	20
<b>Total financial liabilities</b>	<b>14</b>	<b>14</b>	<b>20</b>	<b>20</b>

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

	2012	2011
	\$'000	\$'000
<b>By type</b>		
<i>Lease Commitments</i>		
Operating leases	511	579
<i>Total lease commitments</i>	<b>511</b>	<b>579</b>
<b>By maturity</b>		
<i>Operating lease commitments</i>		
One year or less	85	88
From one to five years	320	312
Greater than five years	106	179
<i>Total operating lease commitments</i>	<b>511</b>	<b>579</b>

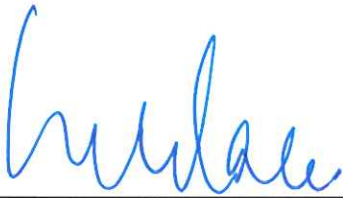
The Operating Lease commitments include buildings, motor vehicles and information technology equipment leases. All amounts shown are inclusive of GST.

**Statement by Chairman and Executive Officer**

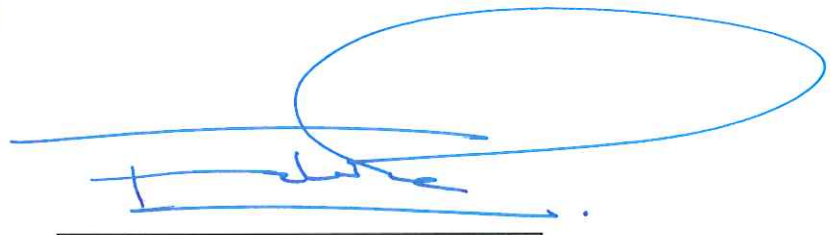
The accompanying Financial Statements of the Legal Profession Board of Tasmania are in agreement with the relevant accounts and records and have been prepared in compliance with Treasurer's Instructions issued under the provision of the *Financial Management and Audit Act 1990* and Section 599 of the *Legal Profession Act 2007* to present fairly the financial transactions for the period ended 30 June 2012 and the financial position as at the end of the year.

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

Date this 14 day of August 2012



William Bale QC  
CHAIRMAN



Frank Ederle  
EXECUTIVE OFFICER