

Legal Profession Board of Tasmania

Annual Report
2016 - 2017



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31 August 2017

The Hon. M Groom MP
Acting Attorney-General / Acting Minister for Justice
Level 10, Executive Building,
15 Murray Street
HOBART TAS 7000

Dear Attorney-General

LEGAL PROFESSION BOARD OF TASMANIA – ANNUAL REPORT 2016-17

Please find enclosed the Annual Report of the Legal Profession Board of Tasmania for the period 2016-17, in satisfaction of section 601(2) of the *Legal Profession Act 2007*.

One bound copy and one loose leaf copy (for further copying and distribution) have been included for your convenience.

Yours sincerely

K Pitt QC
CHAIRMAN
LEGAL PROFESSION BOARD OF TASMANIA
TASMANIA

Frank Ederle
CHIEF EXECUTIVE OFFICER
LEGAL PROFESSION BOARD OF

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Report of the Chairperson.



It is with great pleasure that I again present, in my capacity as Chairperson of the Board, the organisation's annual report for the year ending 30 June 2017.

Upon reflection, it has been a year of achievements for the Board, but also a year of great sadness, with the untimely passing of the Chairperson of the Disciplinary Tribunal, Ashton Denehey, whose commitment and dedication to the regulation of the legal profession in Tasmania will be sorely missed.

The Board welcomes the appointment of Mr Philip Jackson SC as the incoming Chairperson of the Disciplinary Tribunal, and looks forward to its important work in regulating the profession.

As the Board approaches its first decade of operations, I continue to be buoyed to see our organisation evolving and improving each year, both operationally and in a strategic context.

The Board, supported by the CEO and his operational team, strives to keep abreast of the many trends and changes in the professional regulation space, as well as the legal profession generally.

MEMBERSHIP OF THE BOARD

The Board has enjoyed a year without change or disruption to its membership, having welcomed three new professional members in the previous financial year. This recent period of stability has enabled the Board to develop as a team, and which has, in my view, benefited the work of the organisation generally.

THE WORKLOAD OF THE BOARD

Complaints and Investigations

Complaint handling and undertaking investigations remain the core activities of the Board.

Last year I reported that the total number of complaints received by the Board had significantly reduced from previous year norms, to a record low of 50 complaints for the period ending 30 June 2016. For the current reporting period however, complaint volumes have returned to previous years trends; the Board has experienced an increase of 54% in complaints received as compared to the same period last year. The low number of complaints received in the 2015-16 period appears to be an isolated abnormality, as there has been no material change in the Board's approach to dealing with complaints in the current reporting period, nor any other identified factor that would satisfactorily explain the fluctuation.

The return to previously established level of complaints during the course of the reporting period, together with those complaints which remained unfinalised as at 30 June 2016, amounted to 118, compared with 117 complaints at the end of last financial year.

The Board's well established direction in relation to resolving complaints at an early stage in circumstances where it is appropriate to do so, continued to be successful in the reporting period with 22% of all complaints resolved as a result of some form of mediatory intervention by Board Officers.

Further in-depth commentary in relation to the complaints and investigations statistical information can be found in Part 2 of this report.

Meetings and Determinations of the Board

The Board convened 10 complaints-specific meetings during the reporting period. 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 of Tasmania a written determination and reasons following a decision to finalise a complaint. The Board produced 55 written complaint determinations and reasons during the reporting period.

FUNDING AND THE STRATEGIC DIRECTION OF THE BOARD

It is very pleasing that the organisation has operated within its allocated finances over the course of the financial year, and has not been required to seek extraordinary funding or indeed access its contingency funding. The additional funding from the Guarantee Fund allowed the appointment of a Manager Operations in the period, which has enabled the Board to also address its other statutory obligations.

Although the Board necessarily continues to focus on its core activities, being the handling and investigation of complaints, in the reporting period the Board was able to ensure its other statutory functions were also addressed, such as monitoring the standards of the legal profession, public education, advising the legal profession on appropriate standards of conduct and monitoring emerging trends and issues. The CEO's report canvasses the Board's achievements in these areas in greater depth later in this report.

The appointment of Ms Gayle Johnston to the position of Manager Operations assisted the CEO to ensure the Board advanced all of its statutory functions.

To the serving members of the Board for their significant contribution to the work of the Board throughout the reporting period, my thanks. On behalf of the Board, I gratefully acknowledge the hard and enthusiastic work of all the employees of the Board, whose professionalism and dedication are pivotal to its ongoing success.



Keyran Pitt QC

Chairperson,
Legal Profession Board of Tasmania

Report of the Chief Executive Officer.



2016-17 has been an exciting year which, in many respects, has seen the continued transformation of the Board into the mature, established and strategic organisation it is today.

The injection of additional funds within the period, which were graciously approved by the Acting Attorney, have permitted the recruitment of a pivotal new position of Manager Operations. Ms Gayle Johnston commenced in that role in August 2016. Gayle, a former partner in a leading Hobart firm has had an immediate positive impact within the organisation, particularly in relation to the development of professional guidance for which I have elaborated further on in this report.

The current period also saw the commencement of the *Legal Profession (Barristers) Rules 2016*. We congratulate the Tasmanian Bar on developing and introducing the new Rules and eagerly await the development by the Law Society of new Rules for the wider profession, which are currently under consideration.

Externally Focussed Endeavours

In satisfaction of the Board's statutory functions, other than receiving, investigating and determining complaints, several officers of the Board have, during the period, actively engaged with both the profession and the wider public in relation to the Board's role, providing professional guidance and disseminating information regarding how and importantly when to make a complaint to the Board.

I have been fortunate to have been invited in the period to provide information sessions to the Legal Aid Commission's, and the Tasmanian Ombudsman's, front line employees, whom on occasion deal with consumers wishing to make a complaint against their legal representative. Further community-focussed presentations have been scheduled for later in the year.

The Board has also completed a large body of work developing an extensive suite of fact and information sheets dealing with a variety of topics which regularly arise in complaints filed with the Board. Such topics include; how to make a complaint; identifying a conflict of interest; costs disclosure; mediation; file ownership; and out of time complaints to name a few. The organisation's brochure, which describes the Board's role, is now available throughout Tasmania in a variety of community-based locations including all branches of Service Tasmania.

The Manager Operations and her team have engaged directly with members of the profession at all levels through the Law Society's continuing professional development scheme; the Legal Practice Course; and Tasmania University Law Faculty. Gayle and her team have developed a substantial program of presentations in relation to legal ethics; dealing with the complaints and the Board as a practitioner; and guidance regarding how to avoid common pitfalls in legal practice which could result in a complaint. This excellent and worthwhile work has at its core a goal to improve client-lawyer relationships both with emerging professionals as well as with established legal practitioners.

Internally Focused Endeavours

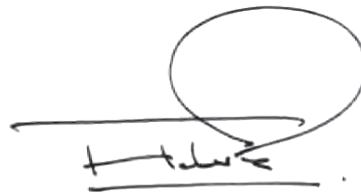
Following the appointment of the Manager Operations in August 2016, the organisation undertook a restructuring program which resulted with the introduction of a new position of Board Support Officer, as well as shifting toward a team-based approach in undertaking complaint and investigative work. This new approach has dramatically increased productivity and substantial efficiencies have been gained within the period.

The Board, in an effort to continually strive for excellence in all of its endeavours, has been working toward the development of a 'model litigant policy'. The purpose of the policy will be to ensure that the Board and all of its officers adopt the highest of standards when undertaking litigation in relation to disciplinary matters. It is expected that the 'model litigant policy' together with the supporting guidelines will be formally adopted by October 2017.

I am happy to report that the Board has again exercised financial restraint in all of its dealings in order to complete the reporting period with a pleasing positive financial result. Although the *Legal Profession Act 2007* empowers the Board to impose levies on local legal practitioners (s 592(2)), it has not been necessary to do so since the commencement of the Board's operations in 2009. I would take this opportunity to gratefully acknowledge the Acting Attorney for approving the Board's funding application for the period, which underpins the Board's ability to fulfil its statutory obligations.

Other exciting projects have been initiated in the past 12 months including the commencement of the website re-construction; legal practitioner self-audit program development; and construction of an electronic decision data base. These projects have been canvassed in further depth in the annual report.

Finally, it is with great pride and pleasure that I thank all of the staff of the Board whose diligence, professionalism and energy have been exceptional. I also thank the Board for their guidance, patience and sound decisions over the past 12 months.



Frank Ederle

Chief Executive Officer,
Legal Profession Board of Tasmania

1. The Legal Profession Board.



OUR STATUTORY FUNCTIONS

The Board has the following statutory functions under section 591 of the Act:

- 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 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 for Justice on any matters relating to the Act;
- any other functions imposed by the Act 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 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.



OUR 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 not exceeding five years.

CHAIRPERSON OF THE BOARD

Mr Keyran Pitt QC

Formally Mr Pitt QC has held appointments as Chairman of the Resource Management and Planning Appeal Tribunal; the Planning Appeals Board; the Mental Health Review Tribunal; and the Medical Complaints Tribunal.

He was also the Deputy Chairman for the Building Appeals Board and Environmental Protection Appeal Board, and, is an Honorary Fellow of the Royal Planning Institute of Australia.

Mr Pitt QC is the former President of the Bar Association of Tasmania and Medico-Legal Society of Tasmania. He actively supported the legal profession in Tasmania as a former Council Member of the Law Society of Tasmania and Bar Association of Tasmania.

Mr Pitt QC currently works as a Barrister and an Arbitrator and is also the Chairman of the Forest Practices Tribunal.

Mr Pitt QC is a nominee of the Minister.



LAY MEMBERS

Ms Judith Paxton JP

Ms Paxton 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

Peter has worked across the telecommunications and energy sector in excess of 22 years including as a Business Analyst at Hydro Tasmania in 1995 and management positions at White Pages, TasTel and Aurora Energy. Apart from his time at TasTel, Peter has been responsible for Marketing, Pricing and Retail Regulation in the energy sector in Tasmania.

He has served on a number of Boards and Associations, is a foundation member of the Australian Direct Marketing Association and a graduate member of the Australian Institute of Company Directors. Peter has a key focus on community involvement currently working part time as a coordinator for people moving into Independent Living Units in Aged Care and volunteering for organizations such as Royal Guide Dogs Tasmania, Community Transport and the Lenah Valley RSL.



LEGAL MEMBERS

Mr Graeme Jones

Mr Jones completed a Bachelor of Laws degree at the University of Tasmania in 1977 and was admitted as a practitioner of the Supreme Court of Tasmania in 1980.

He is an active member of the legal profession and the community. His current and previous activities are as follows:

- Legal Assistance Committee member (1983-1990)
- Bar Association Committee member (1981-1992)
- Member of the Board of Legal Education (2004-2008)
- Council member of the Law Society of Tasmania (2006-2013)
- President of the Law Society of Tasmania (2009-2010)
- Chairman Law Foundation of Tasmania (2009-2010)
- Board member of the Centre of Legal Studies (2008-current)
- Member of the Legal Profession Board of Tasmania (2015-current)
- Board member of Eskleigh Foundation Inc. (2005-2009)
- Board member of Wildcare Inc. (2009-2013)

He is a senior partner of a prominent Launceston law practice and is an experienced legal practitioner having practiced as both a barrister and solicitor for other thirty-five years.

Mr Jones is a nominee of the Law Society.



Mr Anthony Mihal

Mr Mihal is a director of a generalist law practice in Ulverstone and he undertakes mainly litigious work including civil, criminal and child protection. He served on the Council of the Law Society of Tasmania for 7 years including as President in 2013-2014, the Law Foundation of Tasmania, the Management Committee of the North West Community Legal Centre including as Chair the Law Council of Australia's Regional, Remote, Rural Lawyers' Advisory Committee. He is currently a member of the Local Government Code of Conduct Panel, which investigates and hears code of conduct complaints against councillors and the Chairman of a charitable organisation called the Roland View Estate Trust.



Mr David Lewis

Mr Lewis, a prominent barrister on the North West Coast of Tasmania with in excess of 25 years' experience, was appointed to the Board on 27 June 2016. He has served on a number of Professional Boards and Committees over the years including his time as a member of the Bar Council of Tasmania. Mr Lewis has enjoyed a diverse practice in law which, in addition to his experience at the Queensland and Tasmanian Bars, includes appointment as a senior Crown Prosecutor in Darwin, Managing Practitioner of the Katherine Regional Aboriginal Legal Aid Service and Legislative Counsel for the external Australian Territory of Norfolk Island.

BOARD MEETINGS

The Board convened 10 complaint-specific meetings during the reporting period. The below table illustrates the number of meetings each Board member attended during that period.

Ordinary board meetings are open to the public unless the Board determines otherwise. The conduct of ordinary board meetings is governed by Schedule 3 of the Act.

Board hearings in accordance with section 453 are open to the public unless the Board considers that there are reasonable grounds to make an order that the hearing be closed to the public. Hearings are governed by Schedule 1 of the Act.

However, board meetings convened for purposes of dealing with a less serious complaint in accordance with section 456 of the Act are not open to the public.

Table 1 – Board meetings attended in 2016-2017

BOARD MEMBER	NO. OF MEETINGS ATTENDED
Keyran Pitt QC	10
Judith Paxton	9
Peter Dane	10
Graeme Jones	9
Anthony Mihal	10
David Lewis	7*

*Mr Lewis was absent on leave for medical reasons for part of the year.

In addition to the above meetings, the Board also convened three directions hearings, two section 456(1) hearings for less serious complaints, and one section 453 hearing.

Consequent to the Board meetings and hearings, the Board produced 55 written complaint determinations with reasons during the reporting period.

FUNDING OF THE BOARD

The Act provides at section 359 that the Board is to submit an application for funding to the Minister by 30 April 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.

In 2016-17, the funding which was approved by the Minister was \$967,935.

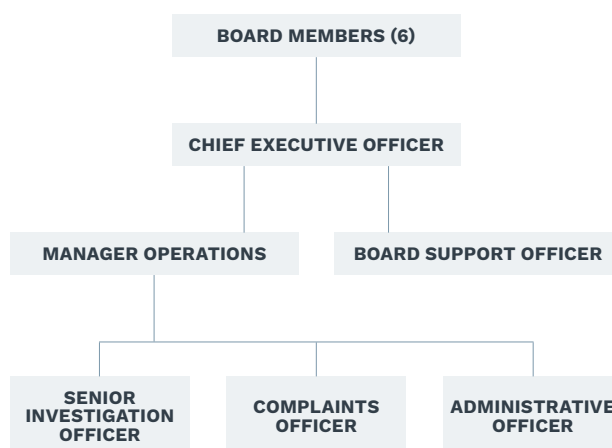
THE BOARD'S VISION

Through its statutory functions, the Board seeks 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.

ORGANISATIONAL CHART

The Legal Profession Board is supported by an administrative and investigative team as represented in the organisational chart as at 30 June 2017.

The Board also retains the services of external Counsel, as required, and when prosecuting matters in either the Disciplinary Tribunal or Supreme Court.



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2. Operations Report.



COMPLAINTS TO THE LEGAL PROFESSION BOARD OF TASMANIA

The following statistical information regarding the Board's performance is based on the twelve month period, 1 July 2016 to 30 June 2017.

ENQUIRIES TO THE BOARD

Enquiries to the Board are dealt with by the Complaints Officer and comprise a significant part of the Complaints Officer's overall workload. The enquiries, in large part, account for the Board's public education function.

It is important that the Board deals 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 which are required to be referred for independent legal advice or other appropriate action.

The table below shows that the Board has dealt with a total of **289 enquiries** which represents a slight increase this period to the last two reporting periods. 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. At the beginning of 2017, the Complaints Officer made some adjustments to the categorisation of enquiries and commenced recording, not only the time taken with the initial enquiry, but also the administrative work that flowed from the enquiry. Accordingly, the time spent dealing with each enquiry for the reporting period was, on average, 25 minutes per enquiry.

Enquiries which deal with applications for admission and purely administrative matters are now recorded separately.

A total of 34 enquiries in the reporting period resulted in a written complaint. This represents a conversion rate of 11%, which is the same as last year.

Over 80% of enquiries were dealt with by telephone, with the majority of the remaining enquiries being by email. Members of the public are invited to attend the Board's offices to discuss their issues in person if they wish to.

Consistent with our complaints data, enquiries primarily concern:

- Family Law
- Probate and Estate work
- Conveyancing; and
- Criminal Law.

Fees, costs and perceptions of overcharging continue to be the most common query to the Board, irrespective of the area of law.

Table 2 - Enquiries by source

MONTH	ENQUIRIES BY PHONE	ENQUIRIES IN PERSON	ENQUIRIES BY EMAIL	ENQUIRIES BY LETTER	TOTAL ENQUIRIES 2016-17	TOTAL ENQUIRIES 2015-16	TOTAL ENQUIRIES 2014-15
July	28	1	3	3	35	14	37
August	18	0	4	1	23	21	28
September	15	0	3	0	18	24	21
October	16	0	2	0	18	21	22
November	17	1	2	0	20	25	21
December	14	0	6	0	20	17	12
January	14	1	6	0	21	19	20
February	19	0	3	0	22	26	20
March	25	1	2	0	28	27	26
April	24	1	4	0	29	26	20
May	23	0	7	0	30	20	22
June	20	0	3	2	25	20	26
TOTAL ENQUIRIES	233	5	45	6	289	260	275

WRITTEN COMPLAINTS

Our process

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.

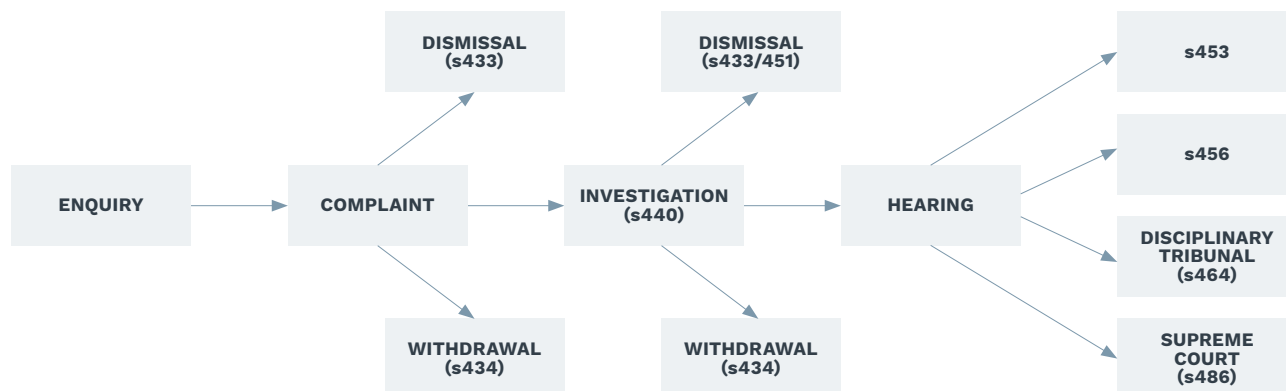
Once the complaint has been appropriately particularised by the complainant, a 'Notice of Complaint Received' together with a copy of the complaint is sent to the practitioner, accompanied by an invitation to provide comment (submissions) in relation to it.

The practitioner's submissions are provided to the complainant for further comment. On occasion a complainant, having received a detailed explanation, may withdraw their complaint.

The Board is required to provide both the complainant and the practitioner with procedural fairness, and to deal with complaints as efficiently and expeditiously as is practicable.

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



Flow chart 1 – Progress of a complaint through the Board

Complaints this year

The Board received 77 complaints in the reporting period, which was a significant increase of 54% compared to the previous reporting period but a return to the numbers experience in the period 2014-15.

The Board considers it likely that practitioners, and in particular legal firms, are more proactive in managing their clients’ expectations around complaints. Currently there is no clear explanation for the decline in complaints last year. It is considered the numbers this year are more consistent with previous years and with the experience of our counterparts interstate.

Table 3 - Written complaints received

MONTH	COMPLAINTS RECEIVED 2016-17	COMPLAINTS RECEIVED 2015-16	COMPLAINTS RECEIVED 2014-15
July	5	7	7
August	3	4	11
September	3	4	7
October	9	4	6
November	8	5	11
December	3	1	3
January	3	3	4
February	7	3	5
March	11	2	10
April	9	3	7
May	9	7	3
June	7	7	4
TOTAL COMPLAINTS	77	50	78

Table 4 - Complaints carried forward at 1 July 2016

COMPLAINTS	CARRIED FORWARD AS AT 1 JULY 2016	%
Complaints under investigation	7	17%
Unfinalised complaints pending (not yet under investigation or awaiting hearing) as at 30 June 2016	34	83%
TOTAL COMPLAINTS CARRIED FORWARD AS AT 1 JULY 2016	41	100%

In addition to the 77 complaints received the Board also dealt with a further 41 complaints carried forward from the 2015-16 period, which included; complaints under investigation; complaints which had been referred for hearing to either the Board, Disciplinary Tribunal or Supreme Court; and complaints being dealt with in accordance with the preliminary statutory process prior to an investigation having been commenced.

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 5 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 5, allegations relating to costs, communication and negligence, comprised 49% of all complaint allegations received by the Board in the reporting period.

Table 5 - Principal allegations against legal practitioners

PRINCIPAL ALLEGATION	2016-17	2016-17 %	2015-16 COMPLAINTS	2014-15 COMPLAINTS
Abuse of position as a legal practitioner	4	5%	0	0
Abusive/Rude/Threat	6	8%	3	2
Breach of Act, rules, court order or undertaking	4	5%	3	3
Communication with client - including failure to communicate	11	14%	0	1
Confidentiality breach	1	1%	0	1
Conflict of interest	6	8%	3	3
Costs/Bills/Fees/Overcharging	20	26%	8	17
Court performance	1	1%	0	1
Delay	3	4%	4	4
Dishonest/Misleading (including misleading the Court)	6	8%	12	15
Instructions - failure to act or to comply	6	8%	3	10
Instructions - acting without instructions	2	3%	0	4
Negligence/Competency - including poorly handling of case	7	9%	14	15
Trust money - including failure to account	0	0%	0	2
TOTALS	77	100%	50	78

Table 6 - Area of law to which complaints related

AREA OF THE LAW	2016-17	2016-17 %	2015-16 COMPLAINTS	2014-15 COMPLAINTS
Administrative	0	0%	3	1
Anti-discrimination	0	0%	0	0
Defamation	1	1%	0	0
Banking Law	6	8%	0	0
Building	5	6%	0	4
Commercial/Contract	4	5%	10	15
Civil Litigation	6	8%	0	0
Commonwealth/Constitutional	0	0%	0	0
Conveyancing	8	10%	3	3
Criminal	15	20%	4	8
Debt collection	1	1%	0	2
Family/de facto	11	15%	14	25
Industrial relations	0	0%	1	0
Personal injury	2	3%	3	4
Probate/estate/wills	16	21%	12	13
Workers' compensation	0	0%	0	2
Restraint Orders	0	0%	0	1
Medical Negligence	1	1%	0	0
Migration	0	0%	0	0
Coronial	1	1%	0	0
TOTAL	77	100%	50	78

Table 6 indicates that the area of law most often involved in complaints received by the Board in the reporting period was Probate/Estates and Wills.

The areas of law also highly represented in the reporting period, as with previous periods, were Criminal Law and Family Law.

The Board is able to effectively deal with complaints made to it by people residing outside of Tasmania.

In the reporting period, 10 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 considers 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. This year the Board

did not make any own motion investigations, which is comparable to previous years: one in 2015-16 and none in 2014-15.

The majority of our complainants are male, with most of the complaints coming from the south of Tasmania.

Table 7 - Complainants' profile (region & gender)

PROFILE	2016-17 NO. COMPLAINANTS	%	2015-16 NO. COMPLAINANTS	2014-15 NO. COMPLAINANTS
Male	46	60%	29	49
Female	31	40%	20	29
Complaints made by the Board	0	0%	1	0
TOTAL	77	100%	50	78

COMPLAINTS BY REGION	2016-17 NO. COMPLAINANTS	%	2015-16 NO. COMPLAINANTS	2014-15 NO. COMPLAINANTS
South	42	54%	27	43
North	17	22%	13	20
North West	8	11%	7	10
Interstate/International	10	13%	3	5
TOTAL	77	100%	50	78

INVESTIGATIONS

A total of 32 investigations were commenced in the reporting period, which was over three times the number in the previous year. This is reflective of the increased complaints received.

Fifteen investigations were completed. The Board is conscious that it needs to keep pace with complaints progressing to an investigation, and where possible, utilises external resources to assist in clearing the backlog of investigations.

Table 8 - Investigations commenced and completed from 2016-17

MONTH	INVESTIGATIONS COMMENCED 2016-17	INVESTIGATIONS COMPLETED 2016-17	INVESTIGATIONS COMMENCED 2015-16	INVESTIGATIONS COMPLETED 2015-16	INVESTIGATIONS COMMENCED 2014-15	INVESTIGATIONS COMPLETED 2014-15
July	1	1	0	4	0	4
August	3	0	0	0	2	3
September	0	1	0	2	0	1
October	3	0	0	2	3	0
November	3	1	3	4	0	2
December	0	2	0	3	3	2
January	0	0	0	1	0	0
February	5	3	2	3	4	5
March	5	1	3	8	0	4
April	0	0	1	1	1	2
May	9	3	0	0	0	0
June	3	3	1	1	3	1
TOTAL	32	15	10	29	16	24

Table 9 - Complexity of investigations commenced

CATEGORY OF INVESTIGATION	INVESTIGATION CRITERIA	INVESTIGATIONS COMMENCED 2016-17	%	INVESTIGATIONS COMMENCED 2015-16	INVESTIGATIONS COMMENCED 2014-15
Simple	Basic investigation, low volume of documentary evidence, no witness or 3rd party involvement	8	25%	3	2
Intermediate	Medium volume of documentary evidence, single witness or 3rd party involvement	18	56%	6	9
Complex	Multiple witnesses, significant volume of evidence	5	16%	1	3
Very Complex	High volume of evidence, multiple witnesses, interaction with commercial entities	1	3%	0	2
TOTAL		32	100%	10	16

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 Senior Investigations Officer's ability to readily access information held by either the practitioner or complainant.

In the reporting period to 30 June 2017, the Board classified the majority (81%) of all investigations commenced in the period as either being simple or intermediate in nature.

FINALISATIONS AND OUTCOMES

Table 10 - Complaints finalised and method of finalisation from 2016-17

METHOD OF FINALISATION	RELEVANT SECTION OF ACT	DESCRIPTION	NUMBER FINALISED	% FINALISED COMPARED TO TOTAL FINALISATIONS	NUMBER FINALISED 2015-16
FINALISATIONS PRIOR TO AN INVESTIGATION:					
Summarily dismissed	s.433 (1) (a)	Complaint lacking in substance, vexatious, misconceived or frivolous	32	54%	20
Summarily dismissed	s.433 (1) (e) including matters finalised by virtue of s.428	Complaint is not one that the Board has the power to deal with	1	1.7%	1
Summarily dismissed	s.433 (2) (a)	Further information not given or complaint not verified	0	0%	4
Summarily dismissed	s.433 (3)	Complaint requires no further investigation	0	0%	1
Withdrawal	s.434	Complaint withdrawn by complainant prior to an investigation	9	15%	23
SUB TOTAL			42	71%	49
FINALISATIONS FOLLOWING AN INVESTIGATION:					
Dismissed following an investigation	s.451 (a)	No reasonable likelihood that the practitioner will be found guilty	9	15%	14
Dismissed following an investigation	s.451 (b)	No public interest to continue	0	0%	2
Withdrawal	s.434	Complaint withdrawn (after mediation) following an investigation	4	7%	6
SUB TOTAL			13	22%	22

METHOD OF FINALISATION	RELEVANT SECTION OF ACT	DESCRIPTION	NUMBER FINALISED	% FINALISED COMPARED TO TOTAL FINALISATIONS	NUMBER FINALISED 2015-16
FINALISATIONS FOLLOWING A HEARING/MEETING OF THE BOARD:					
Practitioner found guilty of unsatisfactory professional conduct	s.456 (7)	No determination	1	1.7%	1
Practitioner found guilty of unsatisfactory professional conduct	s.456 (7) (a)	Practitioner cautioned or reprimanded	1	1.7%	0
Practitioner found guilty of unsatisfactory professional conduct	s.456 (7) (ab)	Practitioner required to make an apology or no further action.	0	0%	0
Withdrawal	s.434	Complaint withdrawn	0	0%	1
Practitioner found guilty of unsatisfactory professional conduct	s.454 (2)	Practitioner admonished, fined & required to pay costs	1	1.7%	0
SUB TOTAL			3	5%	2
FINALISATIONS FOLLOWING A HEARING OF THE DISCIPLINARY TRIBUNAL OR SUPREME COURT:					
Practitioner found guilty of either unsatisfactory professional conduct or professional misconduct	s.471		0	0%	1
Practitioner found guilty of unsatisfactory professional conduct	s.471 (e) s.473 (a) s.479	Practitioner reprimanded	0	0%	1
Application dismissed		Dismissal of complaint	1	1.7%	1
Practitioner found guilty of professional misconduct	Supreme Court Inherent Jurisdiction	Practitioner removed from Roll	0	0%	2
SUB TOTAL			1	1.7%	5
TOTAL FINALISATIONS			59	100%	78

Finalisations:

Table 9 shows that a total of 59 complaints were finalised for the reporting period to 30 June 2017, which was a decrease from the previous reporting period of 78 complaints.

The majority (71%) of the Board's finalisations occurred prior to an investigation having commenced and involved complaints which were either summarily dismissed or withdrawn by the complainant following mediatory intervention by the Board.

A total of 13 complaints were finalised by the Board following an investigation and prior to a hearing, nine less finalisations than from the previous reporting period. There were 4 finalisations as a result of mediatory intervention either during or subsequent to an investigation being completed. The Board has a strategy to resolve matters, in appropriate circumstances, prior to commencing an investigation.

The matters which proceeded to a Board or Tribunal hearing were also investigated, although the investigation may have commenced or been completed prior to this reporting period. Effectively 17 (or 29%) of matters which were finalised this period, were subject to an investigation.

Clearance Rate:

The Board received 77 complaints within the reporting period and finalised a total of 59 complaints to 30 June 2017. The clearance rate achieved during the reporting period was therefore 77%, a marked decrease in the clearance rate for the previous reporting period.

The decrease is reflective of the increased complaint numbers and associated increased workload for the Board.

Outcome of Disciplinary action:

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 11 shows that the Board referred, or resolved to refer for hearing, a total of 1 complaint within the reporting period.

The Board completed a hearing (either by way of formal hearing or procedure for less serious complaints (section 456 meeting) in relation to 3 complaints within the reporting period. Two matters resulted in the Practitioner being found guilty of unsatisfactory professional conduct and a determination which is recorded on the Disciplinary Register as required by the Act.

Table 11 - Complaints referred (or resolved to be referred) to Disciplinary Tribunal, Supreme Court or for Board Hearing/Meeting 2016-17

COMPLAINTS REFERRED	SECTION OF ACT	REFERRED	REFERRED 2015-16	REFERRED 2014-15
Board Meeting (s.456 procedure for less serious complaint)	s.450 (b)	1	1	3
Board Hearing	s.450 (a)	0	1	0
Disciplinary Tribunal	s.450 (c) (d)	0	2	0
Supreme Court	s.450 (e)	0	2	1
TOTAL COMPLAINTS REFERRED		1	6	4

Table 12 - Number of pending complaints as at 30 June 2017

COMPLAINT SOURCE	2016-17	2015-16	2014-15
Unfinalised complaints under investigation as at 30 June 2016	7	24	28
Unfinalised complaints pending (not yet under investigation or awaiting hearing) as at 30 June 2016	34	43	52
SUBTOTAL PENDING COMPLAINTS AS AT 30 JUNE 2016	41	67	80
Complaints received 1 July 2016 to 30 June 2017	77	50	78
SUBTOTAL COMPLAINTS FOR CURRENT REPORTING PERIOD	118	117	158
Finalised complaints 1 July 2016 to 30 June 2017	59	78	91
BALANCE OF COMPLAINTS ON HAND AS AT 30 JUNE 2017	59	39	67

Table 12 above indicates that 59 complaints remain unfinalised as at 30 June 2017 which is an increase of 51% from the same period last year.

SUPREME COURT MATTERS

During the reporting year there was one application by a practitioner to the Supreme Court for a determination by way of re-hearing of a complaint.

The decision, *Boland v Legal Profession Board of Tasmania* [2016] TASSC 63 is subject to an appeal to the Full Court.

APPLICATIONS FOR SEARCH WARRANTS

No applications for a search warrant were made under section 576 of the Legal Profession Act during the reporting period.

CASE STUDIES

It is a function of the Board to advise the profession on appropriate standards of conduct. An effective way of doing that is to publish Board determinations where there are no adverse findings. Doing so provides the profession with real life examples of current issues which arise in legal practice and provides an opportunity for the Board to express its expectations in relation to conduct in certain circumstances.

The Board commenced publishing redacted decisions on its website in the reporting period, in circumstances where the decision would be of assistance to the profession.

Facebook messages

This complaint arose during a long history of dispute between the complainant and his ex-wife relating to finalisation of family law matters which included a property settlement and parenting orders. The practitioner represented the ex-wife.

The complainant later commenced a relationship with a person who was known to the practitioner. Not long after the relationship commenced that person sent the practitioner a private Facebook message asking for advice about whether they should commence a relationship with the complainant.

The practitioner replied, also via a private message on Facebook. In that message the practitioner expressed his personal views of the complainant and the complainant's character.

Sometime later the complainant's relationship with the new person broke down and the complainant obtained access to her Facebook message which included the comments made by the practitioner. By that stage the practitioner was then acting for not only the ex-wife but also the new person in relation to unrelated Magistrates Court proceedings commenced by the complainant, when he attempted to recover his personal effects.

Amongst other matters complained of to the Board, the complainant alleged that the practitioner had made inappropriate comments about the complainant's character on a public site which could be seen to adversely affect the character of the complainant and his legal matter. It was the practitioner's position that the Facebook message was a private message which reflected his personal views and was not meant for either public consumption nor was it directed to the complainant. The practitioner otherwise admitted making the comments.

It is the Board's position that while it is unwise to rely on 'private' Facebook posts remaining confidential, having considered the forum in which the comments were made, the Board agreed that the posts were made as private posts.

While the Board considered the actions of the practitioner in making the communication showed a lack of respect, they could not be categorised as a substantial or consistent failure of competence and diligence. In the circumstances the Board determined the comments could not amount to unsatisfactory professional conduct nor to professional misconduct.

Intimidation at mediation

The practitioner acted for the complainant in relation to family law proceedings relating to a property division with her former partner. During the course of the family law proceedings the parties, with their lawyers, attended a family court conciliation conference which resolved by way of the parties entering in to a consent agreement at the conclusion of the conference.

Shortly after the agreement had been reached, the complainant took issue with its terms and engaged a different lawyer. The complainant complained to the Board that the practitioner had

- ignored her instructions during the conciliation conference, particularly with regard to distribution of property and the date of the commencement of her relationship with her ex-partner
- failed to properly advise her prior to the conference about her ex-partner's potential claim against her property during their relationship
- spoke over the top of her during the conference so that she couldn't correct incorrect information and
- tried to intimidate and bully her in to signing the consent agreement.

The matter proceeded to an investigation. In submissions to the Board the complainant made comments about how she felt during the conference which included:

... I felt as though I was not even there... The worst of it was that he didn't give the correct dates, and when I tried to I was ignored and talked over.

... I was bullied into agreeing to a settlement.

... I was not provided with even five minutes in which to agree to what settlement was put to me and I was bullied into agreement.

The practitioner submitted that there were separate sessions during the mediation when the Registrar spoke to each of the parties individually and was able to and did provide advice and information to the parties, which included to the complainant.

As is usual with these kinds of allegations there were a number of factual disputes. The practitioner asserts there was a lot of haggling about the final settlement figure with parties negotiating through their lawyers, or with the Registrar shuttling from room to room, while the parties were in separate sessions. The practitioner accepted that the complainant was reluctant but felt that the complainant had consciously made a decision that she preferred to settle rather than risk incurring far greater expenses and being ordered to pay a higher amount at the hearing. The Registrar had also indicated that the settlement was appropriate.

During the course of the investigation the Registrar was contacted to ascertain his recollection about the conference. While he vaguely recalled the participants, he could not recall the specific conference which was the subject of the complaint, noting that he conducted about 10 conferences per week. To that end this conference did not stand out for any particular reason.

The Board considered that on the objective evidence available, matters relating to the relationship, including when it started, were raised during the conciliation conference and that while the complainant may have been cut off mid-sentence that does not amount to a failure to follow or ignore instructions. Dal Pont notes in *Lawyers' Professional Responsibility* (5th ed) at [4.135] *'the dividing line between, on the one hand, legitimate pressure or persuasion and, on the other, coercion, depends on the circumstances of the case, particularly the capacity of the client and the strength of the case.'*

The Board considered that the urging of the practitioner to accept the settlement offer, particularly in circumstances where he was conveying his concerns about the potential cost of a hearing, did not amount to intimidation and bullying and that the practitioner had a professional obligation to relay his concerns about costs.

Ultimately the complaint was dismissed as there was no reasonably likelihood that the practitioner would be found guilty of either unsatisfactory professional conduct or professional misconduct.

Dishonestly quoting for costs

The practitioner had acted for the complainant and her husband in relation to a number of sales and purchases over a number of years. The complainant contacted the practitioner in relation to potential buyers for her restaurant and a vacant block of land over the road. The terms required that the complainant would provide finance to the perspective purchaser.

Over the next few days there was email correspondence backwards and forwards in relation to the drafting of the relevant sale agreement, a list of plant and equipment, numbers of employees and liquor licensing. Within a week of initial contact the practitioner had forwarded amended agreements to the complainant and advised the agreements would be emailed to the practitioner acting for the purchasers.

Nine days after initial contact the practitioner sent the complainant a cost agreement together with a tax invoice for costs and disbursements. The tax invoice was for a sum greater than \$2,400 (inc of GST). The cost agreement included an estimate of costs to complete the sale of both the restaurant and block of land of between \$4,400 and \$6,600 inclusive of GST plus disbursements.

The complainant obtained quotes from two other legal practitioners for amounts significantly less than the practitioner's cost estimate to undertake the work to complete the sales. She eventually instructed another practitioner who charged the complainant \$1,500 plus GST in accordance with the quote.

The complaint to the Board was that the practitioner had:

- overcharged for preparation of the agreements
- failed to provide a cost estimate in accordance with section 291 of the *Legal Profession Act 2007* and
- dishonestly quoted to complete the sale having regard to the actual amount paid by the complainant.

Charging of excessive legal costs may amount to unsatisfactory professional conduct.

The Board considered that the amount charged by the practitioner for the work undertaken was not excessive. To the extent that cost disclosure must be made in writing before or as soon as practicable after the law practice is retained in the matter, the Act also provides that cost disclosure is not required if the total legal costs in the matter excluding disbursements and GST are not likely to exceed \$1,500.

Here the total cost did exceed \$1,500 but did so only by a small margin. The Board considered it would have been reasonable for the practitioner to conclude before she even began drafting the agreement that costs would not exceed that amount and it was only when she drew the account for that work, within a short period of time of being engaged, that she realised that had occurred.

The Board considered the fact that the complainant had obtained lower estimates for the same work with another practitioner, who then undertook that work, does not mean the practitioner's estimate to complete the work was dishonest.

Ultimately the complaint was summarily dismissed.

EDUCATION

The Profession

The Board has endeavoured to increase its interaction with the profession as a means of fulfilling its function of advising the profession on appropriate standards of conduct. In addition to its work to develop a new website it has also prepared a number of information sheets to assist the profession and the public to understand the legislative framework around the treatment of complaints and provide guidance about the most common complaint areas. The information sheets will be publicly available in late 2017.

The Board has also undertaken the following education:

Legal Practice Course 2016 and 2017

The Centre for Legal Studies runs its Legal Practice Course in the first half of each calendar year. In 2016 Ms Warner, senior investigator at the Board conducted a 90 minute seminar on how to minimise conduct complaints.

In 2017, following discussion with the Centre for Legal Studies, the Board has increased its participation to three one hour seminars for the legal practice students. The seminars will be part of the 'Skills, Ethics and Professional Responsibility' unit and focus on complaints about the profession. They are scheduled to occur in July 2017.

CPD sessions through the Law Society

- **Demystifying the Legal Profession Board, June 2016**

Conducted by Chief Executive Officer, Mr Ederle, this seminar provided information to the profession about common areas of complaint, including statistical analysis and helpful tips in dealing with the Board.

- **Beneficiaries Behaving Badly, June 2017**

Senior Investigator, Ms Warner, participated in this panel session on behalf of the Board. Succession law (which includes probate, estate and wills) is the third highest proportion of complaints to the Board, and some years the second highest. Ms Warner analysed the complaints made in the areas of succession law across the last two years and considered the motives for the complaints. Of the total 27 complaints, the following information was drawn:

- Around 60% of the complaints are made by beneficiaries, some of whom are also executors.

- The practitioner's role in the matter varied such that on occasions they were the executor or administrator and on others they acted on behalf of the estate.
- 22% of the complaints concerned circumstances where the practitioner had drafted the will.
- Over half of the matters involved family disputes and other family tensions.
- Common allegations arising from the family disputes are:
 - » the practitioner favoured one beneficiary over another;
 - » the practitioner failed to account to the complainant or seek instructions from the complainant;
 - » the practitioner failed to respond to the complainant;
 - » the practitioner was rude or intimidated or bullied the complainant;
 - » the practitioner had a conflict as perceived by the complainant; and
 - » a common complaint arising out of family conflict where the practitioner drafted the will or a power of attorney is that the deceased lack capacity to give instructions for the relevant document.
- A proportion of the complaints involved misunderstandings of the role of the practitioner. Of the complaints which were ultimately withdrawn, the withdrawal occurred following explanations of the roles of everyone involved and a rectification of any perceived errors.
- Around 14% of the complaints over the last two years arguably had some substance to them and at least two involved excessive delay.

Succession law is considered a complex area of law that the public generally don't understand very well, particularly with respect of the role of the executor or administrator.

In addition to the above forum the Board intends to meet with the Law Society's Elder and Succession Law Committee in the next reporting period to discuss development of appropriate consumer related information sheets in this area.

Other sessions

The Chief Executive Officer, Mr Ederle conducted in-house sessions on the Board and its complaint process to the following organisations:

- The Ombudsman, in April 2017
- Legal Aid Commission of Tasmania, in May 2017

DEVELOPMENT OF INFORMATION AND FACTS SHEETS

The Board has developed a number of new information and fact sheets for both the profession and the public to assist in understanding the complaint process and disciplinary outcomes. Some of the information has been reproduced and adapted for Tasmania with permission from the Board's sister agencies interstate. The fact sheets are expected to be available with the new website later in 2017. They include:

- Responding to a complaint
- The investigation of complaints
- Compensation orders
- Dealing with less serious complaints
- Conflict of interest
- Mediation
- Out of time complaints
- Types of costs, including no win no fee agreements
- Independent children's lawyers
- Frequently asked questions

OTHER PUBLICATIONS / ARTICLES

The Board has published several articles in the Law Letter including:

- Spring/Summer 2016 – Issue 130 – *Legal Profession Board of Tasmania – Year in Review*;
- Autumn 2017 – Issue 131 – *Newly Admitted Lawyers in Tasmania – Conduct Complaints by Type, Area of Law, Gender and Outcome*.

Copies of the relevant articles can be provided on request.

RESEARCH SUMMARY - NEWLY ADMITTED LAWYERS IN TASMANIA – CONDUCT COMPLAINTS BY TYPE, AREA OF LAW, GENDER AND OUTCOME

In response to a request for information from the Law Admissions Consultative Committee (LACC), the Board interrogated the last five years of data it held to determine what complaints had been received about new practising lawyers or entry level lawyers admitted for five years or less.

Across the five years a total of 33 complaints were identified as fitting within the complaints information that the LACC sought. The outcomes of that data, as published in Issue 131 of the Law Letter is:

- 66.6% of the complaints were against female practitioners;
- 27.2% involved family law matters;
- 50% of the allegations received concerned conduct defined as communication or service issues;
- There were no findings of either unsatisfactory professional conduct or professional misconduct;
- Almost half of the complaints were withdrawn either by the complainant, following mediation or with an apology or financial redress (48%);
- Almost 40% of complaints made were summarily dismissed by the Board prior to formal investigation;
- Of the 12% of complaints that were investigated, all were dismissed on the grounds the Board was satisfied that there was no reasonable likelihood that the practitioner would be found guilty of either unsatisfactory professional conduct or professional misconduct.

In interpreting the results, it should be noted the 33 complaints represent less than 9% of the total 381 complaints received by the Board in the last 5 reporting years. In addition, an admission date in Tasmania may not always mean that the practitioner is an entry-level lawyer. However, as a result of the review of information the LPBT will now capture the admission date for all new complaints, to assist in future research.

To the extent that female practitioners are over represented, it is noted that every complaint involving family or defacto law in the 33 complaints identified,

involved a female practitioner. That is, there were no complaints involving family law matters against male practitioners admitted for less than 5 years.

Although not captured in the results, a review of the family law complaints indicates that the most consistent conduct allegations concern costs (mainly with respect to overcharging), a lack of communication, and allegations of failure to comply with instructions.

Given the low numbers of complaints in this jurisdiction, the Board does not consider there is currently sufficient information to make any recommendations to the LACC about what legal education, training or other reforms might be necessary to reduce the number and/or particular types of misconduct or unsatisfactory conduct complaints against newly admitted lawyers.

OTHER STATUTORY FUNCTIONS - DELEGATIONS

Admissions

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

Appointment of Managers

The Board continues to delegate to the Law Society of Tasmania its statutory function regarding the appointment of a manager for a law practice pursuant to section 531 of the Act on an as needs basis.

During the reporting period, one manager was appointed by the Law Society of Tasmania, in its capacity as a Prescribed Authority, pursuant to a delegation from the Board. Further information is contained in the Report of the Prescribed Authority in Part Five.

3. Administrative Matters.



WEBSITE

In 2016–17, the Board has commenced a project focussed on the usability and accessibility of its website. This has included:

- a review and significant improvements to the website structure, menus, navigation and website content; and
- a revised home page layout that is more oriented to user needs.

It has engaged an external contractor to develop a new website which will be easy to navigate and which helps its users to efficiently and intuitively access the information they need, whether it be about the law or the Boards processes. In addition a significant number of new education and prevention resources will be added to the website once launched later in 2017.

The update of the website involved a comprehensive audit of accessibility, and completion of a suite of improvements across the site, ensuring a high level of compliance with Web Content Accessibility Guidelines 2.0 standards. The new design will be more navigable, predictable, readable and adaptable; with the use of colours creating a link and building familiarity for users, resizable text, the use of headings and labels, easy to read and understand language, a searchable decision register and an automatic restructuring of information dependent on the platform; desktops, iPads and mobile phones.

DECISIONS DATABASE

In April 2017 the Board commenced a project to develop a decisions database. Since it first commenced operations in 2009 the Board has made more than 450 formal decisions or determinations. While those decisions are currently collated and categorised within spreadsheets, the Board has decided it would be appropriate to create a database that would enable users to search the decisions by keywords and phrases contained within the decision and by the types of complaints made against legal practitioners and the outcomes of the complaints.

The database will be modelled on a database currently used by the Supreme Court of Tasmania. It is anticipated that the project will be completed in early 2018 which will include the back capture of previous decisions.

DISCLOSURES UNDER PUBLIC INTEREST DISCLOSURES ACT 2002

The Board is committed to the aims and objectives of the *Public Interest Disclosures Act 2002*. It does not tolerate improper conduct by its employees, officers or members, or the taking of detrimental action against those who come forward to disclose such conduct.

For the purposes of the Public Interest Disclosures Act the Board is a public body. During the reporting period the Board adopted the Model Procedures for public interest disclosure as prepared by the Ombudsman. It also developed and published its own Public Interest Disclosure Policy,

which is now available on the website at www.lpbt.com.au or from our office on request.

No referrals were made to the Ombudsman or other public bodies under s 29B (disclosure relating to misconduct) of the Public Interest Disclosures Act by the Board. Similarly, no referrals were made to the Board by the Ombudsman.

RIGHT TO INFORMATION

The Board is excluded from the *Right to Information Act 2009* by s 6 of that Act, unless the information relates to its administration. Complaint related information, including investigation material is therefore exempt. The Board is committed to ensuring that, where appropriate, its administrative information is available to the public. This is generally achieved through its annual reporting process and provision of information on its website.

During the reporting period, the CEO of the Board, Mr Ederle, acting as principal officer and in accordance with section 24 of the Right to Information Act delegated his powers and functions with respect to Right to Information to the Manager Operations of the Board.

The Board received no applications for assessed disclosures of information under the right to information legislation during the reporting period.

LEGISLATIVE AMENDMENTS

The only relevant legislative amendment during the period was the commencement of the Barristers Rules (*Legal Profession (Barristers) Rules 2016*) on 1 October 2016. The Rules adopt the *Legal Profession Uniform Conduct (Barristers) Rules 2015* (NSW). Part 8 of the *Rules of Practice 1994*, with the exception of the rules relating to professional indemnity insurance, were rescinded.

SERVICE LEVEL AGREEMENT

The Board has entered into a Service Level Agreement (SLA) with the Department of Justice for the provision of corporate services such as financial and accounting services, human relations, occupational health and safety and information technology support. The Board's employees have access to information material via the Department's intranet in relation to corporate services, guidelines, policies and professional learning.

WORK HEALTH AND SAFETY

The Board has adopted the Department of Justice Work Health and Safety System and associated policies and procedures to the extent that they are relevant to the Board. We continue to review and develop Work, Health and Safety (WHS) policies and procedures specific to the Board.

Work, health and safety strategies employed during the reporting period include:

- as required safety inspections of office premises
- as required reporting to the Board on WHS matters;
- WHS awareness for all employees, including completion of WHS Induction or Refresher programmes, facilitated by the Department of Justice
- ergonomic assessments at induction, as well as follow-up assessments where required
- provision of ergonomic equipment as identified through ergonomic assessment.

PROFESSIONAL DEVELOPMENT

Both the Senior Investigations Officer and Manager Operations are legal practitioners and maintain a practising certificate. During this reporting period our Complaints Officer completed and was awarded a Certificate IV in Government Investigations.

ACCOUNTABILITY

The CEO is responsible for the Board's operations, management and general administration and reports on those matters to the Board at each of its meetings. All Board staff are independently employed. Where a complaint is made against Board staff, the CEO will investigate the complaint. Complaints about other decisions made by the Board, excluding investigations, are directed to the CEO.

The Board has adopted a comprehensive Conflict of Interest policy for its employees and contractors. The policy includes the establishment of a register of conflicts, maintained by the CEO's office.

Board members are subject to the legislative provisions of the *Legal Profession Act 2007* (Schedule 3) with respect to their ongoing obligations with respect to disclosing their interests.

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4. Report of the Disciplinary Tribunal.

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

DISCIPLINARY TRIBUNAL

REPORT FOR FINANCIAL YEAR 2016 – 2017

Legal Profession Act 2007, s. 617

During the financial year ended 30 June 2017 one application was made to the Disciplinary Tribunal under section 464 of the *Legal Profession Act 2007*.

The application is dated 12 January 2017 (No. 01/2017) and the respondent is John Patrick Eric Walker.

The application alleges professional misconduct by way of failure to comply with notice given to the respondent by the Tribunal under s. 572 of the Act. The failure to comply is alleged to have continued from 14 May 2015 to 26 August 2015.

No orders have yet been made.

However, on 20 July 2017 the Chairperson of the Tribunal received from the Legal Profession Board pursuant to s. 479 an instrument of consent containing proposed orders.

A Tribunal will be constituted as soon as practicable in order to consider whether the orders should be made by consent (Act, s. 479(9)).



Chairperson
11 August 2017

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5. Report of the Prescribed Authority.

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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:LOR/TL

28 July 2017

Report of the Prescribed Authority 2016/2017

Pursuant to s653(3) of the *Legal Profession Act 2007* the Law Society of Tasmania, being the prescribed authority for the purposes of the Act presents the following report to the Board on its operations for the financial year 2016/2017.

Overview

The *Legal Profession (Prescribed Authorities) Regulations 2008* designates the Society as the prescribed authority for the purposes of some 132 sections of the Act. They include:

- a. Regulation of practising certificates including grant and renewal, the imposition of reasonable and relevant conditions, amendment, suspension and cancellation of practising certificates
- b. Maintaining a record of incorporated legal practices
- c. The regulation of trust accounts
- d. The appointment of investigators to law practices
- e. The appointment of external intervenors to law practices.

The Regulation of the Profession is undertaken by the Society and the Legal Profession Board and to a limited extent the Tasmanian Bar. The Society acknowledges its continuing positive working relationship with the Board.

Funding of the Prescribed Authority

The functions of the prescribed authority are funded entirely by the legal profession through the payment of practising certificate fees.

Regulation of Trust Accounts

Most, but not all law practices in Tasmania operate a trust account. Trust money is money entrusted to a law practice in the course of or in connection with the provision of legal services. The major obligation of the Society is to ensure that trust money is held by law practices in a way that protects the interests of persons for or on whose behalf that money is held. Every law practice that holds money in its general trust account must undergo an annual trust account examination by an authorised examiner. The examiner's report is provided to the Society. Reports identify any breaches of the relevant Act or Regulations, any unsatisfactory practices and make general recommendations regarding the operation of the trust account, including appropriate risk mitigation strategies.

The Society expends not inconsiderable resources in undertaking its statutory duties as the regulator of trust accounts. A trust account administrator is employed two days per week under the supervision of the Executive Director. The administrator's role is to manage the administration of trust accounting reporting requirements including checking and recording quarterly returns with regards to the designated deposit account, the review and analysis of all external examination reports and reviewing other documents lodged with the Society such as the notification of irregularities, and the opening or closing of trust accounts. In addition, the Society's authorised trust account examiner is retained to provide advice as and when needed to law practices or prospective law practices. Such advice may include advice of a technical nature or providing information as to the appropriate practice management/trust accounting system for a particular firm.

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Trust account examinations relate to a calendar year. The following information therefore relates to the 2016 calendar year;

- Number of firms with trust accounts – 120
- Number of trust receipts – 101,024
- Total amount of trust receipts – in excess of \$7.5billion
- Total amount held on trust at 31 December 2016 - \$112 million
- Total amount held on investment at 31 December 2016 - \$71 million

Trust Accounting Course

Recently the Society has worked closely with the Legal Bookkeepers Institute to develop an online trust accounting course for the Tasmanian legal profession. The course is now available and the Council of the Society has resolved to make successful completion of the course a practising certificate condition for all new sole practitioners and partners.

External Intervention – Appointment of Manager

Acting pursuant to a delegation from the Board the Society appointed a manager to the law practice of A D Pearce & Co on 27 February 2017. The practice was wound up and the appointment ceased on 30 June 2017. The appointment was necessary as a result of the ill-health of the principal of the practice.

Practising Certificates

The following classes and numbers of practising certificates were issued under the *Act* during the period 1 July 2016 to 30 June 2017:

- Principal – 206
- Employee – 308
- Barrister – 61
- Corporate – 38
- Locum – 2
- Community legal centre – 52
- Volunteer community legal centre - 3

Section 41 of the *Act* states that an Australian lawyer engaged under the *State Service Act*, by a state, territory or commonwealth instrumentality, a local council or in a state or territory statutory office is taken to hold for the purposes of the *Act* and that employment, a practising certificate as a legal practitioner. The above figures therefore do not include practitioners who fall within section 41 including practitioners employed in the Office of the Director of Public Prosecutions, the Solicitor-General and the Legal Aid Commission.

Each class of practising certificate has a number of practising certificate conditions attached to it as a matter of course. All practitioners are subject to a condition they comply with the Society's practice guideline mandating minimum requirements for continuing professional development. Further conditions may be and are imposed depending on the practitioner's circumstances.

Examples include:

- The imposition of pupillage conditions for new barristers

- In the case of practitioners operating as a sole practitioner for the first time, the obligation to appoint a mentor, to meet with that mentor and for that mentor to report to the Society
- The imposition of additional continuing professional development obligations

Conclusion

The Society aspires to carry out all of its statutory functions as the prescribed authority to the highest standard and with the goal of continual improvement. It recognises that the proper and principled licencing of practitioners and regulation of money held in trust by law practices is vital to continued public confidence in the legal profession, the maintenance of proper standards of professional practice and the protection of users of legal services.

Should the Board require any further information, please do not hesitate to contact the Society.

**LUKE RHEINBERGER
EXECUTIVE DIRECTOR**

c.c. Acting Attorney-General for Tasmania

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6. Financial Statements.

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

Independent audit report and Financial statements as at 30 June 2017

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Independent Auditor's Report

To the Members of Parliament

Legal Profession Board of Tasmania

Report on the Audit of the Financial Report

Opinion

I have audited the financial report of the Legal Profession Board of Tasmania (the Board), which comprises the statement of financial position as at 30 June 2017 and statements of comprehensive income, changes in equity and cash flows for the year then ended, notes to the financial statements, including a summary of significant accounting policies and the statement of certification by the Members of the Board (the Members).

In my opinion, the accompanying financial report:

- (a) presents fairly, in all material respects, the Board's financial position as at 30 June 2017 and its financial performance and its cash flows for the year then ended
- (b) is in accordance with the *Legal Profession Act 2007* and Australian Accounting Standards.

Basis for Opinion

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

The *Audit Act 2008* further promotes the independence of the Auditor-General. The Auditor-General is the auditor of all Tasmanian public sector entities and can only be removed by Parliament. The Auditor-General may conduct an audit in any way considered appropriate and is not subject to direction by any person about the way in which audit powers are to be exercised. The Auditor-General has for the purposes of conducting an audit, access to all documents and property and can report to Parliament matters which in the Auditor-General's opinion are significant.

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

...1 of 3

To provide independent assurance to the Parliament and Community on the performance and accountability of the Tasmanian Public sector.
Professionalism | Respect | Camaraderie | Continuous Improvement | Customer Focus

Strive | Lead | Excel | To Make a Difference

Responsibilities of the Members for the Financial Report

The Members are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards, and the financial reporting requirements of the *Legal Profession Act 2007* and for such internal control as they determine is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

In preparing the financial report, the Members are responsible for assessing the Board's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless they either intend to liquidate the Board or to cease operations, or have no realistic alternative but to do so.

Auditor's Responsibilities for the Audit of the Financial Report

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

As part of an audit in accordance with the Australian Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Board's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Board.
- Conclude on the appropriateness of the Members' use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Board's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify my opinion. My conclusion is based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Board to cease to continue as a going concern.

...2 of 3

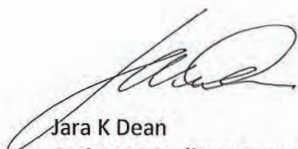
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Independent audit report and Financial statements as at 30 June 2017

- Evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Members regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.



Jara K Dean
**Assistant Auditor-General Financial Audit
Delegate of the Auditor-General**

Tasmanian Audit Office

14 August 2017
Hobart

...3 of 3

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Statement by Chairman and Chief Executive Officer

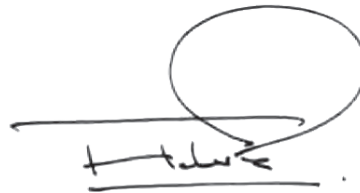
The accompanying Financial Statements of the Legal Profession Board of Tasmania are in agreement with the relevant accounts and records and have been prepared in compliance with Treasurer's Instructions issued under the provision of the Financial Management and Audit Act 1990 and Section 599 of the Legal Profession Act 2007 to present fairly the financial transactions for the period ended 30 June 2016 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.

Dated this 10th day of August 2017



Keyran Pitt QC
CHAIRPERSON



Frank Ederle
CHIEF EXECUTIVE OFFICER

Independent audit report
and Financial statements
as at 30 June 2017

Statement of Comprehensive Income for the year ended 30 June 2017

	Notes	2017 \$'000	2016 \$'000
Revenue and other income from transactions			
Revenue from Solicitor's Guarantee Fund	1.1	968	1 129
Other revenue	1.2	10	101
Total revenue and other income from transactions		978	1 230
Expenses from transactions			
Employee benefits	2.1	709	527
Supplies and consumables	2.2	262	275
Other expenses	2.3	152	241
Total expenses from transactions		1 123	1 043
Net result from transactions		(145)	187
Comprehensive result		(145)	187

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

Statement of Financial Position as at 30 June 2017

	Notes	2017 \$'000	2016 \$'000
Assets			
Financial Assets			
Cash and cash equivalents	6.1	338	471
Receivables	3.1	7	12
Total assets		345	483
Liabilities			
Payables	4.1	14	14
Employee benefits	4.2	150	143
Total liabilities		164	157
Net assets		181	326
Equity			
Accumulated funds		181	326
Total equity		181	326

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

Independent audit report
and Financial statements
as at 30 June 2017

Statement of Cash Flows for the year ended 30 June 2017

	Notes	2017 \$'000	2016 \$'000
		Inflows (Outflows)	Inflows (Outflows)
Cash flows from operating activities			
Cash inflows			
Solicitor's Guarantee Fund Receipts		968	1 129
GST Receipts		43	37
Other cash receipts		10	110
Total cash inflows		1 021	1 276
Cash outflows			
Employee benefits		(705)	(544)
GST payments		(39)	(41)
Supplies and consumables		(255)	(276)
Other expenses		(155)	(242)
Total cash outflows		(1 154)	(1 103)
Net cash generated from (used in) operating activities	6.2	(133)	173
Net increase (decrease) in cash and cash equivalents held		(133)	173
Cash and deposits at the beginning of the reporting period		471	298
Cash and deposits at the end of the reporting period	6.1	338	471

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 2017

	Accumulated surplus / deficit \$'000	Total equity \$'000
Balance as at 1 July 2016	326	326
Total comprehensive result	(145)	(145)
Total	(145)	(145)
Balance as at 30 June 2017	181	181

	Accumulated surplus / deficit \$'000	Total equity \$'000
Balance as at 1 July 2015	139	139
Total comprehensive result	187	187
Total	187	187
Balance as at 30 June 2016	326	326

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 2017**

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Note 1 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.

1.1 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.

	2017 \$'000	2016 \$'000
Solicitor's Guarantee Fund Revenue	968	1 129
Total revenue from Solicitor's Guarantee Fund	968	1 129

1.2 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.

	2017 \$'000	2016 \$'000
Interest Revenue	9	11
Other Revenue	1	90
Total	10	101

Note 2 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.

2.1 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.

(a) Employee expenses

	2017 \$'000	2016 \$'000
Wages and salaries (Staff)	516	394
Wages and salaries (Board members)	116	71
Superannuation – defined contribution scheme	44	30
Superannuation – defined benefit scheme	20	19
Other employee expenses	13	13
Total	709	527

Independent audit report and Financial statements as at 30 June 2017

As the Board has staff who are members of defined benefits superannuation schemes, superannuation expenses relating to those defined benefits schemes relate to payments into the Consolidated Fund. 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 12.85 per cent (2016: 12.75 per cent) of salary.

Superannuation expenses relating to defined contribution schemes are paid directly to the relevant superannuation funds at a rate of 9.5 per cent (2016: 9.5 per cent) of salary.

(b) Remuneration of Key Management Personnel

	Short-term benefits		Long-term benefits			Total
	Salary	Other Benefits	Super-annuation	Leave Benefits	Termination Benefits	
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
2017						
Key management personnel						
Frank Ederle, Chief Executive Officer	154	17	20	(6)	-	185
Keyran Pitt QC, Chairman	29	-	3	-	-	32
Judith Paxton, Member	15	-	1	-	-	16
Peter Dane, Member	21	-	2	-	-	23
Graeme Jones, Member	19	2	2	-	-	23
David Lewis, Member	11	2	1	-	-	14
Anthony Mihal, Member	21	3	2	-	-	26
	270	24	31	(6)	-	319

	Short-term benefits		Long-term benefits			Total
	Salary	Other Benefits	Super-annuation	Leave Benefits	Termination Benefits	
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
2016						
Key management personnel						
Frank Ederle, Chief Executive Officer	153	14	20	(5)	-	182
Keyran Pitt QC, Chairman	23	-	2	-	-	25
Judith Paxton, Member	16	-	2	-	-	18
Peter Dane, Member	6	-	1	-	-	7
John Upcher, Member	5	-	1	-	-	6
David Bessell, Member	8	-	1	-	-	9
Graeme Jones, Member	14	2	1	-	-	17
	225	16	28	(5)	-	264

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the agency, directly or indirectly.

Remuneration during 2016-17 for key personnel is set by the *State Service Act 2000*. Remuneration and other terms of employment are specified in employment contracts. Remuneration includes salary, allowances and other non-monetary benefits. Long term employee expenses include annual leave, long service leave, superannuation obligations and termination payments. Short-term benefits include motor vehicle and car parking fringe benefits in addition to any other short term benefits. Fringe benefits have been reported at the grossed up reportable fringe benefits amount. The Fringe Benefits Tax (FBT) year runs from 1 April to 31 March each year, any FBT attributable to key management personnel is reported on that basis.

It should be noted that because annual and long service leave liabilities are calculated by discounting future cashflows (detailed in Note 4.2) which may change from year to year, it is possible for key personnel to accrue negative leave benefits in any particular financial year, or they may utilise more leave than they accrue in any particular financial year.

Acting Arrangements

When members of key management personnel are unable to fulfil their duties, consideration is given to appointing other members of senior staff to their position during their period of absence. Individuals are considered members of key management personnel when acting arrangements are for more than a period of one month.

(c) Related Party Transactions

There are no material related party transactions requiring disclosure.

2.2 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.

	2017	2016
	\$'000	\$'000
Audit fees	6	6
Operating leases	83	81
Consultants	36	24
Property expenses	38	58
Communications	10	9
Information technology	51	47
Travel and transport	10	8
Plant and equipment	5	5
Advertising and promotion	5	-
Other supplies and consumables	18	37
Total	262	275

The external audit fee for 2016-17 is \$6,440 (\$6,310 for 2015-16).

Independent audit report and Financial statements as at 30 June 2017

2.3 Other Expenses

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.

	2017 \$'000	2016 \$'000
Legal Costs	131	210
Other Expenses	21	31
Total	152	241

Note 3 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.

3.1 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.

	2017 \$'000	2016 \$'000
GST Receivables	7	10
Recoupment of costs	-	2
Total	7	12

Settled within 12 months	7	12
Total	7	12

3.2 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.

All the Office's Office Improvements, Plant and Equipment have been fully written off as at 30 June 2017.

(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).

Note 4 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.

4.1 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.

	2017	2016
	\$'000	\$'000
Accrued expenses	14	14
Total	14	14
Settled within 12 months	14	14
Total	14	14

Settlement is usually made within 30 days.

4.2 Employee Benefits

Key estimate and judgement

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. Employee benefits are measured as the present value of the benefit at 30 June, where the impact of discounting is material, and at the amount expected to be paid if discounting is not material. The Board assumes that all staff annual leave balances less than 20 days will be settled within 12 months, and therefore valued at nominal value, and balances in excess of 20 days will be settled in greater than 12 months and therefore calculated at present value.

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. The Board makes a number of assumptions regarding the probability that staff who have accrued long service leave, but are ineligible to take it will remain with the Board long enough to take it. For those staff eligible to take their long service leave, the Board assumes that they will utilise it on average, evenly over the following ten years. All long service leave that will be settled within 12 months is calculated at nominal value and all long service leave that will be settled in greater than 12 months is calculated at present value.

Independent audit report and Financial statements as at 30 June 2017

	2017 \$'000	2016 \$'000
Accrued salaries	6	3
Annual leave	41	42
Long service leave	103	98
Total	150	143
<hr/>		
Settled within 12 months	41	34
Settled in more than 12 months	109	109
Total	150	143

4.3 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.

Note 5 Commitments and Contingencies

5.1 Schedule of Commitments

	2017 \$'000	2016 \$'000
By type		
<i>Lease Commitments</i>		
Operating leases	113	173
Total lease commitments	113	173
<hr/>		
By maturity		
<i>Operating lease commitments</i>		
One year or less	84	84
From one to five years	29	89
Total operating lease commitments	113	173

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

5.2 Contingent Assets and Liabilities

Contingent assets and liabilities are not recognised in the Statement of Financial Position due to uncertainty regarding any possible amount or timing of any possible underlying claim or obligation.

(a) Quantifiable contingencies

A quantifiable contingent asset is a possible asset that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity.

A quantifiable contingent liability is a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or a present obligation that arises from past events but is not recognised because it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation.

	2017 \$'000	2016 \$'000
Quantifiable contingent liabilities		
<i>Contingent claims</i>		
Contingent legal claims	50	-
Total quantifiable contingent liabilities	50	-

At 30 June 2017 the Board had one legal claim against it in dispute.

Note 6 Cash Flow Reconciliation

6.1 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.

	2017 \$'000	2016 \$'000
Operating Account	338	471
Total cash and cash equivalents	338	471

6.2 Reconciliation of Net Result to Net Cash from Operating Activities

	2017 \$'000	2016 \$'000
Net result	(145)	187
(Increase) / Decrease in Receivables	5	5
Increase / (Decrease) in Employee benefits	7	(16)
Increase / (Decrease) in Payables	-	(3)
Net cash generated from operating activities	(133)	173

Note 7 Financial Instruments

7.1 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)
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:

2017	Maturity analysis for financial liabilities		
	1 Year	Undiscounted Total	Carrying Amount
Financial liabilities			
Payables	14	14	14
Total	14	14	14

2016	Maturity analysis for financial liabilities		
	1 Year	Undiscounted Total	Carrying Amount
Financial liabilities			
Payables	14	14	14
Total	14	14	14

(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:

	2017 \$'000	2016 \$'000
Variable rate instruments		
<i>Financial assets</i>		
Cash and cash equivalents	338	471
Total	338	471

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:

Sensitivity Analysis of the Board's Exposure to Possible Changes in Interest Rates

	Statement of Comprehensive Income		Equity	
	100 basis points increase \$'000	100 basis points decrease \$'000	100 basis points increase \$'000	100 basis points decrease \$'000
30 June 2017				
Cash in Special Deposits and Trust Fund	3	(3)	3	(3)
Net sensitivity	3	(3)	3	(3)
30 June 2016				
Cash in Special Deposits and Trust Fund	5	(5)	5	(5)
Net sensitivity	5	(5)	5	(5)

Independent audit report
and Financial statements
as at 30 June 2017

7.2 Categories of Financial Assets and Liabilities

	2017 \$'000	2016 \$'000
Financial assets		
Cash and cash equivalents	338	471
Receivables	7	12
Total	345	483
Financial Liabilities		
Financial liabilities measured at amortised cost	14	14
Total	14	14

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

	Carrying Amount 2017 \$'000	Net Fair Value 2017 \$'000	Carrying Amount 2016 \$'000	Net Fair Value 2016 \$'000
Financial assets				
Cash and cash equivalents	338	338	471	471
Receivables	7	7	12	12
Total financial assets	345	345	483	483
Financial liabilities				
Payables	14	14	14	14
Total financial liabilities	14	14	14	14

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 8 Events Occurring After Balance Date

There have been no events subsequent to balance date which would have a material effect on the Board's Financial Statements as at 30 June 2017.

Note 9 Significant Accounting Policies

9.1 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.

9.2 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 Chief Executive Officer on 10 August 2017.

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.

9.3 Functional and Presentation Currency

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

9.4 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 Australian Accounting Standards Board that are relevant to its operations and effective for the current annual reporting period. These include:

- *2015-6 Amendments to Australian Accounting Standards – Extending Related Party Disclosures to Not-for-Profit Public Sector Entities* – The objective of this Standard is to make amendments to AASB 124 *Related Party Disclosures* to extend the scope of that Standard to include not-for-profit public sector entities. This Standard applies to annual reporting periods beginning on or after 1 July 2016. The impact is increased disclosure in relation to related parties. There is no financial impact.

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

The following applicable Standards have been issued by the AASB and are yet to be applied:

- *AASB 9 Financial Instruments and 2014-7 Amendments to Australian Accounting Standards arising from AASB 9 (December 2014)* – The objective of these Standards is to establish principles for the financial reporting of financial assets and financial liabilities that will present relevant information to users of financial statements for their assessment of the amounts, timing, uncertainty of an entity's future cash flows, and to make amendments to various accounting standards as a consequence of the issuance of AASB 9. These standards apply to annual reporting periods beginning on or after 1 January 2018. The future impact is to recognise impairment losses on financial assets on an expected basis rather than an incurred basis and introduces a fair value through other comprehensive income category for non-equity financial assets. The financial impact is expected to be minimal.
- *AASB 15 Revenue from Contracts with Customers* – The objective of this Standard is to establish the principles that an entity shall apply to report useful information to users of financial statements about the nature, amount, timing, and uncertainty of revenue and cash flows arising from a contract with a customer. In accordance with *2015-8 Amendments to Australian Accounting Standards - Effective Date of AAS 15*, this Standard applies to annual reporting periods beginning on or after 1 January 2018. Where an entity applies the Standard to an earlier annual reporting period, it shall disclose that fact. The Board has commenced reviewing the financial impact of this standard.
- *2014-5 Amendments to Australian Accounting Standards arising from AASB 15* – The objective of this Standard is to make amendments to Australian Accounting Standards and Interpretations arising from the issuance of AASB 15 *Revenue from Contracts with Customers*. This Standard applies when AASB 15 is applied, except that the amendments to AASB 9 (December 2009) and AASB 9 (December 2010) apply to annual reporting periods beginning on or after 1 January 2018. This Standard shall be applied when AASB 15 is applied. The Board has commenced reviewing the financial impact of this standard.
- *2016-2 Amendments to Australian Accounting Standards - Disclosure Initiative: Amendments to AASB 107* – The objective of this Standard is to amend AASB 107 *Statement of Cash Flows* to require entities preparing statements in accordance with Tier 1 reporting requirements to provide disclosures that enable users of financial statements to evaluate changes in liabilities arising from financing activities, including both changes arising from cash flows and non-cash changes. This Standard applies to annual periods beginning on or after 1 January 2017. The impact is increased disclosure in relation to cash flows and non-cash changes.
- *2016-3 Amendments to Australian Accounting Standards - Clarifications to AASB 15* – The objective of this Standard is to clarify the requirements on identifying performance obligations, principal versus agent considerations and the timing of recognising revenue from granting a licence. This Standard applies to annual periods beginning on or after 1 January 2018. The impact is enhanced disclosure in relation to revenue. The Board has commenced reviewing the financial impact of this standard.

- **AASB 16 Leases** - The objective of this Standard is to introduce a single lessee accounting model and require a lessee to recognise assets and liabilities for all leases with a term of more than 12 months, unless the underlying asset is of low value. This Standard applies to annual reporting periods beginning on or after 1 January 2019. The impact is enhanced disclosure in relation to leases. The Board has commenced reviewing the financial impact of this standard.
- **2016-4 Amendments to Australian Accounting Standards - Recoverable Amount of Non-Cash-Generating Specialised Assets of Not-for-Profit Entities** - The objective of this Standard is to amend AASB 136 *Impairment of Assets* to remove references to depreciated replacement cost as a measure of value in use for not-for-profit entities and to clarify that the recoverable amount of primarily non-cash-generating assets of not-for-profit entities which are typically specialised in nature and held for continuing use of their service capacity, is expected to be materially the same as fair value determined under AASB 13 *Fair Value Measurement*, with the consequence that AASB 136 does not apply to such assets that are regularly revalued to fair value under the revaluation model in AASB 116 and AASB 138, and AASB 136 applies to such assets accounted for under the cost model in AASB 116 and AASB 138. This Standard applies to annual reporting periods beginning on or after 1 January 2017. The impact is enhanced disclosure in relation to non-cash-generating specialised assets of not-for-profit entities. The Board has commenced reviewing the financial impact of this standard.

9.5 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.


9.6 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.

9.7 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.



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