



**Legal Profession Board of Tasmania
Annual Report 2019–2020**

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31 August 2020

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

Dear Attorney-General

LEGAL PROFESSION BOARD OF TASMANIA – ANNUAL REPORT 2019-20

Please find enclosed the Annual Report of the Legal Profession Board of Tasmania for the period 2019-20, 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
CHAIRPERSON,
LEGAL PROFESSION BOARD OF TASMANIA

Frank Ederle
CHIEF EXECUTIVE OFFICER,
LEGAL PROFESSION BOARD OF TASMANIA

The Legal Profession Board of Tasmania acknowledges the palawa people as the traditional custodians of lutruwita/Tasmania and pays its respect to elders past, present and emerging.

Contents

REPORT OF THE CHAIRPERSON	4
REPORT OF THE CHIEF EXECUTIVE OFFICER	6
PART ONE: THE LEGAL PROFESSION BOARD	9
PART TWO: OPERATIONS REPORT	15
PART THREE: ADMINISTRATIVE MATTERS	41
PART FOUR: REPORT OF THE DISCIPLINARY TRIBUNAL	45
PART FIVE: REPORT OF THE PRESCRIBED AUTHORITY	47
PART SIX: INDEPENDENT AUDIT REPORT AND FINANCIAL STATEMENTS	53



Report of the Chairperson



I am again pleased to present the Legal Profession Board of Tasmania's annual report for the financial period ending 30 June 2020, this being my seventh year of service with the Board.

It would be impossible to report on the Board's activities, results and endeavours over the past 12 months without pausing to reflect upon the tremendous impact that the COVID-19 pandemic has had on communities, not only at the local level, but of course globally.

Tasmania, and by default the Board, has been immensely fortunate to have not been affected to the extent that many other communities and organisations have been adversely affected. It is with great relief that as I write this report I am able to confirm that no Board member nor employee has tested positive to the virus.

I take this opportunity therefore to recognise the outstanding effort that the Board's CEO, Mr Frank Ederle, and his team have made in quickly being able to adapt to the rapidly changing environment the pandemic caused from March 2020. The Board's workplace moved to a virtual arrangement in a very short time frame in an effort to ensure all employees and Board members were safe, and, the important work of the Board was able to be continued seamlessly.

Notwithstanding the pandemic is far from behind us, I am confident that the Board will continue to be in a position to fulfil its statutory obligations into the future.

Workload of the Board

Putting to one side the challenges and increase in workload the pandemic has caused, the past 12 months for the Board has again been both rewarding and remarkably busy.

The increase in complaint numbers experienced in the previous two reporting periods has again increased in the 2019/20 financial year. The Board received 131 complaints for the reporting period, which is the highest number of complaints received in a financial year since the Board

commenced operations in 2009; representing a 16% increase compared to last year. Further detailed information in relation to the nature of complaints received in the reporting period is set out at Part Two of this report.

Within the reporting period, the Board commenced 38 formal investigations where an investigator was appointed, and finalised 107 complaints over the past 12 months. As has been the case since the commencement of operations in 2009, the Board maintains its commitment to the early resolution of complaints by mediation in appropriate circumstances. 20% of all finalised complaints were as a result of some mediatory intervention by Board officers.

Meetings and Determinations of the Board

The Board convened 11 complaints-specific meetings over the past 12 months, and a further 5 section 456 (1) meetings ((procedure for less serious complaints), whereby a practitioner is required to provide an explanation to the Board in relation to their conduct arising from a complaint.

As has been the case for many years, the Board combines both its complaint and administrative meetings for reasons of financial restraint.

In accordance with the *Legal Profession Act 2007*, both a complainant and practitioner the subject of a complaint, are entitled to receive a written determination and reasons following a decision to finalise a complaint. The Board provided 80 written determinations and reasons in the reporting period.

Membership of the Board

I am pleased to report that there have been no changes to the Board's six-person membership over the past 12 months. The Board continues to operate in an efficient and effective manner and is supported by a dedicated team of professional employees under the guidance of the CEO.

The Board supports its officers' endeavours to widen and deepen their collective knowledge and skills as regulators at every opportunity. I record that the Board's Manager Operations, Ms Gayle Johnston, was appointed to the Board of Legal Education in January 2020 as the Board's nominee.

I also take this opportunity to express my sincere thanks and gratitude to all current serving members of the Board for their outstanding commitment over the past 12 months. As in previous years, I continue to be inspired by my Board colleagues. Without exception, all members generously contribute their valuable time and effort to ensure the important work of the Board is being done.

Funding of the Board

Each year the Board is required to submit to the Attorney an application for funding for its operations over the coming 12 months. The Attorney, if satisfied, will approve an amount to be paid from the Solicitors' Guarantee Fund to the Board.

I take this opportunity to thank the Attorney for her continued support and interest in the work of the Board.

Finally, on behalf of all members of the Board, I wish to again gratefully acknowledge the work and dedication of the CEO, Mr Frank Ederle, and his loyal and professional team for their work, dedication and continued enthusiasm for the Legal Profession Board of Tasmania.



Keyran Pitt QC

Chairperson,
Legal Profession Board of Tasmania

Report of the Chief Executive Officer



COVID-19

As no doubt will be recorded in many annual reports nation-wide, the 2019/20 period will be described as one of, if not the, most challenging and remarkable periods in recent history as a consequence of the COVID-19 pandemic. I echo the Chairperson's sentiments in relation to the Board and Tasmania being to date very fortunate to have not suffered the same level of adverse effects of the pandemic which have been endured, and continue to be endured, globally.

The Board has since March 2020, in line with government policy, limited direct contact with others, implemented working from home arrangements and continues to conduct Board business remotely and virtually with the aid of technology.

Notwithstanding the effects of the pandemic, the Board has maintained a focus on its public protection role, particularly in light of the Courts and the legal profession's continued operation; ongoing admissions to the profession; and the Disciplinary Tribunal continuing to hear and determine matters referred to it.

The continued increase in complaint numbers within the reporting period have been an additional challenge particularly in light of the quickly shifting and uncertain times. The Board has been both willing to adapt to new ways of working and members have been unconditionally supportive during recent difficult times.

Externally Focussed Endeavours

The last 12 months of operations of the Board has been marked by a continued increase in complaints being filed with the Board. At the end of the reporting period, the Board had received the highest number of complaints since 2009. The Board's litigation work has also been at the highest levels since operations commenced.

It is as yet unclear as to the reasons why there has been a 16% increase in complaint numbers compared to the last financial year, although the increases have been consistent across the entire period and not directly attributable to the pandemic per se.

This year's Conference of Regulatory Officers (CORO) was hosted in Victoria and was very well attended by all legal regulator jurisdictions across Australia. Notable highlights of the conference included a focus on sexual harassment within the legal profession and regulating for consumer protection. Four officers of the Board were able to attend the conference.

The Board continued its valuable work in providing guidance to the legal profession and community and issued a fact sheet in relation to deceased estates.

The Manager Operations and her team also continued to engage directly with members of the profession at all levels through the Law Society's continuing professional development scheme; the Legal Practice Course; and University of Tasmania Law Faculty. This excellent and worthwhile work has at its core the goal to improve client-lawyer relationships both with emerging professionals as well as with established legal practitioners.

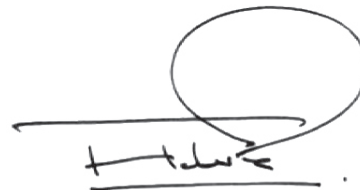
Internally Focused Endeavours

Although the *Legal Profession Act 2007* empowers the Board to impose levies on local legal practitioners (section 592 (2)), it has not been necessary to do so since the commencement of the Board's operations in 2009. The Board has continued to exercise financial restraint in all of its dealings within the reporting period despite the marked increase in complaints which has placed significant pressure on existing resources.

I take this opportunity to gratefully acknowledge the Attorney-General, the Honourable Elise Archer M.P, for supporting the Board's funding application for the period, which underpins the Board's ability to fulfil its statutory obligations.

Other exciting projects have been advanced in the past 12 months including significant work in relation to developing a position statement, specific complaint-procedure and training directed at sexual harassment in the profession, and, the adoption of a substantial parental leave policy.

Finally, it is with great pride and pleasure that I thank all of the staff of the Board whose diligence, professionalism and energy have again been exceptional this year. 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

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Part 1

The Legal Profession Board



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OUR STATUTORY FUNCTIONS

The Board has the following statutory functions under section 591 of the *Legal Profession Act 2007* (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 Disciplinary 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;
- to conduct education programs relating to client-lawyer relationships for members of the public; and
- any other functions imposed by the Act or any other Act.

As the regulator of the legal profession, there are a number of other duties imposed on the Board by the Act.

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

Mr Pitt QC has formerly 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 the Environmental Protection Appeal Board.

Mr Pitt QC is a 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, and President of the Property Agents Tribunal. He is an Honorary Fellow of the Royal Planning Institute of Australia.

Mr Pitt QC is a nominee of the Minister.

Lay Members



MS HEATHER FRANCIS

Ms Heather Francis commenced her term in November 2018.

Ms Francis is presently the CEO of the RHH Research Foundation, an independent entity that has become one of the largest funding bodies for local medical research conducted in Tasmania. She recently completed six-year terms on the Board of the Tasmanian Community Fund and also Primary Health Tasmania, and remains on the Board of St Michael's Collegiate School as Chair.

Ms Francis has also previously been on the Board of Crime Stoppers Tasmania and also served two terms as the Deputy Chair of the Australian Marketing Institute at a national level. She was on the Tasmanian Women's Council and also served as Chair of the Panel of Judges for the Tasmanian Honour Roll of Women for four years. Ms Francis was acknowledged as the Telstra Business Woman of the Year (Community and Government) in 2013.

Ms Francis is a nominee of the Minister.



MS MARION HALE

Ms Marion Hale commenced her term in November 2018.

Ms Hale has worked in improving equity and justice in the community for the last 28 years. Her career has spanned education, crisis support, counselling, community development, policy development and population health. In 2012 Ms Hale was awarded a Churchill Fellowship to visit programs, around the world, that support women to become smoke free in pregnancy. As a result of the Fellowship, Ms Hale was elected to be the President

of the International Network of Women Against Tobacco in 2015 and is serving her second three-year term as President.

Ms Hale works as an Educator for the Drug Education Network. She is also a member of the Mental Health Tribunal of Tasmania, a Consumer Representative on The College of Emergency Medicine, a Panel Member on the Alcohol Review Panel and a Community Member of the Psychology Board of Australia.

Ms Hale is a nominee of the Minister.

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 (2008–2019)
- 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 recently retired from private legal practice and is an experienced legal practitioner having practiced as both a barrister and solicitor for over 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 matters. 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, and the Law Council of Australia's Regional, Remote, Rural Lawyers' Advisory Committee. He is currently Chairman of a charitable organisation called the Roland View Estate Trust, and a member of the Local Government Code of Conduct Panel and the Guardianship and Administration Board.

Mr Mihal is a nominee of the Law Society.



MR DAVID LEWIS

Mr Lewis, a prominent barrister on the North West Coast of Tasmania, was appointed to the Board on 27 June 2016. Over the last 30 years he has enjoyed a diverse practice in law which, in addition to his experience at the Queensland, South Australian, and Tasmanian Bars, includes appointment as a Senior Crown Prosecutor in Darwin, General Counsel for the Director of Public Prosecutions in the Northern Territory, Managing Practitioner of the Katherine Regional Aboriginal Legal Aid Service, Senior In-house Family Law Counsel with the Legal Aid Commission of Tasmania, and Legislative Counsel for the external Australian Territory of Norfolk Island.

Mr Lewis has served in a number of professional capacities including the Bar Council of Tasmania, Law Society of Tasmania Family Law Committee, Child Protection Case Management Committee (Tasmania), Criminal Law Committee of the Northern Territory Law Society, Justice and Law Reform Committee Norfolk Island, Domestic Violence Advisory Committee (Tasmania), Lecturer in Business & Corporations Law (South Burnett TAFE Queensland), and as a Board member and Administrator of the Youth Advocacy Centre Brisbane, Queensland.

Mr Lewis is a nominee of the Tasmanian Bar.

BOARD MEETINGS

The Board convened **11** complaint-specific meetings during the reporting period. The table below 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 AND HEARINGS ATTENDED IN 2019–2020**

BOARD MEMBER	BOARD MEETINGS	S450(A) HEARING	S456 MEETING
Keyran Pitt QC	9	0	3
Heather Francis	11	0	4
Marion Hale	11	0	5
Graeme Jones	10	0	3
Anthony Mihal	11	0	5
David Lewis	11	0	4

In addition to the above meetings, the Board also convened **5** section 456 (1) meeting for less serious complaints.

Consequent to the Board meetings and hearings, the Board produced **80*** written complaint determinations with reasons during the reporting period. This is an increased number from last year, reflecting the greater number of complaints received this year.

* On occasions multiple complaints will be combined into a single determination.

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 2019-20, the funding which was approved by the Minister was **\$1,345,012**.

The Board, by virtue of section 591 (d) of the Act is to approve terms and conditions of professional indemnity insurance policies provided to law practices. No changes were made to the terms and conditions of the current policies in this reporting period.

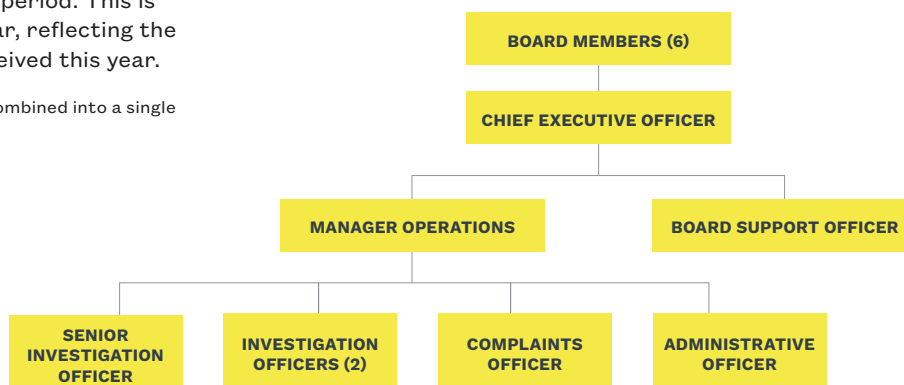
THE BOARD'S GOAL

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 2020.

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



Part 2

Operations Report

THE YEAR IN REVIEW



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 2019 to 30 June 2020.

COVID-19

Like institutions Australia wide, the Board has been impacted by the declaration of the COVID-19 pandemic. In an effort to ensure employee and Board member safety, and, that the Board's statutory obligations were maintained for as long as possible, the CEO prepared a business continuity plan in mid-March 2020.

Although only a small organisation, as the pandemic progressed, fifty percent of our workforce, which was mainly the Board's investigators, commenced working from home. The Board vacated a section 456 meeting that had been listed and by April 2020 Board members attended meetings remotely. Members of the public were not permitted to enter our premises without an appointment.

Between April – June 2020 there were a number of complaints which were referred to section 456 meetings. Having regard to the restrictions imposed by COVID-19, the section 456 meetings were held in abeyance until the relaxation of social distancing. The Board was able to continue to meet on a monthly basis by way of video conferencing. It has revised all of its work processes and work stations to ensure the workplace is COVID safe.

As will be noted below, the pandemic did not impact complaint numbers. Fortunately none of the Board's employees contracted the virus.

ENQUIRIES TO THE BOARD

Enquiries to the Board comprise a significant part of the Board'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 where we recommend a person seek independent legal advice or other appropriate action.

The Board continues to receive a number of enquiries which seek information related to applications for admission to legal practice. Those enquiries and other purely administrative matters are recorded separately.

Recognising that the first enquiry to the Board represents a significant step in the complaint process, as far as possible senior officers at the Board deal with the initial enquiry. Our senior officers can spend some time trying to understand the root cause of the issue which prompted the enquiry and where possible will assist the caller to resolve or understand what may simply be a service issue, rather than a conduct issue.

The table below shows that the Board has dealt with a total of **227** enquiries. The number of enquiries has remained, in the main, reasonably constant since the Board commenced operations, with a slight downward trend over the last 3 years. This might be attributable to the increased information available on-line, as despite the enquiry numbers, the number of complaints has increased this year.

The Board records the total time spent per enquiry throughout the period which includes not only the time taken with the initial enquiry, but also the administrative work that flowed from the enquiry. The average time spent per enquiry, including follow up if required, is just over 30 minutes.

A total of **41** enquiries in the reporting period resulted in a written complaint. This represents a conversion rate of just under **20%**.

Over **90%** of enquiries were dealt with by telephone, with the remaining enquiries being by email or letter. Members of the public are invited to attend the Board's offices to discuss their issues in person if they wish to. **7** people made an enquiry in person at the Board's offices before it was closed to the public after the commencement of the pandemic in March 2020.

Consistent with our complaints data, enquiries primarily concern:

- family law
- probate and estate work
- civil litigation
- criminal law; and
- conveyancing

Fees, costs, perceptions of overcharging or 'bill shock' continue to be the most common query to the Board,

irrespective of the area of law. Queries about perceived delay by lawyers were a close second followed by negligence/competency.

The enquiries we receive, coupled with the complaints, continue to make it clear that a client's understanding of what to expect and of what has happened, and the lawyers delivery of that service is at odds. In the vast majority of matters, it is the lack of communication that leads to problems rather than actual wrongdoing.

TABLE 2: ENQUIRIES BY SOURCE

MONTH	ENQUIRIES BY PHONE	ENQUIRIES IN PERSON	ENQUIRIES BY EMAIL	ENQUIRIES BY LETTER	TOTAL ENQUIRIES 2019-20	TOTAL ENQUIRIES 2018-19	TOTAL ENQUIRIES 2017-18
July	19	0	1	0	20	21	25
August	15	1	2	0	18	32	24
September	23	1	1	0	25	13	20
October	20	2	0	0	22	25	19
November	16	0	3	0	19	26	22
December	11	0	1	0	12	13	14
January	12	2	0	0	14	13	17
February	21	0	2	0	23	29	22
March	21	1	0	0	22	24	28
April	14	0	1	0	15	17	15
May	23	0	1	0	24	25	17
June	13	0	0	0	13	7	17
Total Enquiries	208	7	12	0	227	245	240

Enquiries about non-lawyers

The Board also receives enquiries about the status of persons who may appear to be providing legal advice or acting in a legal capacity.

It is an offence under the Act to engage in legal practice when a person is not entitled to do so. The penalty following a conviction for doing so is a fine or a term of imprisonment.

If a person engaging in legal practice in Tasmania is not an Australian legal practitioner, the Board has limited scope to make relevant enquiries.

In this reporting period, the Board received **2** complaints where the information provided to the Board alleged the person, who was not an Australian lawyer nor a legal practitioner, was engaging in legal practice contrary to the Act. The Board considered the information received was insufficient to refer for further investigation.



COMPLAINTS

Our process

A complaint may be made about the conduct of an Australian legal practitioner by any person, including the Board itself. The Board is required by the Act to take all reasonable steps to ensure that any person wishing to make a written complaint is given the appropriate assistance to do so.

A complaint to the Board must be in writing and must identify the complainant, the lawyer (if possible) and describe the alleged conduct. The Board receives written complaints in a number of ways, including from complainants in person, handwritten forms posted to the Board, via email to our enquiry inbox, and via the online complaint form on our webpage.

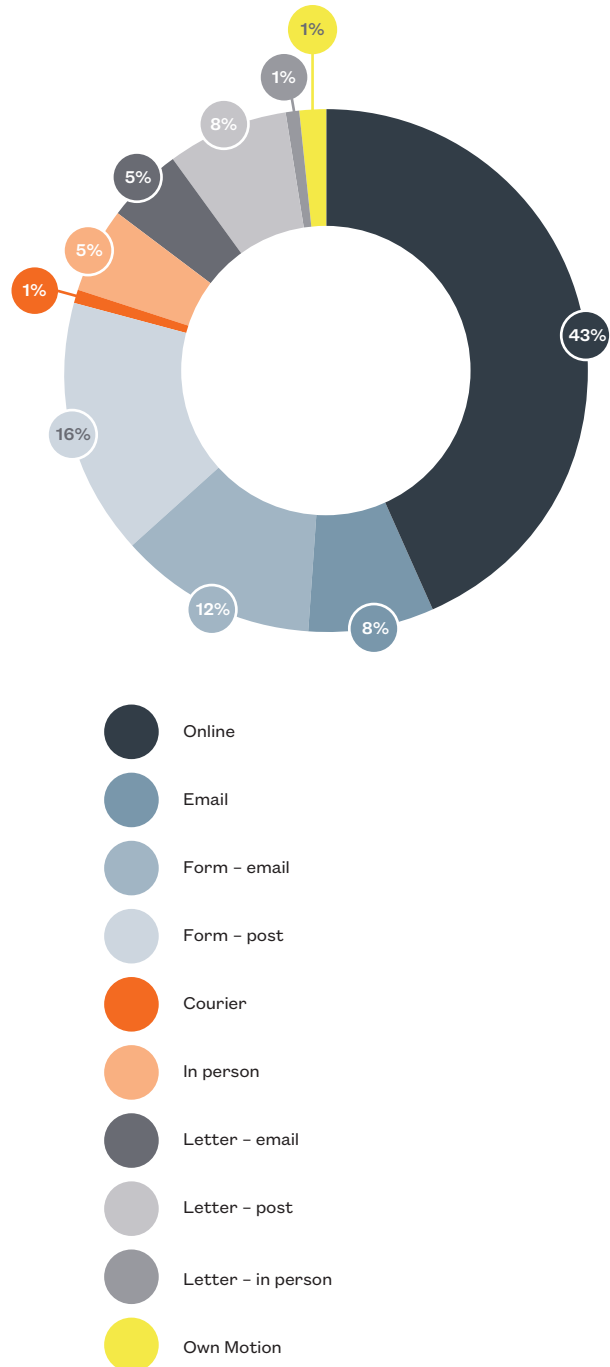
- 57 online
- 10 email
- 16 form email
- 1 courier
- 7 in person
- 21 form post
- 10 letter post
- 1 letter in person
- 6 letter email
- 2 own motion

As can be seen in the above chart, complaints are primarily received via the online form on the Board’s website. The next highest category are postal complaints.

A small number of complaints are made to the Board in person. The Board, pursuant to its obligations under section 511 of the Act to provide assistance to members of the public in making complaints, will meet with complainants when they seek assistance. For a period of time during the government imposed restrictions caused by COVID-19, the Board could not meet complainants face-to-face.

Anonymous communications

On occasions the Board will receive anonymous ‘complaints’ in that the complainant does not identify themselves. An anonymous communication with the Board, even if in writing, is not a complaint as it is a fundamental requirement under the Act that the person making the complaint is identified. However, having regard to its primary purpose of protecting the public, the Board may make enquiries relevant to the issues raised anonymously.



When a complaint is received by the Board, the Board’s obligation to investigate the complaint commences. The Board discharges that obligation including by seeking further information from the complainant to specifically identify the conduct that is alleged to have occurred, seeking documents referred to in the complaint and seeking additional information relevant to the Board’s jurisdiction.

A complaint may include any number of allegations against a legal practitioner or law practice.

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. Further, at section 511 (c) of the Act, the Board must provide assistance to members of the public in making complaints.

In the Board’s view, the public interest requires that any conduct capable of amounting to unsatisfactory professional conduct or professional misconduct, which may have been omitted or missed from inclusion in a complaint by a complainant, ought to be properly considered by the Board.

This may result in the omitted or missed conduct being included in the complaint. Section 588 of the Act relevantly prescribes that if an investigator becomes aware of any matter in the course of a complaint investigation which may constitute conduct capable of amounting to unsatisfactory professional conduct or professional misconduct, the investigator must refer the matter to the Board to consider whether disciplinary action should be taken against the practitioner. In other words, there is a positive

obligation for the Board, irrespective of whether conduct is raised in a complaint or otherwise, to consider whether action should be taken in respect of conduct capable of amounting to a disciplinary matter.

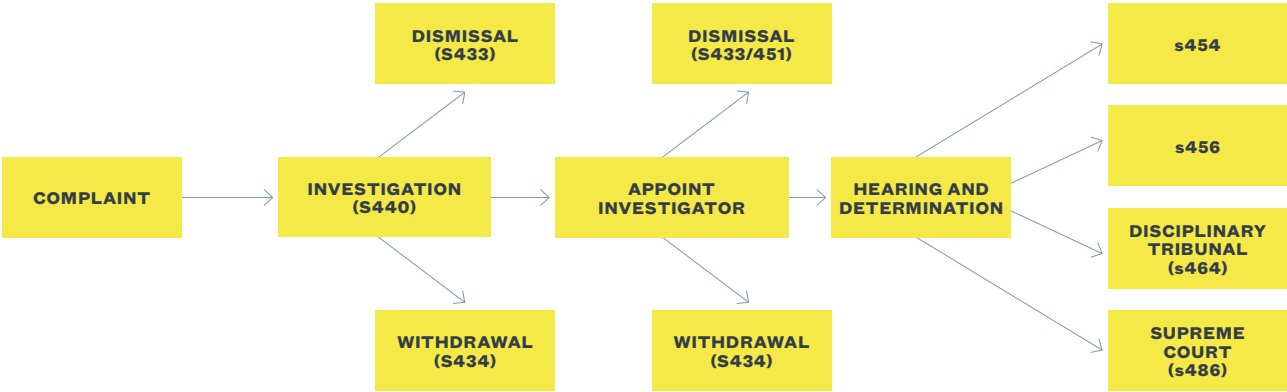
Once the preliminary inquiries have been completed, a ‘Notice of Complaint Received’ together with a copy of the complaint is sent to the practitioner, accompanied by an invitation to provide comment (submissions) in relation to it.

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.

All information obtained initially is collated and all of the material is then considered by the Board at a monthly meeting. At this stage, the Board will consider whether it must summarily dismiss the complaint, or whether or not to appoint an investigator. As complaints may contain a number of allegations, on some occasions the Board may summarily dismiss part of the complaint, and investigates the remainder.

The Board has a duty to deal with complaints as efficiently and expeditiously as is practicable. The steps taken by the Board’s staff prior to the Board considering a complaint at a Board meeting may take several months as sufficient time is allowed to both the complainant and the practitioner to provide submissions.

The Board has produced fact sheets which can be found on its website to assist both the complainant and the practitioner understand the statutory framework for dealing with complaints.



FLOW CHART 1 – PROGRESS OF A COMPLAINT THROUGH THE BOARD

Complaints this year

The Board received a record **131 complaints** in the reporting period, which is the highest number of complaints it has received since it commenced operations. It is a **16%** increase on last year and continues an upward trend of complaints since 2016-17.

TABLE 3: WRITTEN COMPLAINTS RECEIVED

MONTH	COMPLAINTS RECEIVED 2019-20	COMPLAINTS RECEIVED 2018-19	COMPLAINTS RECEIVED 2017-18	COMPLAINTS RECEIVED 2016-17
July	19	22	5	5
August	11	13	12	3
September	13	10	14	3
October	10	3	18	9
November	13	13	13	8
December	4	3	7	3
January	6	7	12	3
February	10	12	3	7
March	11	11	13	11
April	9	7	13	9
May	16	9	6	9
June	9	3	4	7
Total Complaints	131	113	120	77

The Board collates as much additional data about complaints it can, in an effort to provide greater awareness to the legal profession about the complaints it receives.

The Board commenced **2** own motion complaints against legal practitioners arising from information provided to the Board.



Practising certificates

Of the **131** complaints, **104** were directed against lawyers who held local practising certificates issued by the prescribed authority (the Law Society of Tasmania).

The Board received **2** complaints against legal practices, rather than individual lawyers.

A further **2** complaints concerned lawyers holding practising certificates in New South Wales and **1** concerning a lawyer holding a practising certificate in Brisbane, but where the conduct principally arose in Tasmania.

1 complaint was against an Australian lawyer who at the time of the complaint did not hold a practising certificate for a variety of reasons including because they were retired, on extended personal leave, or had not renewed for unknown reasons. A further **2** complaints were made about people who were ultimately not Australian lawyers nor Australian legal practitioners.

This year the Board also received **6** complaints against Tasmanian government lawyers, the highest number of complaints received in one year against government lawyers. In Tasmania a government lawyer is entitled to practise in Tasmania without a practising certificate. However government lawyers still fall within the jurisdiction of the Board.

A further **5** complaints were made against persons who hold a position as a government employee and are also Australian lawyers. In one of those complaints, the role held was incidental to the complaint.

Consistent with the previous year, the majority of complaints were made against lawyers holding a principal local practising certificate (62%) with the next biggest category being those holding an employee practising certificate.

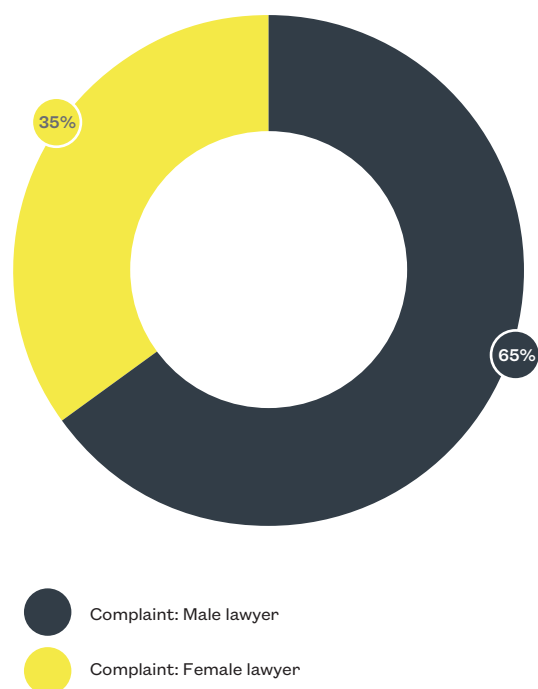
TABLE 4: COMPLAINTS BY PRACTISING CERTIFICATE TYPE IN TASMANIA

PC TYPE	NUMBER OF COMPLAINTS
Barrister	9
Community	2
Corporate	1
Employed	32
Principal	72
Grand Total	116

46 complaints identified lawyers employed by an incorporated legal practice with **60** against lawyers working in a law practice. **2** complaints were against lawyers working at a community legal centre and **9** complaints were against barristers.

Gender

Of the **131** new complaints **129** were directed against individuals. **84** complaints (**65%**) identified a male lawyer while **45** identified a female lawyer (**35%**).



Admission dates

The admission date of the lawyer against whom a complaint had been made was available for **124** of the complaints received.

NO OF COMPLAINTS	DATE RANGE OF ADMISSION	MALE	FEMALE	PRINCIPAL PC
10	2016–2020	3	7	1
18	2009–2015	11	7	2
29	2000–2008	14	15	20
66	Prior to 2000	54	12	49

Overwhelmingly, and similar to previous years, the majority of the complaints were made against lawyers with more than 20 years' experience. Of those **66** complaints, **82%** were against male practitioners. Of the lawyers with more than 20 years' experience, **74%** held a Principal practising certificate.



Allegations

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 negligence and competency, failure to act as instructed, and conflicts of interest comprised a significant proportion of complaint allegations received by the Board in the reporting period.

TABLE 5: PRINCIPAL ALLEGATIONS AGAINST LEGAL PRACTITIONERS

PRINCIPAL ALLEGATION	2019-20	2019-20 %	2018-19	2018-19 %	2017-18	2017-18 %
Abusive/Rude/Threat	10	8%	14	12%	16	13%
Breach of Act, rules, court order or undertaking	12	9%	6	5%	7	6%
Communication with client - including failure to communicate	7	6%	10	9%	5	4%
Confidentiality breach	1	0.5%	4	3%	1	1%
Conflict of interest	13	10%	5	4%	7	6%
Costs/Bills/Fees/Overcharging	14	11%	20	18%	22	18%
Court performance	0	-	3	3%	0	0%
Delay	12	9%	12	11%	15	12%
Dishonest/Misleading (including misleading the Court)	3	2%	10	9%	6	5%
Instructions - failure to act or to comply	23	18%	9	8%	11	10%
Instructions - acting without instructions	3	2%	3	3%	3	2.5%
Negligence/Competency - including poor handling of case	26	20%	11	10%	22	18%
Criminal allegations	3	2%	1	1%	3	2.5%
Trust money - including failure to account	3	2%	1	1%	1	1%
Inappropriately ceasing to act	1	0.5%	4	3%	0	0%
*Abuse of position as a legal practitioner	-	-	-	-	1	1%
Totals	131	100%	113	100%	120	100%

*allegation no longer recorded in the 2018-19 & 2019-20 reporting period.

**PART TWO —
OPERATIONS REPORT**

TABLE 6: AREA OF LAW TO WHICH COMPLAINTS RELATED

AREA OF THE LAW	2019-20	2019-20 %	2018-19	2018-19 %	2017-18	2016-17
Administrative	5	4%	3	3%	7	0
Building	0	-	3	3%	7	5
Commercial/Corporations/franchise *used to be Commercial/Contract	9	7%	1	1%	7	4
Other - civil includes debt collection, anti- discrimination, defamation *used to be Civil Litigation	14	11%	14	12%	2	6
Constitutional *used to be Commonwealth/ Constitutional	0	-	0	0%	-	0
Conveyancing	12	10%	14	12%	14	8
Criminal	19	15%	12	11%	8	15
Family/de facto	31	24%	17	15%	25	11
Employment *used to be Industrial Relations	2	0.5%	1	1%	1	0
Personal injury	3	2%	5	4%	4	2
Probate/family provisions *used to be Probate/Estates/Wills	21	16%	26	23%	30	16
Wills/powers of attorney *used to be Probate/Estates/Wills	6	5%	5	4%	-	-
Workers' compensation	4	3%	3	3%	9	0
Immigration	1	0.5%	2	2%	-	0
Land & Environment	1	0.5%	0	0%	-	-
Victim Compensation	0	-	0	0%	-	-
Leases/Mortgages	2	1%	1	1%	-	-
Insolvency	1	0.5%	0	0%	-	-
Unknown	0	-	6	5%	-	-
*Anti-discrimination	-	-	-	-	1	0
*Defamation	-	-	-	-	-	1
*Banking Law	-	-	-	-	-	6
*Debt collection	-	-	-	-	3	1
*Restraint Orders	-	-	-	-	-	0
*Medical Negligence	-	-	-	-	-	1
*Coronial	-	-	-	-	-	1
Total	131	100%	113	100%	120	77

* Areas of law have been recategorised for consistency with other jurisdictions and to assist with the recording of data.

Table 6 indicates that the area of law most often involved in complaints received by the Board in the reporting period, at a combined **45%** of complaints was Family/De facto and Probate and Wills provisions.

The areas of law also highly represented in the reporting period were Criminal Law and Civil matters. Those two areas of law represent **25%** of complaints to the Board.

The Board is able to accept complaints made to it by people residing outside of Tasmania. In the reporting period, **25** 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 made **2** board initiated complaints. The Board has developed a fact sheet, available on its website, to provide context as to when the Board will commence a complaint.

The larger proportion of complainants during the reporting period were male, with the majority of the complaints coming from the south of Tasmania.









**PART TWO —
OPERATIONS REPORT**

TABLE 7: COMPLAINANTS' PROFILE (REGION & GENDER)

PROFILE	Male	Female	Couple	Business	Complaints made by the Board	TOTAL
2019-20	75 (58%)	48 (37%)	4 (3%)	2 (1%)	2 (1%)	131 (100%)
2018-19	50	54	7	0	2	113
2017-18	56	64	0	1	5	*126
2016-17	46	31	-	-	0	77
						

*The number of complainants exceeds the number of complaints during the period because 6 complaints were made jointly.

REGION	South	North	North West	Interstate/ International	Residence not disclosed	TOTAL
2019-20	53 (41%)	30 (23%)	18 (14%)	25 (19%)	5 (3%)	131 (100%)
2018-19	52	22	17	16	6	113
2017-18	75	18	14	13	-	120
2016-17	42	17	8	10	-	77
						

In addition to the **131** complaints received the Board also dealt with a further **74** complaints carried forward from the 2018-19 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 investigator being appointed.

TABLE 8: COMPLAINTS CARRIED FORWARD AT 1 JULY 2019

COMPLAINTS	CARRIED FORWARD AS AT 1 JULY 2019	%
Unfinalised complaints pending (an investigator yet to be appointed or awaiting hearing) as at 30 June 2019	28	38%
Complaints under investigation	33	45%
Complaints referred to a hearing	13	17%
Total Complaints carried forward as at 1 July 2019	74	100%



INVESTIGATIONS

33 investigations were carried forward from the previous reporting year and the Board appointed an investigator to complete the investigation of a total of **38** complaints during the reporting period. The number of investigations which continued beyond the summary dismissal stage is almost a **20%** increase on the previous year and is reflective of the sustained increase in complaints received.

Of the **38** complaints in respect of which the Board appointed an investigator, the appointment was made on average 5 months after the complaint was received by the Board. The average 5 month period enables the collation of material and submissions for consideration by the Board of jurisdiction and/or summary dismissal.

A total of **17** investigations were completed to a dismissal or withdrawal. A further **12** completed investigations were referred to a prosecution either by way of a Board Hearing, the Disciplinary Tribunal or the Supreme Court. One matter which has been referred to the Supreme Court for prosecution, was referred back for further investigation after review by counsel, prior to the application being made.

The total **29** completed investigations is consistent with the previous year.

The Board where necessary, utilises external resources to assist in clearing the backlog of investigations.

The purpose of an investigation is to obtain and consider the evidence and for the investigator to provide a recommendation to the Board on the reasonable likelihood or public interest test as set out in section 451 of the Act. That is, if there is no reasonable likelihood that the practitioner will be found guilty of either unsatisfactory professional conduct or professional misconduct, or it is in the public interest, the Board may dismiss the complaint.

The burden of proof of any charge of unsatisfactory professional conduct or professional misconduct brought by the Board following investigation of a complaint rests with the Board. The standard of proof is the balance of probabilities, but carries the rider that the weight or strength of the evidence necessary to prove a disciplinary matter varies depending on the circumstances and the gravity of the matter to be proved. This is known as the *Briginshaw* standard or the standard of 'reasonable satisfaction': *Briginshaw v Briginshaw* (1938) 60 CLR 336 per Dixon J at 362.

The rules of procedural fairness, to the extent that they are not inconsistent with the Act, apply in relation to the investigation of complaints.

TABLE 9: INVESTIGATIONS COMMENCED AND COMPLETED FROM 2019-20

MONTH	Investigations COMMENCED 2019-20	Investigations COMPLETED 2019-20	Investigations COMMENCED 2018-19	Investigations COMPLETED 2018-19	Investigations COMMENCED 2017-18	Investigations COMPLETED 2017-18
July	4	4	4	2	4	3
August	4	1	1	1	2	0
September	1	5	3	1	3	6
October	3	3	7	3	4	1
November	2	2	4	2	4	1
December	5	4	1	1	0	3
January	0	0	1	0	0	0
February	3	5	3	3	5	3
March	4	3	0	6	3	5
April	3	1	2	0	3	3
May	5	0	4	4	3	1
June	4	1	2	6	4	2
Total	38*	29	32	29	35	28

*one matter was referred back for further investigation after the Board had resolved to commence a prosecution in

the Supreme Court.

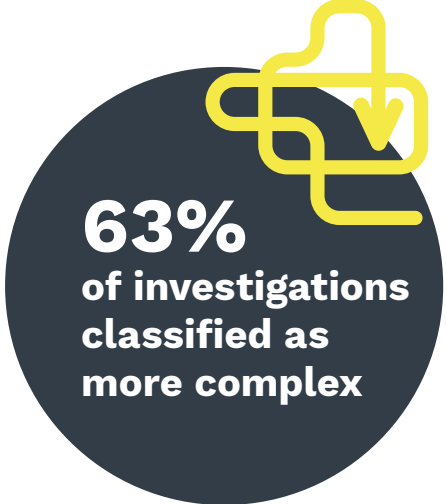
TABLE 10: COMPLEXITY OF INVESTIGATIONS COMMENCED

CATEGORY OF INVESTIGATION	INVESTIGATION CRITERIA	INVESTIGATIONS COMMENCED 2019-20	%	INVESTIGATIONS COMMENCED 2018-19	INVESTIGATIONS COMMENCED 2017-18
Simple	Basic investigation, low volume of documentary evidence, no witness or 3 rd party involvement	14	37%	7	15
Intermediate	Medium volume of documentary evidence, single witness or 3 rd party involvement	16	42%	7	10
Complex	Multiple witnesses, significant volume of evidence	7	18%	11	4
Very Complex	High volume of evidence, multiple witnesses, interaction with commercial entities	1	3%	7	6
Total		38	100%	32	35

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

In the reporting period to 30 June 2020, the Board classified the majority (**63%**) of all investigations where an investigator was appointed in the period, as more complex than a simple investigation.

The average length of investigations from the appointment of the investigator to the Board determination, or referral to prosecution is 12 months.



FINALISATIONS AND OUTCOMES

TABLE 11: COMPLAINTS FINALISED AND METHOD OF FINALISATION FROM 2019-20

METHOD OF FINALISATION	RELEVANT SECTION OF ACT	DESCRIPTION	NUMBER FINALISED	% FINALISED COMPARED TO TOTAL FINALISATIONS	NUMBER FINALISED 2018-19
FINALISATIONS PRIOR TO APPOINTMENT OF AN INVESTIGATOR:					
Summarily dismissed	s.433 (1) (a)	Complaint lacking in substance, vexatious, misconceived or frivolous	52	49%	40
Summarily dismissed	s.433 (1) (e)	Complaint is not one that the Board has the power to deal with	13	13%	6
Summarily dismissed	s.433 (1) (b)	Subject of a previous complaint that has been dismissed	1	1%	0
Summarily dismissed	s.433 (2) (a)	Further information not given or complaint not verified	2	1%	4
Summarily dismissed	s.433 (3)&(4)	Complaint requires no further investigation or no public interest in continuing	3	2%	4
Withdrawal	s.434	Complaint withdrawn by complainant prior to an investigation	13	13%	21
Sub Total			84	79%	75
FINALISATIONS FOLLOWING COMPLETION OF INVESTIGATION:					
Dismissed following an investigation	s.451 (a)	No reasonable likelihood that the practitioner will be found guilty	7	6%	11
Dismissed following an investigation	s.451 (b)	No public interest to continue	1	1%	0
Withdrawal	s.434	Complaint withdrawn (after mediation) following an investigation	8	7%	3
Dismissed following an investigation	s.433(1) (e)	<i>Burns v Corbett</i> [2018] HCA 15 Complaint is not one that the Board has the power to deal with	1	1%	3
Sub Total			17	15%	17

METHOD OF FINALISATION	RELEVANT SECTION OF ACT	DESCRIPTION	NUMBER FINALISED	% FINALISED COMPARED TO TOTAL FINALISATIONS	NUMBER FINALISED 2018-19
FINALISATIONS FOLLOWING A HEARING/MEETING OF THE BOARD:					
Matter not substantiated and dismissed	s.456 (6)	Dismissed	1	1%	0
Practitioner found guilty of unsatisfactory professional conduct	s.456 (7)	No determination	2	2%	0
Practitioner found guilty of unsatisfactory professional conduct	s.456 (7) (a)	Practitioner cautioned or reprimanded	1	1%	2
Practitioner found guilty of unsatisfactory professional conduct	s.456 (7) (ab)	Practitioner required to make an apology or no further action	1	1%	0
Practitioner found guilty of unsatisfactory professional conduct	s.454 (2)	Practitioner reprimanded, & required to pay costs	0	-	2
Sub Total			5	5%	4
FINALISATIONS FOLLOWING A HEARING OF THE DISCIPLINARY TRIBUNAL OR SUPREME COURT:					
Practitioner found guilty of either unsatisfactory professional conduct or professional misconduct	s.471	Practitioner suspended and fined	0	-	0
Practitioner found guilty of unsatisfactory professional conduct	s.473 s.479	Practitioner required to pay compensation	0	-	3
Practitioner found guilty of professional misconduct	s.487	Practitioner required to pay a fine	1	1%	0
Application dismissed		Dismissal of complaint	0	-	0
Practitioner found guilty of professional misconduct	Supreme Court Inherent Jurisdiction	Practitioner removed from Roll	0	-	0
Sub Total			1	1%	3
TOTAL FINALISATIONS			107	100%	99

Finalisations:

Table 11 shows that a total of **107** complaints were finalised for the reporting period to 30 June 2020, slightly increased on the previous year.

Consistent with previous years, the majority (**79%**) of the Board's finalisations occurred prior to an investigator having been appointed and involved complaints which were either summarily dismissed or withdrawn by the complainant following mediatory intervention by the Board.

A further **17** complaints were finalised by the Board following completion of the investigation, once an investigator had been appointed and prior to a hearing.

There were **8** finalisations as a result of mediatory intervention after the investigator was appointed. The Board maintains a strategy to resolve matters, in appropriate circumstances, prior to appointing an investigator.

The matters which were referred to a Board, Disciplinary Tribunal or Supreme Court hearing were also investigated, although the investigation may have commenced or been completed prior to this reporting period.

Where a matter proceeds to a hearing and a finding is made, the Board will generally make separate written determinations – one relating to a determination on conduct and then one in relation to penalty.

Finalisations include complaints where a hearing may have been held in a previous reporting period, for example before the Disciplinary Tribunal or Supreme Court.

The finalisations above do not include matters that may have been subject to an appeal or rehearing.

Clearance Rate:

The Board received **131** complaints within the reporting period and finalised a total of **107** complaints to 30 June 2020. The clearance rate achieved during the reporting period was therefore **82%**, a slight decrease on the previous year, caused chiefly by the increased number of complaints received.

Outcome of Disciplinary action:

At the conclusion of a complaint investigation, the Board may hold a formal hearing (section 453); deal with the complaint in accordance with the procedure for a less serious complaint (section 456); make an application to either the Disciplinary Tribunal or Supreme Court for the complaint to be heard and determined; or dismiss the complaint. Table 12 shows that the Board referred, or resolved to refer for hearing, a total of **12** complaints within the reporting period. This is consistent with last year and also with the increased number of complaints received.

The Board held a section 456 meeting in relation to **5** complaints (one of which had been referred in the previous period):

- **2** matters resulted in the Board being satisfied that the matter had been substantiated, and making a determination which is recorded on the Disciplinary Register as required by the Act
- **1** matter was dismissed after hearing the Practitioner's explanation with the Board not being satisfied that the matter had been substantiated
- **2** matters resulted in the Board being satisfied that the matter had been substantiated, but no determination was made re penalty.

5 section 456 matters are yet to be finally determined as at 30 June 2020, having been held over pending resolution of arrangements required due to COVID-19. Each is expected to proceed early in the new period via way of video conferencing.

1 matter was referred to a section 453 Board hearing and has yet to be set down for hearing, pending mediation by the parties to the complaint.

2 matters which the Board resolved to refer to the Disciplinary Tribunal in June 2019, were filed in July 2019, and are yet to be finally determined as at 30 June 2020.

3 matters, involving the same practitioner, were resolved to be referred to the Supreme Court although for one matter, further investigation was deemed necessary prior to the application being filed. None of the matters resolved to be referred to the Supreme Court have yet to be filed.

As can be seen from the table below, the number of matters referred to prosecution has been sustained from the previous year.

TABLE 12: COMPLAINTS REFERRED (OR RESOLVED TO BE REFERRED) TO DISCIPLINARY TRIBUNAL, SUPREME COURT OR FOR BOARD HEARING/MEETING 2019–20

COMPLAINTS REFERRED	SECTION OF ACT	REFERRED 2019–20	REFERRED 2018–19	REFERRED 2017–18
Board Meeting (s.456 procedure for less serious complaint)	s.450 (b)	9	6	1
Board Hearing	s.450 (a)	1	0	2
Disciplinary Tribunal	s.450 (c) (d)	0	2 [#]	0
Supreme Court	s.450 (e)	2 [*]	6	1
Total Complaints Referred		12	14	4

[#]Filed with the Disciplinary Tribunal in July 2019.

^{*}This does not include the matter which was referred back for further investigation.

TABLE 13: NUMBER OF PENDING COMPLAINTS AS AT 30 JUNE 2020

COMPLAINT SOURCE	2019–20	2018–19	2017–18
Unfinalised complaints pending (investigator yet to be appointed) as at 30 June 2019	28	19	34
Unfinalised complaints with investigator appointed, as at 30 June 2019	33	31	25
Complaints referred to a hearing	13	4	(not reported)
Subtotal Pending Complaints as at 30 June 2019	74	54	59
Complaints received 1 July 2019 to 30 June 2020	131	113	120
Plus 3 matters outstanding from the Disciplinary Tribunal since 2012	-	3	
Plus 2 matters heard the previous year but not finally determined	-	2	
Subtotal complaints for current reporting period	205	172	179
Finalised complaints 1 July 2019 to 30 June 2020	107	98	125
Balance of complaints on hand as at 30 June 2020	98	74	54

Table 13 above indicates that **98** complaints remain unfinalised as at 30 June 2020. This includes pending complaints, pending investigations and pending matters referred. This number is increased on last year, but is also representative of the record number of complaints received this year.

Notifications to the Prescribed Authority

The *Legal Profession Act 2007* requires the Board to notify the prescribed authority responsible for the issuing of practising certificates of certain matters within Chapter 4 of the Act. The prescribed authority for those purposes is the Law Society of Tasmania.

Notifications to the Law Society include a complaint made against an Australian legal practitioner, dismissals and withdrawals of complaints, and a decision to proceed with a prosecution.

In the reporting period the Board made **232** notifications to the Law Society.

SUPERIOR TRIBUNAL OR COURT MATTERS

Two applications filed by a practitioner in the Supreme Court, to hear and determine a complaint in accordance with section 486 remain extant.

The Board can make an application to the Supreme Court in its inherent jurisdiction, pursuant to section 486. Such applications do not require a complaint. Applications currently in the Supreme Court, brought by the Board are:

- **1** application made to the Supreme Court in March 2018. That application is adjourned pending the outcome of a rehearing in the Administrative Appeals Tribunal;
- The Board determined to refer another matter to the Supreme Court in its inherent jurisdiction in October 2018. That matter is yet to be finalised;
- **3** matters involving one practitioner have been combined into one application filed in the Supreme Court on 2 July 2019; and
- The Board filed an originating application in the Supreme Court on 25 March 2020 against an interstate practitioner with respect to a Tasmanian complaint.

The Supreme Court handed down the following decisions:

- *Legal Profession Board of Tasmania v Kitto* [2019] TASSC 39 (5 September 2019): This was a finding of professional misconduct for a failure to comply with an order to pay the opposing party's costs personally;
- *Re Cosenza* [2019] TASSC 43: a costs decision relating to an objection to admission;

- *EFG v Legal Profession Board of Tasmania* [2020] TASSC 26 (23 June 2020): concerning a challenge by a practitioner to the appointment of an investigator where the complaint alleges conduct more than three years earlier.

There is one further application by the Board to the Supreme Court with respect to an order made by the Disciplinary Tribunal. The decision in that matter is reserved.

During the year, the Board made an application to the Federal Court of Australia in relation to Mr Adrian John Hall, a former Australian lawyer who had previously been struck off the roll. Mr Hall owed money for costs to the Board which had remained outstanding for a long period of time. Ultimately the Court made Mr Hall bankrupt on 5 December 2019.

APPLICATIONS FOR SEARCH WARRANTS

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

REDACTED DECISIONS

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, over and above the publication of disciplinary matters on the Disciplinary Register. 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 publishes redacted decisions on its website in circumstances where the decision would be of assistance to the profession.

DIVERSITY

The Board dismissed 1 complaint, following completion of the investigation, having regard to the principles enunciated in the High Court decision in the matter of *Burns v Cobett* [2018] HCA 15 (Burns). The effect of the Burns decision is that the Board cannot be vested with, or exercise, any 'federal jurisdiction', and, may be without jurisdiction in some circumstances to deal with complaints following completion of the investigation, when acting in its judicial or quasi-judicial capacity, where the parties to a complaint are residents of different states of Australia.

Barristers receiving trust money

During the reporting period, the Board has become aware of instances where barristers have sought and accepted trust money from direct brief clients.

Barristers cannot accept money in advance of providing legal services, as per section 240 of the *Legal Profession Act 2007*:

'A barrister is not, in the course of practising as a barrister, to receive trust money.'

Trust money is defined by section 231 of the Act as:

*'... money entrusted to a law practice in the course of or in connection with the provision of legal services by the practice, and includes -
(a) money received by the practice on account of legal costs in advance of providing the services ...'*

This issue is also covered in the Direct Access Guidance Note that was adopted by the Tasmanian Bar on 18 December 2019:

*'Holding of funds for fees - 22. Section 240 of the Legal Profession Act 2007 prohibits a barrister in the course of practising as a barrister from receiving trust money. Trust money is defined as including money received on account of legal costs in advance of providing services.'*¹



¹ <https://www.lpbt.com.au/wp-content/uploads/2020/01/Direct-Access-Guidance-Note-adopted-at-SGM-18.12.2019.pdf>

Case Study

CASE STUDY – Section 588 of the *Legal Profession Act 2007 (Tas)*

During the investigation of a complaint, an investigator will on occasion become aware of conduct which falls outside of the allegations of complaint made by the Complainant. Where this occurs, and the investigator considers the conduct may constitute unsatisfactory professional conduct or professional misconduct, the investigator must refer that matter to the Board to consider whether disciplinary action should be taken. This obligation is prescriptive in nature as required under section 588 of the *Legal Profession Act 2007 (Tas)*.

What is the purpose of the section?

The inclusion of this section in the Act demonstrates that it is not unforeseeable that a member of the public might not know or understand a practitioner's obligations as required by the law. Clients are not privy to all the communications, trust accounting and or administrative tasks undertaken on their behalf whilst a practitioner has carriage of their matter and it is therefore foreseeable that there may be concerning conduct that does not form part of the complaint at the time it is made. Given that the Board's functions under section 591 of the Act encompass the protection of the public and monitoring or improvement of legal services, this section removes the onus from members of the public to have to make a separate complaint against a practitioner and allows the Board to perform its functions without creating unnecessary barriers. From the perspective of a practitioner, this section ensures that conduct which is distinctly different to the original complaint does not later form part of the original complaint without a further opportunity for procedural fairness.

What happens next?

Where matters arise separate to the allegations of complaint, an investigator must conduct a full and proper investigation into those matters to ensure that all the relevant information is available to the Board to consider whether further action ought to be taken. Where these matters arise and the Board determines to take action on the conduct raised under section 588, those matters will be the subject of an 'own-motion' or 'board initiated' complaint unless the conduct is so closely related to an existing allegation that the

practitioner is already aware of. These matters are then subject to the complaint assessment stage where the practitioner is notified of the conduct alleged and invited to make submissions in response.

Common 588 matters

In the last 3 years, common matters which have been raised under section 588 of the Act include;

- Failure to provide adequate supervision to employees;
- Receipt of trust monies or managing of trust accounts;
- Failure to respond to notices issued by an investigator of the Board² ('section 572 Notice')

In the last financial year, two own motion complaints have been initiated by the Board in relation to a failure to respond to a section 572 Notice alone. Non-compliance with a notice issued by an investigator of the Board is an offence under section 572(3) of the Act. Furthermore, where there is no reasonable excuse not to comply with the notice, that conduct itself is capable of amounting to unsatisfactory professional conduct or professional misconduct.

To finish with some words of comfort, section 588 matters which result in own motion complaints are a rare occurrence. The section benefits the professions interest as much as the public by ensuring that the standard of competence and diligence within the legal profession does not fall below that of a reasonably competent Australian legal practitioner.

² A notice issued by an investigator pursuant to section 572 of the *Legal Profession Act 2007 (Tas)* which compels a practitioner to produce documents or information to the Board as part of an investigation.

EDUCATION

The Profession

The Board continues to interact with the profession as a means of fulfilling its function of advising the profession on appropriate standards of conduct. The website, fact sheets and guidance notes for the profession are part of our educative process.

The Board has also undertaken the following education:

- **Legal Practice Course**

The Centre for Legal Studies runs its Legal Practice Course in the first half of each calendar year. The Board delivers three one hour seminars to the legal practice students. The seminars are part of the 'Skills, Ethics and Professional Responsibility' unit and focus on complaints about the profession.

Some of our investigators delivered the 2019 seminars in July 2019 in face to face seminars.

As a consequence of COVID-19, the 2020 sessions were brought forward to June 2020 and delivered via a virtual platform.

The annual round-up for CPD with the Law Society of Tasmania was deferred following the implementation of the original lockdown due to COVID-19. That seminar has been rescheduled to August 2020 and will be delivered virtually.

- **Published article, Law Letter, Winter 2019**

Ms Emily Warner, former Senior Investigator at the Board authored an article for distribution to the legal profession: *Good practice for the preparation of wills and powers of attorney and circumstances of suspected diminished capacity: a Legal Profession Board perspective.*

- **Community Legal Practice course, UTAS**

In August 2019, the Manager Operations presented an evening seminar to 4th and 5th year UTAS law students who are given the opportunity to gain practical experience through the Student Legal Service and supervised research tasks on national justice projects. The students consolidate a session on professional ethics in Semester 1, with a practical session on avoiding misconduct.

INFORMATION AND FACTS SHEETS

The Board continues to develop 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 available on the Board's website.

For the public they include:

- Deceased Estates
- Your Right to Challenge Legal Costs
- Legal Costs - Your Right to Know
- Frequently asked questions
- 5 simple steps to follow when a problem arises with your lawyer
- Working with your lawyer
- Making a complaint
- Out of Time Complaints
- Mediation of Complaints
- Independent Children's Lawyers (ICL)
- No Win No Fee Agreements
- Conflict of Interest
- Compensation Orders
- Liens
- File Ownership and Handling
- Opposing Representatives
- Types of Costs

For the profession they include:

- Avoiding complaints
- Practical guide for dealing with complaints
- Responding to a complaint
- Investigation of Complaints
- Dealing with less serious complaints – s456
- Board Initiated Complaints
- Guidance Note – Itemised bills and beneficiaries for lawyers
- Guidance Note – Referral fees & claim farming

Legal Profession Regulations 2018

The *Legal Profession Regulations 2018* made the Board responsible for the production and maintenance of the fact sheets referred to in Regulation 64 and 67. As each of the fact sheets had been produced 10 years previously, the Board consulted with the Law Society of Tasmania and updated each of the fact sheets, both of which appear on the Board and Law Society's websites:

- Legal Costs – Your Right to Know
- Your Right to Challenge Legal Costs

Availability of interpreters

The Board is registered with the Tasmanian Interpreter Service and had one request for an interpreter for a complainant during the year.

DEVELOPMENT OF LAW WEEK 2020

Law Week is an annual event held in May each year across Australian jurisdictions to promote public understanding of the law and its role in society. In 2019 Law Week was in the week of 13–19 May and its theme was 'Lawyers: Protecting your Rights.'

A key function of the Legal Profession Board is to conduct education programs relating to client/lawyer relationship for members of the public. The Board considered that would be assisted by facilitating Law Week in Tasmania, which had not been held in Tasmania for many years. Accordingly in late 2019 the Board sought expressions of interest to form a working group consisting of representatives from relevant entities who would be willing to contribute to a combined calendar of events, to be held in Law Week.

By way of example in Victoria, Law Week had over 105 event partners contributing to events visited by over 13,200 people across Victoria. They included discussions and debates, Court open days, family activities, information, mock trials, networking and tours and exhibitions. In smaller jurisdictions, such as the ACT, Law Week was used to support donations for a particular Canberra charity and had a sponsor – Law Cover. There was also a series of events ranging from seminars and social events. There was a lecture by the Chief Justice, a quiz night, the young lawyers Golden Gavel, a Bar Breakfast, a dinner by Women Lawyers Association and a 6-a-side soccer afternoon.

We received a great response to the call out and representatives from various organisations met several times in early 2020 to design a small calendar of events.

Unfortunately the arrangements for Law Week were placed on hold in late March 2020, when the initial lock down for COVID-19 occurred. It is anticipated that Law Week will be reconvened in 2021.

GUIDANCE TO THE PROFESSION

Guidance Note

The Act provides that a function of the Board is to advise the legal profession on appropriate standards of conduct and to monitor and identify trends and issues that emerge within the profession.

Sexual harassment

In February 2020 the Board commenced a project to obtain background information on the issue of sexual harassment with the aim to improve our understanding of sexual harassment specifically within the legal profession. The Board considered background material, including detailed consideration of how the issue is being tackled by other regulators in Australia, the outcomes of the survey conducted by the Law Society of Tasmania in early 2019, papers presented at the 2019 CORO conference and a number of other recent studies.

Recognising that the Board's complaint processes are focused towards and are more frequently used by consumers of legal services, Board staff are not necessarily practiced in dealing with such matters of sexual harassment. The Board endorsed our staff undertaking training with Equal Opportunity Tasmania (EOT) for sexual harassment complaint handling. The training has been delayed by the restrictions imposed by COVID-19, but will be undertaken as soon as EOT are able to accommodate face to face training with all of our staff.

The Board also endorsed the development of a statement of intent and a factsheet on sexual harassment subject to input from relevant stakeholders. That work remains ongoing.

Chiding

As part of its functions in relation to advising the legal profession on appropriate standards of conduct, the Board may 'chide' a practitioner. Chidings are used in circumstances where the Board has formed the view that the practitioner's conduct did not amount to a disciplinary matter but requires an informal warning or caution. It assists the Board's functions in relation to educating lawyers about issues of concern.

Chidings were issued by the Board on **6** separate dismissed or withdrawn matters.

MODEL LITIGANT POLICY

The Board is committed to ensuring high professional standards, transparency and accountability in the execution of its functions. The Model Litigant Policy and Guidelines are available on the Board's website.

OTHER STATUTORY FUNCTIONS

Register of local practising certificates

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

Admissions

Applicants for admission to the legal profession must serve a copy of the application on the Board in accordance with the Tasmanian admission rules. The Board considers each application and may, if it has reasonable grounds, object to an application for admission. Such objection is by way of a Notice of Objection to the Supreme Court to hear and determine the issues relating to the objection. Where the interests of the Law Society and the Board coincide with respect to an objection, they may join together in an application to the Supreme Court to determine the issues.

70 applications for admission were served on the Board during the reporting period. The Board did not formally object to any applications.

As a consequence of COVID-19, the process for service of applications has been modified several times since March 2020 in order to maintain a safe workplace and to process applications as soon as possible.

Appointment of Managers

During the reporting period no managers were appointed by the Board to a law practice.

However, the Law Society of Tasmania, pursuant to a delegation from the Board, extended the appointment of a manager to the legal practice of Surinder Kaur Mahindroo in accordance with section 534 of the *Legal Profession Act 2007*, until 15 February 2020, when it finalised.

Register of Disciplinary Action

It is a function of the Board to maintain the Register of Disciplinary Action. Information relating to disciplinary action taken by the Board, the Disciplinary Tribunal or the Supreme Court must be published on the Register which is required to be made available on the Board's website.

During the reporting period **3** new disciplinary findings were uploaded to the Register, **1** from the Supreme Court of Tasmania and **2** from the Board.

Of the Board matters, there were **2** findings of unsatisfactory professional conduct arising from a section 456 meeting.

The Supreme Court of Tasmania made **1** finding of professional misconduct against one practitioner.

AustLII

The Australasian Legal Information Institute (AustLII) is an online free access resource for Australian legal information. It is a joint facility of the UTS and UNSW Faculties of Law with a broad public policy agenda to improve access to justice through better access to information.

Section 498 of the *Legal Profession Act 2007* enables the Board to publicise disciplinary action taken against an Australian legal practitioner in any manner the Board thinks fit. In accordance with the Act, both the Disciplinary Tribunal and the Supreme Court are required to provide the Board with sufficient information to enable the Board to perform or exercise

PART TWO — OPERATIONS REPORT

the Board's functions or powers in respect of the register.

Unless ordered otherwise, reasons of the Disciplinary Tribunal for a determination, decision or order on and from 1 July 2018 are now published on AustLII.

AustLII decisions can now be searched for the Legal Professional Disciplinary Tribunal of Tasmania (TASLPDT).

BOARD OF LEGAL EDUCATION

The Board of Legal Education is established by the *Legal Profession Act 2007* to determine the subjects which candidates for admission to the legal profession must pass, and to approve courses of practical instruction on the duties of an Australian legal practitioner.

Membership of the Board of Legal Education includes a local legal practitioner nominated by the Board. In January 2020 Ms Emily Warner, a former investigator with the Board, completed her term of membership. The Board nominee is now Ms Gayle Johnston, Manager Operations, at the Board.



Part 3

Admin- istrative Matters



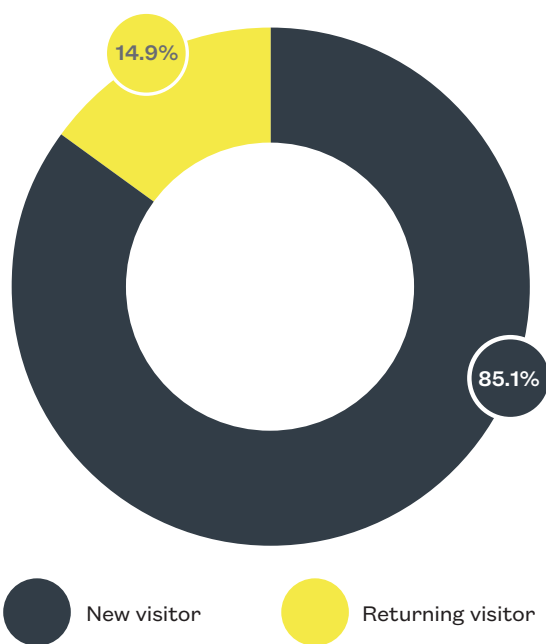
**PART THREE —
ADMINISTRATIVE MATTERS**

WEBSITE

The Board endeavours to provide a range of resources for the public and the profession about the law and the Board’s processes through its website.

During the reporting period the website had approximately **4,434** users with the majority of users being local to Tasmania (**25.09%**)³. Of those users, a significant majority accessing the website were doing so for the first time (**85.1%**) with only a small proportion as return users (**14.9%**).

The most frequently accessed pages from the website over the reporting period were consistent with the previous reporting period. The following table demonstrates the increase of numbers accessing those pages more broadly.



WEBPAGES	PAGEVIEWS	
	2019-20	2018-19
Disciplinary Register	2,074	2,539
About the Board	710	993
Online complaint form	624	1,118
Complaints process	544	781
Contact Us	537	830
Resources – Admission in Tasmania	426	331
Register – Disciplinary Tribunal	361	604

³ As determined by Google Analytics.

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 section 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 section 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.

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

The Board received **3** applications for assessed disclosures of information under the Right to Information legislation during the reporting period.

DESTRUCTION OF DOCUMENTS

The Board is subject to provisions of the *Archives Act 1983* (Tas). The Board has developed a Retention and Disposal Schedule to ensure that the management and disposal of documents relating to the functions of the Board are compliant under the Archives Act.

SERVICE LEVEL AGREEMENT

The Board has 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; and
- provision of ergonomic equipment as identified through ergonomic assessment.

PROFESSIONAL DEVELOPMENT

The Manager Operations and the Investigation Officers are legal practitioners and maintain a practising certificate. They each participate in the mandatory continuing professional development scheme run by the Law Society of Tasmania, to maintain and extend their knowledge, expertise and competence in the law.

Conference of Regulatory Officers (CORO), October 2019

The CEO, Frank Ederle, Manager Operations, Ms Johnston, and Investigations Officers, Ms Casey and Mrs Mathews, represented the Board at the Conference of Regulatory Officers ('CORO') in Melbourne, Victoria from 14 to 16 October 2019.

The conference theme was 'Different Perspectives' and the program included presentations on:

- different perspectives on better regulation
- sexual harassment
- regulation – a barrier to access to justice?
- wellbeing in theory and practice
- regulation from the consumer perspective

Prior to commencement of the conference Mr Ederle attended a face to face heads of jurisdiction meeting which discussed some of the common issues facing regulators.

Ms Johnston also attended a workshop held by Administrators of Australasian Law Admitting Authorities (AALAA) the day before the conference. In Tasmania there is no formal admissions authority although both the Law Society of Tasmania and the Board are served with admission documents and have legislative entitlement to object to admissions. This workshop was the first time that the Board had been represented before the AALAA. The workshop included discussion on:

- admissions committees under the uniform law
- suitability and mental health
- the difficulty of proving law courses and PLT courses
- online applications for admission
- assessing overseas qualifications; and
- discussion on English language proficiency.

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.

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

DELEGATIONS

The Board is able to delegate its regulatory functions in accordance with section 593 of the Act. Delegated functions are exercised consistently with any applicable Board policy or direction.

The Board has a current delegation to the prescribed authority (Law Society of Tasmania) to keep the Registers of local practicing certificates and locally registered foreign lawyers.

The Board also has relevant delegations to the CEO, the Manager Operations and the Complaints Officer to enable the efficient and effective functioning of the Board with respect to the processes associated with the receipt of complaints and for applications of admission.

Instruments of delegation can be inspected on request.



Part 4

Report of the Disciplinary Tribunal



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

DISCIPLINARY TRIBUNAL REPORT FOR FINANCIAL YEAR 2019–2020

Legal Profession Act 2007, s. 617

During the financial year ended 30 June 2020 two applications were made to the Disciplinary Tribunal under section 464 of the Legal Profession Act 2007 (Act).

1. Proceedings No. 3/2019 were commenced by application dated 21 June 2019 lodged with the Tribunal on 3 July 2019.

The applicant is the Legal Profession Board of Tasmania and the respondent is an Australian legal practitioner, John Martin Green.

The application arises out of a complaint made to the Board by Mr. Craig Gibson.

The application alleges unsatisfactory professional conduct during a period extending through 2016 and 2017, involving breach of fiduciary duty in the practitioner's capacity as executor and solicitor to the estate of a deceased person and failure to exercise the standard of competence and diligence reasonably to be expected of a reasonably competent practitioner.

No final orders have yet been made.

However, the parties have lodged with the Tribunal an instrument of consent pursuant to s. 479(4) of the Act dated 8 April 2020, a Tribunal has been constituted under s. 611 for the hearing of the application and, specifically, in order to determine whether the orders proposed in the instrument of consent are to be made.

2. Proceedings No. 4/2019 were commenced by application dated 21 June 2019 lodged with the Tribunal on 3 July 2019.

The applicant is the Legal Profession Board of Tasmania and the respondent is an Australian legal practitioner, John Martin Green.

The application arises out of a complaint made to the Board by Mr Duncan Rabagliati.

The application alleges unsatisfactory professional conduct during a period of several years commencing in 2012, involving conduct of the respondent in his capacity as solicitor for the estate of a deceased person, constituting contraventions of regulation 48 of the Legal Profession Regulations 2008 and of rule 794(2) of the Supreme Court Rules 2000;

engaging in communication with the complainant that was misleading or likely to mislead the complainant concerning his handling of trust monies to be distributed to beneficiaries of the estate; and failure to comply with the duties imposed upon him by r. 10(1) of the Rules of Practice 1994, and/or the general law, in respect of the recovery of trust funds from the Supreme Court and distribution of those funds to beneficiaries of the estate.

No final orders have yet been made.

However, the parties have provided to the Tribunal a statement of agreed facts and documents and a statement of issues the parties consider are those that are to be determined by the Tribunal; and have indicated that neither party wishes to place any further evidence before the Tribunal or appear for the purpose of making oral submissions.

Accordingly, on 18 June 2020 directions were given by the Chairman for the filing and service of written submissions according to a timetable to be completed by 20 August 2020

A Tribunal has been constituted under s. 611 for the hearing of the application.



Philip Jackson SC
Chairman

22 July 2020

Part 5

Report of the Prescribed Authority



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



Our ref:L4.2:LOR/TL

29 July 2020

Mr Keyran Pitt QC
Chairman
Legal Profession Board of Tasmania
Level 3, 147 Macquarie Street
HOBART TAS 7000

Dear Sir

Annual Report of the Prescribed Authority 2019/2020

It is with pleasure that I present this report to the Legal Profession Board of Tasmania pursuant to Section 653(3) of the *Legal Profession Act 2007* which requires the prescribed authority, on or before 1 August to prepare and present to the Board a report on its operations for the previous financial year.

Overview

Along with New South Wales, South Australia and Queensland the Tasmanian legal profession operates under a co-regulatory model. The Board is charged with overseeing complaints and discipline and the prescribed authority has responsibility for the regulation of practising certificates and trust accounts. External intervention is a shared responsibility. The appointment of an investigator of a law practice or a supervisor of trust money is the responsibility of the prescribed authority, whereas the appointment of a manager or receiver for a law practice is the responsibility of the Board.

The *Legal Profession (Prescribed Authorities) Regulations 2018* commenced on 9 July 2018, replacing the 2008 version. The regulations appoint the Law Society as the prescribed authority for the purposes of some 129 separate parts of the Act. They include:

- a. Regulation of practising certificates, including grant and renewal, the imposition of reasonable and relevant conditions, the 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 supervisors of trust money to law practices.

The Board is the prescribed authority for five parts of the Act. For purposes of this report the term 'prescribed authority' refers to the Law Society.

Funding of the Prescribed Authority

The functions of the prescribed authority form part of the operations of the Law Society. Those functions are funded entirely by the Tasmanian legal profession, ostensibly by the payment of practising certificate fees.

Practising Certificate Regulation

A major role of the prescribed authority is the granting of new practising certificates and the annual renewal of existing certificates. The renewal process begins in May with renewal applications sent to individual practitioners. On its return each application is reviewed. The majority of applications are renewed by the Executive Director under delegated authority. Any application that discloses a suitability issue, a failure to comply with continuing professional

development requirements or is an application for the first time granting of a principal practising certificate is considered by the Council of the Law Society.

The following classes and numbers of practising certificates were issued under the *Act* in the period 1 July 2019 to 30 June 2020:

Principal	199
Employee	344
Barrister	53
Corporate	77
Government	3
Locum	4
Community legal centre	72
Volunteer	7
Total	759

In 2019/2020 a new class of practising certificate being a government practising certificate was created.

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 of Tasmania.

Practising Certificate Conditions

All practising certificates are subject to conditions requiring compliance with continuing professional development obligations and requiring notice to the Law Society of a change of practice or residential address.

Conditions specific to each class of certificate are as follows:

1. Principal
No additional conditions.
2. Employed Practitioner. The holder of the certificate is not entitled to and must not practice as a legal practitioner as either as a sole practitioner or in partnership with any other legal practitioner or as a Director of an incorporated legal practice.
3. Barrister. The practitioner is entitled to practice as a barrister in Tasmania subject to compliance with the *Legal Profession Act 2007*.
4. Corporate. The practitioner must not engage in legal practice otherwise than by providing in house legal services to a corporation by which the lawyer is employed or to a related body corporate.
5. Government. The holder of the certificate must not engage in legal practice otherwise than as a government lawyer engaged in government work.

The holder of the certificate cannot be a Director of an incorporated legal practice, a partner of a legal firm or a legal practitioner in private legal practice.

6. Community Legal Centre. The holder is not to receive or hold any money of for any client. The holder is not to recover costs for the community legal centre for any client

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or any adverse party other than disbursements, professional fees or charges necessary for the successful carriage of the work of the client. Any disbursements, professional fees or charges received shall immediately be paid to the credit of the community legal centre.

7. Locum. The practitioner is eligible to practice as a locum practitioner only.
8. Volunteer. The certificate entitles the practitioner to engage in legal practice only as a volunteer at a complying community legal centre. Whilst acting in a voluntary capacity the practitioner:
 - i. Is to act only for clients of a complying community legal centre
 - ii. Must have professional indemnity insurance pursuant to a policy approved by the Law Society
 - iii. Is not to receive or hold any money for any client
 - iv. The practitioner is not to recover costs for the community legal centre from any client or from any adverse party other than disbursements, professional fees or charges necessary for the successful carriage of the work of the client. Any disbursements, professional fees or charges so received shall immediately be paid to the credit of the community legal centre

Additional Conditions

The Law Society has the power to impose practising certificate conditions which are reasonable or relevant – section 56(2) of the *Legal Profession Act 2007*.

In the relevant period additional conditions were imposed as follows:

- a. Five practitioners issued with a sole principal practising certificate for the first time had a mentor appointed along with practitioner and mentor reporting conditions and trust account supervision and training conditions.
- b. A number of principal practitioners had a condition imposed that the practitioner was not authorised to receive trust monies. That condition does not relate to the honesty of the practitioner but is an acknowledgement that the practitioner does not intend to operate a trust account and requires further training before being authorised to do so.
- c. Two practitioners had conditions imposed requiring gaining CPD points in excess of those required by Practice Guideline No. 4.
- d. Two barristers had conditions imposed by way of the appointment of a mentor, the requirement to undertake further specified training as well as reporting requirements.
- e. Two barristers had pupillage conditions imposed.

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. Part 3.2 of the *Legal Profession Act* deals with trust money and trust accounts. Obligations relating to trust accounts are also in part 3 of the *Legal Profession Regulations 2008*.

The major obligation of the Law 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. For some years all trust account annual examinations have been carried by the one examiner authorised by the Law Society. Use of the one trust account examiner ensures a consistency in approach to examinations and that the examiner has the relevant expertise and knowledge of legislative requirements. This has led to a marked improvement in compliance levels. Each examiner's report is provided to the Law 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 best practice risk mitigation strategies.

The Law Society expends not inconsiderable resources in undertaking its statutory duties as the regulator of trust accounts. A trust account administrator is employed 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 Law Society such as the notification of irregularities, and the opening or closing of trust accounts.

The Law Society provides firms with online resources including an administration calendar and relevant forms. In addition, the Law 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.

Cybercriminals targeting law practices continues to be of concern. The Law Society has made and will continue to make law practices aware of the risks and provide education and resources in how to deal with those risks.

Trust account examinations relate to a calendar year. The following information therefore relates to the 2018 and 2019 calendar years;

Year	2018	2019
Number of firms with trust accounts	104	106
Number of trust receipts	108,314	108,112
Total amount of trust receipts	\$9.2 billion	\$9.7 billion
Amount held on trust at 31 December	\$145 million	\$175million
Amount held on investment at 31 December	\$100 million	\$76 million

Incorporated Legal Practices

An incorporated legal practice is a corporation that engages in legal practice in Tasmania. An ILP is required to have at least one legal practitioner director. Before a corporation engages in legal practice in Tasmania it must give to the Law Society written notice, in an approved form of its intention to do so.

There are now 52 Tasmanian law practices operating as ILP's.

The Board is the prescribed authority for purposes of Section 130 of the LPA – audit of incorporated legal practices, Section 132 – banning of incorporated legal practices and section 133 – disqualification from managing an incorporated legal practice.

Suspension or Cancellation of a Practising Certificate

There were no suspensions or cancellations of practising certificates in the relevant period.

Dealings with the Board

The Law Society dealt closely with the Board in the relevant period. Many issues experienced by law practices and by individual practitioners traverse the regulatory responsibilities of both organisations.

The Law Society wishes to thank the Board for its openness and willingness to communicate on matters of mutual interest and benefit to the legal profession in Tasmania.

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In carrying out its functions as the prescribed authority in 2019-29 the Law Society sought to:

- Maintain public confidence in the legal profession
- Safeguard monies entrusted to law practices
- Ensure that those seeking to enter the profession or renew their practising certificate complied with the relevant character and fitness requirements of the Act
- Ensure that appropriate conditions were placed on practising certificates
- Maintain relevant records relating to ILP's

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

Yours faithfully



**CRYSTAL GARWOOD
PRESIDENT**

c.c. Attorney-General for Tasmania

Part 6

Independent Audit Report and Financial Statements

AS AT 30 JUNE 2020



**PART SIX —
INDEPENDENT AUDIT REPORT AND FINANCIAL STATEMENTS AS AT 30 JUNE 2020**

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

TABLE OF CONTENTS

INDEPENDENT AUDITOR'S REPORT	55
STATEMENT BY CHAIRMAN AND CHIEF EXECUTIVE OFFICER	58
STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 30 JUNE 2020	59
STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2020	60
STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2020	61
STATEMENT OF CHANGES IN EQUITY FOR THE YEAR ENDED 30 JUNE 2020	62
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2020	63



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 Legal Profession Board of Tasmania (the Board), which comprises the statement of financial position as at 30 June 2020, 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 financial position of the Board as at 30 June 2020 and its financial performance and its cash flows for the year then ended
- (b) is in accordance with the *Financial Management Act 2016*, *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 (including Independence Standards)* (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.

...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

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

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 *Financial Management Act 2016*, *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 the Board is to be dissolved by an Act of Parliament, or the Members intend 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 Members.
- Conclude on the appropriateness of the Member's 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

...2 of 3

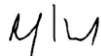
To provide independent assurance to the Parliament and Community on the performance and accountability of the Tasmanian Public sector.
Professionalism | Respect | Camaraderie | Continuous Improvement | Customer Focus

Strive | Lead | Excel | To Make a Difference

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.

- 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.



Rod Whitehead
Auditor-General

Tasmanian Audit Office

28 August 2020
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 Act 2016* and Section 599 of the *Legal Profession Act 2007* to present fairly the financial transactions for the year ended 30 June 2020 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 27th day of August 2020

Keyran Pitt QC
CHAIRPERSON

Frank Ederle
CHIEF EXECUTIVE OFFICER

Statement of Comprehensive Income for the year ended 30 June 2020

	NOTES	2020 \$'000	2019 \$'000
REVENUE AND OTHER INCOME FROM CONTINUING OPERATIONS			
Revenue from Solicitor's Guarantee Fund	1.1	1 345	1 532
Other revenue	1.2	109	122
Total revenue and other income from continuing operations		1 454	1 654
Expenses from continuing operations			
Employee benefits	2.1	999	960
Depreciation	2.2	76	-
Supplies and consumables	2.3	188	253
Finance costs	2.4	27	-
Other expenses	2.5	305	192
Total expenses from continuing operations		1 595	1 405
Net result		(141)	249
Comprehensive result		(141)	249

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

Statement of Financial Position as at 30 June 2020

	NOTES	2020 \$'000	2019 \$'000
ASSETS			
<i>Financial Assets</i>			
Cash and cash equivalents	6.1	267	384
Receivables	3.1	13	14
<i>Non-Financial Assets</i>			
Right-of-use assets	3.3	252	-
Other assets	3.4	8	-
Total Assets		540	398
LIABILITIES			
Payables	4.1	22	20
Lease liabilities	4.2	272	-
Employee benefits	4.3	193	184
Total liabilities		487	204
Net assets/(liabilities)		53	194
EQUITY			
Accumulated funds		53	194
Total equity		53	194

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

Statement of Cash Flows for the year ended 30 June 2020

	NOTES	2020 \$'000	2019 \$'000
		Inflows (Outflows)	Inflows (Outflows)
CASH FLOWS FROM OPERATING ACTIVITIES			
Cash inflows			
Solicitor's Guarantee Fund Receipts		1 345	1 532
GST Receipts		50	45
Other cash receipts		114	116
Total cash inflows		1 509	1 693
Cash outflows			
Employee benefits		(989)	(945)
Finance costs		(27)	-
GST payments		(53)	(42)
Supplies and consumables		(198)	(258)
Other expenses		(303)	(189)
Total cash outflows		(1 570)	(1 434)
Net cash from (used in) operating activities	6.2	(61)	259
CASH FLOWS FROM FINANCING ACTIVITIES			
Cash Outflows			
Repayment of lease liabilities (excluding interest)		(56)	-
Total cash out flows		(56)	-
Net cash from/ (used by) financing activities			
Net increase/(decrease) in cash and cash equivalents held		(117)	259
Cash and deposits at the beginning of the reporting period		384	125
Cash and deposits at the end of the reporting period	6.1	267	384

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 2020

	ACCUMULATED SURPLUS / DEFICIT \$'000	TOTAL EQUITY \$'000
Balance as at 1 July 2019	194	194
Total comprehensive result	(141)	(141)
Total	(141)	(141)
Balance as at 30 June 2020	53	53
	ACCUMULATED SURPLUS / DEFICIT \$'000	TOTAL EQUITY \$'000
Balance as at 1 July 2018	(55)	(55)
Total comprehensive result	249	249
Total	249	249
Balance as at 30 June 2019	194	194

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 2020

NOTE 1 REVENUE	65
1.1 Solicitor’s Guarantee Fund	65
1.2 Other Revenue	65
NOTE 2 EXPENSES FROM TRANSACTIONS	66
2.1 Employee Benefits.....	66
(a) Employee expenses	66
(b) Remuneration of Key Management Personnel.....	66
(c) Related Party Transactions.....	68
2.2 Depreciation.....	68
(a) Depreciation.....	68
2.3 Supplies and Consumables	68
2.4 Finance costs	69
2.5 Other Expenses	69
NOTE 3 ASSETS	70
3.1 Receivables.....	70
3.2 Office Improvements, Plant and Equipment.....	70
3.3 Right-of-use assets	71
3.4 Other Assets	71
NOTE 4 LIABILITIES	72
4.1 Payables 72	
4.2 Lease Liabilities	72
4.3 Employee Benefits.....	73
4.4 Superannuation.....	73
NOTE 5 COMMITMENTS AND CONTINGENCIES	74
5.1 Schedule of Commitments	74
5.2 Contingent Assets and Liabilities	75
(a) Quantifiable contingencies.....	75
NOTE 6 CASH FLOW RECONCILIATION	76
6.1 Cash and Cash Equivalents	76
6.3 Reconciliation of liabilities arising from financing activities.....	76
NOTE 7 FINANCIAL INSTRUMENTS	77
7.1 Risk Exposures	77
(a) Risk Management Policies.....	77
(b) Credit risk exposures.....	77
(c) Liquidity Risk.....	78
(d) Market Risk	79
7.2 Categories of Financial Assets and Liabilities.....	80
7.3 Comparison between Carrying Amount and Net Fair Value of Financial Assets and Liabilities	80

NOTE 8 EVENTS OCCURRING AFTER BALANCE DATE	81
NOTE 9 SIGNIFICANT ACCOUNTING POLICIES	81
9.1 Objectives and Funding.....	81
9.2 Basis of Accounting.....	81
9.3 Functional and Presentation Currency	81
9.4 Changes in Accounting Policies	82
(a) Impact of new and revised Accounting Standards	82
(b) Impact of new and revised Accounting Standards yet to be applied	84
9.5 Rounding	84
9.6 Taxation	84
9.7 Goods and Services Tax.....	84

NOTE 1 REVENUE

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.

Until 30 June 2019, income is recognised in accordance with AASB 118 *Revenue* and AASB 1004 *Contributions*.

From 1 July 2019, income is recognised in accordance with the requirements of AASB 15 *Revenue from Contracts with Customers* or AASB 1058 *Income of Not-for-Profit Entities*, dependent on whether there is a contract with a customer defined by AASB 15.

1.1 Solicitor's Guarantee Fund

Funding from the Solicitor's Guarantee Fund is recognised in accordance with AASB 1058 when the Board gains control of the funds and it is probable that the inflow of funds has occurred and can be reliably measured.

	2020 \$'000	2019 \$'000
Solicitor's Guarantee Fund Revenue	1 345	1 532
Total revenue from Solicitor's Guarantee Fund	1 345	1 532

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.

	2020 \$'000	2019 \$'000
Interest Revenue	4	7
Other Revenue	105	115
Total	109	122

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

	2020 \$'000	2019 \$'000
Wages and salaries (Staff)	704	668
Wages and salaries (Board members)	190	186
Superannuation – defined contribution scheme	70	71
Superannuation – defined benefit scheme	21	21
Other employee expenses	14	14
Total	999	960

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 12.95 per cent (2018: 12.95 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 (2018: 9.5 per cent) of salary.

(b) Remuneration of Key Management Personnel

2020	SHORT-TERM BENEFITS		LONG-TERM BENEFITS			TOTAL \$'000
	SALARY \$'000	OTHER BENEFITS \$'000	SUPER- ANNUATION \$'000	LEAVE BENEFITS \$'000	TERMINATION BENEFITS \$'000	
Key management personnel						
Frank Ederle, Chief Executive Officer	163	20	21	1	-	205
Keyran Pitt QC, Chairman	36	0	3	-	-	39
Graeme Jones, Member	33	2	3	-	-	38
David Lewis, Member	28	2	3	-	-	33
Anthony Mihal, Member	35	2	3	-	-	40
Heather Francis	25	-	2	-	-	27
Marion Hale	27	2	3	-	-	32
	347	28	38	1	-	414

2019	SHORT-TERM BENEFITS		LONG-TERM BENEFITS			TOTAL \$'000
	SALARY \$'000	OTHER BENEFITS \$'000	SUPER-ANNUATION \$'000	LEAVE BENEFITS \$'000	TERMINATION BENEFITS \$'000	
Key management personnel						
Frank Ederle, Chief Executive Officer	160	17	21	7	-	205
Keyran Pitt QC, Chairman	43	-	4	-	-	47
Judith Paxton, Member (resigned as at 7-11-18)	10	-	1	-	-	11
Peter Dane, Member (resigned as at 7-11-18)	10	-	1	-	-	11
Graeme Jones, Member	39	2	4	-	-	45
David Lewis, Member	26	3	3	-	-	32
Anthony Mihal, Member	34	3	3	-	-	40
Heather Francis (from 7-11-18)	14	-	1	-	-	15
Marion Hale (from 7-11-18)	11	1	1	-	-	13
	347	26	39	7	-	419

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 2019-20 for key personnel is set by the Attorney General. 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.

**PART SIX —
INDEPENDENT AUDIT REPORT AND FINANCIAL STATEMENTS AS AT 30 JUNE 2020**

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 Depreciation

All applicable Non-financial assets having a limited useful life are systematically depreciated over their useful lives in a manner which reflects the consumption of their service potential. Land, being an asset with an unlimited useful life, is not depreciated.

(a) Depreciation

	2020 \$'000	2019 \$'000
Right-of-use assets	76	-
Total	76	-

2.3 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.

	2020 \$'000	2019 \$'000
Audit fees	7	7
Operating leases	7	84
Consultants	32	24
Property expenses	23	34
Communications	11	9
Information technology	59	53
Travel and transport	14	17
Plant and equipment	4	5
Advertising and promotion	1	2
Other supplies and consumables	30	18
Total	188	253

The external audit fee for 2019-20 is \$6,610 (\$6,610 for 2018-19).

2.4 Finance costs

All finance costs are expensed as incurred using the effective interest method.

Finance costs include lease charges.

	2020 \$'000
Interest on lease liabilities	27
Total	27

2.5 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.

	2020 \$'000	2019 \$'000
Legal Costs	283	170
Other Expenses	22	22
Total	305	192

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

The Board recognises receivables at amortised cost using the effective interest method. Any subsequent changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process. The Board recognises an allowance for expected credit losses for all debt financial assets not held at fair value through profit and loss. The expected credit loss is based on the difference between the contractual cash flows and the cash flows that the entity expects to receive, discounted at the original effective interest rate.

For trade receivables, the Board applies a simplified approach in calculating expected credit losses. The Board recognises a loss allowance based on lifetime expected credit losses at each reporting date. The Board has established a provision matrix based on its historical credit loss experience for trade receivables, adjusted for forward-looking factors specific to the receivable.

	2020 \$'000	2019 \$'000
GST Receivables	11	7
Recoupment of costs	2	7
Total	13	14
Settled within 12 months	13	14
Total	13	14

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 2020 and 30 June 2019.

(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).

3.3 Right-of-use assets

From 1 July 2019, AASB 16 requires the Board to recognise a right-of-use asset, where it has control of the underlying asset over the lease term. A right-of-use asset is measured at the present value of initial lease liability, adjusted by any lease payments made at or before the commencement date and lease incentives, any initial direct costs incurred, and estimated costs of dismantling and removing the asset or restoring the site. Right-of-use assets includes assets in respect of leases previously treated as operating leases under AASB 117, and therefore not recognised on the Statement of Financial Position.

The Board has elected not to recognise right-of-use assets and lease liabilities arising from short-term leases, rental arrangements for which Finance-General has substantive substitution rights over the assets and leases for which the underlying asset is of low value. Substantive substitution rights relate primarily to office accommodation. An asset is considered low value when it is expected to cost less than \$10 000.

Right-of-use assets are depreciated over the shorter of the assets useful life and the term of the lease. Where the Board obtains ownership of the underlying leased asset or if the cost of the right-of-use asset reflects that the Board will exercise a purchase option, the Board depreciates the right-of-use asset over its useful life.

2020	BUILDINGS \$'000	TOTAL \$'000
Carrying value at 1 July	328	328
Additions	-	-
Disposals / derecognition	(76)	(76)
Depreciation and amortisation	-	-
Other movements	-	-
Carrying value at 30 June	252	252

3.4 Other Assets

Other assets comprise of prepayments. Prepayments relate to actual transactions that are recorded at cost with the asset at balance date representing the un-utilised component of the prepayment.

2020	2020 \$'000	2019 \$'000
Other current assets		
Prepayments	8	-
Total	8	-
Utilised within 12 months	8	-
Total other assets	8	-

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.

	2020 \$'000	2019 \$'000
Payables	11	3
Accrued expenses	11	17
Total	22	20
Settled within 12 months	22	20
Total	22	20

Settlement is usually made within 30 days.

4.2 Lease Liabilities

On 1 July 2019, a lease liability is measured at the present value of the lease payments that are not paid at that date. The discount rate used to calculate the present value of the lease liability is the rate implicit in the lease. Where the implicit rate is not known and cannot be determined the Tascorp indicative lending rate including the relevant administration margin is used.

The Board has elected not to recognise right-of-use assets and lease liabilities arising from short-term leases, rental arrangements for which Finance-General has substantive substitution rights over the assets and leases for which the underlying asset is of low value. Substantive substitution rights relate primarily to office accommodation. An asset is considered low value when it is expected to cost less than \$10 000.

The Board has entered into the following leasing arrangements:

CLASS OF RIGHT-OF-USE ASSET DETAILS OF LEASING ARRANGEMENTS

Buildings	Office Accommodation at Level 3 (Suite 1 and 2), 147 Macquarie Street, Hobart
-----------	---

The Board's leasing arrangement is for five years, with lease payments to increase annually through CPI adjustments. The Board makes a number of assumptions regarding CPI and interest rates which it uses to calculate the present value of the lease liability.

	2020 \$'000
Current	
Lease liabilities	71
Non-current	
Lease liabilities	201
Total	272

The following amounts are recognised in the Statement of Comprehensive Income

	2020 \$'000
Interest on lease liabilities included in note 2.4	27
Short term leases and/or low-value leases	7
Net expenses from leasing activities	34

4.3 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.

	2020 \$'000	2019 \$'000
Accrued salaries	22	9
Annual leave	44	40
Long service leave	127	135
Total	193	184
Settled within 12 months	57	38
Settled in more than 12 months	136	146
Total	193	184

4.4 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

	2020 \$'000	2019 \$'000
BY TYPE		
<i>Lease Commitments</i>		
Short terms and/or low value leases	17	-
Operating leases (no GST)	-	443
<i>Total lease commitments</i>	17	443
BY MATURITY		
<i>Lease commitments</i>		
One year or less	11	101
From one to five years	6	342
<i>Total lease commitments</i>	17	443

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 for 30 June 2019 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. To the extent that any quantifiable contingencies are insured, details provided below are recorded net.

	2020 \$'000	2019 \$'000
QUANTIFIABLE CONTINGENT LIABILITIES		
<i>Contingent claims</i>		
Contingent legal claims	145	290
Total quantifiable contingent liabilities	145	290

At 30 June 2020 the Board had five legal claims against it in dispute. It is not possible at the reporting date to accurately estimate the amounts of any eventual payments that may be required in relation to these claims.

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.

	2020 \$'000	2019 \$'000
Operating Account	267	384
Total cash and cash equivalents	267	384

6.2 Reconciliation of Net Result to Net Cash from Operating Activities

	2020 \$'000	2019 \$'000
Net result	(141)	249
Depreciation	75	-
(Increase) / Decrease in Receivables	1	(2)
Decrease (increase) in Prepayments	(8)	-
Increase / (Decrease) in Employee benefits	10	10
Increase / (Decrease) in Payables	2	2
Net cash generated from operating activities	(61)	259

6.3 Reconciliation of liabilities arising from financing activities

Liabilities arising from financing activities are liabilities for which cash flows were, or future cash flows will be, classified in the Statement of Cash Flows as cash flows from financial activities.

	LEASE LIABILITIES \$'000
Balance as at 1 July 2019	328
Acquisitions/New leases	-
Foreign exchange rate movements	-
Changes in fair value	-
Other movements	-
Transfers to / (from) other Government entity	-
Changes from financing cash flows:	
Cash Received	-
Cash Repayments	(56)
Balance as at 30 June 2020	272

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:

- Credit risk
- 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) Credit risk exposures

Credit risk is the risk of financial loss to the Board if a customer or counterparty to a financial instrument fails to meet its contractual obligations.

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		
Cash and deposits	Deposits are recognised at amortised cost, being their face value.	Cash means notes, coins, any deposits held at call with a bank or financial institution, as well as funds held in the Special Deposits and Trust Fund.

The Board does not have any concentration of credit risk. The Board monitors receivables on a monthly basis and follow up procedures are undertaken for all debts that are overdue. Action taken is dependent on the length of time the debt is overdue.

The carrying amount of financial assets recorded in the Financial Statements, net of any allowances for losses, represents the Board's maximum exposure to credit risk. The Board does not hold any collateral or other security over its receivables. The Board's credit risk is considered to be minimal.

Except as detailed in the following table, the carrying amount of financial assets recorded in the Financial Statements, net of any allowances for losses, represents the Board's maximum exposure to credit risk without taking into account of any collateral or other security:

	2020 \$'000	2019 \$'000
Cash	267	384
Total	267	384

(c) 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.
Lease liabilities	Lease liabilities are measured at the present value of the lease payments that are not paid at that date	The discount rate used to calculate the present value of the lease liability is the rate implicit in the lease. Where the implicit rate is not known and cannot be determined the Tascorp indicative lending rate including the relevant administration margin is used.

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:

2020

MATURITY ANALYSIS FOR FINANCIAL LIABILITIES						
	1 YEAR	2 YEARS	3 YEARS	4 YEARS	UNDISCOUNTED TOTAL	CARRYING AMOUNT
Financial liabilities						
Payables	22	-	-	-	22	22
Lease liabilities	92	94	96	32	314	272
Total	294	294	294	294	336	294

2019

MATURITY ANALYSIS FOR FINANCIAL LIABILITIES

	1 YEAR	UNDISCOUNTED TOTAL	CARRYING AMOUNT
Financial liabilities			
Payables	20	20	20
Total	20	20	20

(d) 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:

	2020 \$'000	2019 \$'000
Variable rate instruments		
<i>Financial assets</i>		
Cash and cash equivalents	267	384
Total	267	384

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 2020				
Cash in Special Deposits and Trust Fund	3	(3)	3	(3)
Net sensitivity	3	(3)	3	(3)
30 JUNE 2019				
Cash in Special Deposits and Trust Fund	4	(4)	4	(4)
Net sensitivity	4	(4)	4	(4)

7.2 Categories of Financial Assets and Liabilities

AASB 9 CARRYING AMOUNT	2020 \$'000	2019 \$'000
FINANCIAL ASSETS		
Cash and cash equivalents	267	384
Receivables at amortised cost	13	14
Total	280	398
FINANCIAL LIABILITIES		
Financial liabilities measured at amortised cost	22	20
Lease liabilities measured at amortised cost	272	-
Total	294	20

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

	CARRYING AMOUNT 2020 \$'000	NET FAIR VALUE 2020 \$'000	CARRYING AMOUNT 2019 \$'000	NET FAIR VALUE 2019 \$'000
FINANCIAL ASSETS				
Cash and cash equivalents	267	267	267	384
Receivables	13	13	13	14
Total financial assets	280	280	280	398
FINANCIAL LIABILITIES				
Payables	22	22	22	20
Lease liabilities	272	272	272	-
Total financial liabilities	294	294	294	20

The Board does not have any financial assets or financial liabilities recognised at fair value through the profit and loss or through other comprehensive income.

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 Lease liabilities 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 2020.

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 Act 2016, it has elected to prepare these financial statements in accordance with the Treasurer's Instructions issued under the provisions of the Financial Management Act 2016.

The financial statements were signed by the Chairperson and the Chief Executive Officer on 27 August 2020.

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:

- AASB 15 Revenue from Contracts with Customers – This Standard establishes principles that require an entity to 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.

AASB 15 supersedes AASB 111 Construction Contracts, AASB 118 Revenue and related Interpretations and it applies, with limited exceptions, to all revenue arising from contracts with customers. AASB 15 establishes a five-step model to account for revenue arising from contracts with customers and requires that revenue be recognised at an amount that reflects the consideration to which an entity expects to be entitled in exchange for transferring goods or services to a customer.

The Standard requires the Board to exercise judgement, taking into consideration all of the relevant facts and circumstances when applying each step of the model to contracts with their customers. The Standard also specifies the accounting for the incremental costs of obtaining a contract and the costs directly related to fulfilling a contract. In addition, the Standard requires relevant disclosures.

The Board has adopted AASB 15 retrospectively with the cumulative effect of applying the Standard recognised from 1 July 2019 by adopting the transitional practical expedient permitted by the Standard.

There is no financial impact.

- AASB 16 Leases – This Standard introduces a single lessee accounting model and requires a lessee to recognise assets and liabilities. The standard results in most of the Board's operating leases being brought onto the Statement of Financial Position and additional note disclosures. The calculation of the lease liability takes into account appropriate discount rates, assumptions about the lease term, and required lease payments. A corresponding right to use asset is recognised, which is amortised over the term of the lease. Operating lease costs are no longer shown. In the Statement of Comprehensive Income, impact of leases is through amortisation and interest charges. In the Statement of Cash Flows, lease payments is shown as cash flows from financing activities instead of operating activities. The Board has adopted AASB 16 retrospectively with the cumulative effect of applying the standard recognised from 1 July 2019 by adopting the transitional practical expedient permitted by the Standard.

The Board elected to use the practical expedient to expense lease payments for lease contracts that, at their commencement date, have a lease term of 12 months or less and do not contain a purchase option (short-term leases), and lease contracts for which the underlying asset is valued at \$10 000 or under when new (low value assets).

In applying AASB 16 for the first time, the Board has used the following practical expedients permitted by the standard:

- not reassess whether a contract is, or contains, a lease at 1 July 2019, for those contracts previously assessed under AASB 117 and Interpretation 4;
- applying a single discount rate to a portfolio of leases with reasonably similar characteristics;
- relying on its previous assessment on whether leases are onerous immediately before the date of initial application as an alternative to performing an impairment review;
- not recognise a lease liability and right-of-use-asset for short-term leases that end within 12 months of the date of initial application;
- excluding the initial direct costs from the measurement of the right-of-use asset at the date of initial application; and
- using hindsight in determining the lease term where the contract contained options to extend or terminate the lease.

The effect of adopting AASB 16 on the Statement of Financial Position is as follows:

	\$'000
ASSETS	
Right-of-use assets	328
LIABILITIES	
Lease liabilities	328
EQUITY	
Accumulated funds	-

Reconciliation of operating lease commitments as at 30 June 2019 to lease liabilities on 1 July 2019:

	\$'000
Operating lease commitments as at 30 June 2019 (ex GST)	443
Weighted average incremental borrowing rate as at 1 July 2019	8.84%
<i>Reconciliation:</i>	
Discounted operating lease commitments as at 1 July 2019	355
Add:	
Lease payments relating to renewal periods not included in operating lease commitments as at 30 June 2019	-
Less practical expedients:	
Commitments relating to leases of low-value assets	(27)
Lease liabilities as at 1 July 2019	328

(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 1059 Service Concession Arrangements: Grantors – The objective of this Standard is to prescribe the accounting for a service concession arrangement by a grantor that is a public sector entity. This Standard applies on or after 1 January 2020. The impact of this Standard is enhanced disclosure in relation to service concession arrangements for grantors that are public sector entities. No financial impact is expected.

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 Board 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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