



Annual Report

2022–2023

Legal Profession Board of Tasmania
Independent Regulator

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31 August 2023

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 2022-23

Please find enclosed the Annual Report of the Legal Profession Board of Tasmania for the period 2022-23, in satisfaction of section 601(2) of the Legal Profession Act 2007.

In accordance with the Annual Report Procedures, two loose leaf copies and eighteen electronic copies have been included for your convenience.

Yours sincerely

K Pitt KC
CHAIRPERSON,
LEGAL PROFESSION BOARD OF TASMANIA

Frank Ederle
CHIEF EXECUTIVE OFFICER,
LEGAL PROFESSION BOARD OF TASMANIA

The Legal Profession Board of Tasmania acknowledges and pays respect to the Tasmanian Aboriginal people as the traditional and original owners and continuing custodians of lutruwita/Tasmania. We honour Tasmanian Aboriginal elders, past and present as the first peoples of this Land and recognise the deep history and culture of this Island. We recognise and value Aboriginal histories, knowledge and lived experiences and commit to being culturally inclusive and respectful in our working relationships with all Aboriginal people.

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Report of the Chairperson



I am pleased to present the Legal Profession Board of Tasmania's ('the Board') annual report for the financial period ending 30 June 2023.

This year's report marks 14 years since the Board commenced operations in January 2009, and my tenth year of service with the Board.

One of the principal challenges for the Board this year has been in relation to its ongoing funding. Although the Board's funding application was approved in principle by the Attorney-General in May 2022, it was deemed that the Solicitors' Trust had insufficient funds available within the Solicitors' Guarantee Fund to fund the Board for the financial year 2022/2023. This situation jeopardised the Board's ongoing ability to discharge its statutory functions. Thankfully the Department of Justice were able to secure funding for the Board for the totality of the financial year. The Board accordingly expresses its gratitude both to the Department of Justice Secretary, Ms Ginna Webster and the Deputy Secretary, Ms Kristy Bourne, for their respective efforts in ensuring the Board was able to maintain operations throughout the reporting period.

Workload of the Board

For the period ending 30 June 2023, the Board received 110 complaints which was 23 less than the same period last year, or a percentage decrease of 17%. Although a decrease in complaint numbers is a pleasing result for the reporting period, the general trend over time indicates that complaint numbers continue to follow an upward trajectory.

On analysis of this year's statistics, complaint allegations in relation to negligence/competency; dishonest/misleading conduct; costs/overcharging; and delay remain the most prevalent issues raised by consumers of legal services for the reporting period.

The Board commenced 11 formal investigations within the reporting period where an investigator was appointed by the Board, and 100 matters were finalised. The Board continues to maintain a commitment to the early resolution of complaints by mediation in appropriate circumstances and I am pleased to report that 6 finalised complaints were as a result of mediatory intervention by the Board and its Officers.

This year's report provides other insightful statistics in relation to the Board's operations, which are explored further in Part 2 of the report.

Meetings and Determinations of the Board

The Board convened 11 complaints-specific meetings over the past 12 months, and a further 2 section 456(1) meetings (procedure for less serious matters), 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* ('the Act') 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 **86** written determinations and reasons in the reporting period.

Membership of the Board

In February 2022 Ms Maree Norton was appointed to the Board as the nominee of the Tasmanian Bar. Ms Norton's appointment marked the first appointment of a female legal member to the Board since the Board commenced operations in 2009. Unfortunately, Ms Norton was unable to continue with the Board for the duration of her appointed term and accordingly resigned her appointment in November 2022.

The Board continued to operate throughout the reporting period in an efficient and effective manner and is supported by a dedicated team of professional employees under the guidance of the Board's CEO.

I 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.

Sexual Harassment

I have reported in previous years that the Board has played a leading role in the instigation and development of a profession-wide working group made up of senior leaders of the legal profession state-wide. The working group's purpose was to initiate a catalyst for cultural change across all of the legal profession in Tasmania in relation to sexual harassment and to provide ongoing leadership in relation to this issue. In the Board's view it is a credit to the legal profession that its leaders are willing to take the issue of sexual harassment within the legal profession seriously, and to genuinely seek to address this issue collectively.

I am pleased to report that the Board has, in the reporting period, worked hard to establish and implement an anonymous online reporting tool which is available to all who work in, or engage with, the wider legal profession. This reporting tool is, in the Board's view, a significant advancement in breaking down the stigma of reporting sexual harassment and also establishes a platform for ongoing cultural change within the legal profession in Tasmania.

Financial Performance of the Board

It is with satisfaction that I am again able to report that over the reporting period no additional funding has been sought by the Board. This is a direct consequence of sound financial management and the Board consistently operating within agreed financial parameters.

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

Finally, on behalf of all members of the Board, I 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 KC

CHAIRPERSON, LEGAL PROFESSION BOARD OF TASMANIA

Report of the Chief Executive Officer



The period ending 30 June 2023 has again been a challenging one. As canvassed in the Chairperson's report, the Board's ongoing funding from the Solicitors' Guarantee Fund for the reporting period was placed in doubt in late May 2022. I am pleased to report that with the assistance from the Department of Justice and legislative amendment, the Board is taking active steps to ensure such a scenario is not repeated in the future.

As in the previous reporting period, the number of matters for which the Board has resolved to litigate, either before the Board or by way of an application to either the Supreme Court or Disciplinary Tribunal, has remained at very high levels. At the conclusion of the reporting period, the Board had 16 active litigation matters on foot. This high volume of litigation matters places pressure on the Board's internal and financial resources.

The Board was able to advance two very significant projects during the reporting period including the establishment and implementation of an online anonymous reporting tool for the reporting of instances of sexual harassment within the legal profession; and the hosting and organisation of Law Week, in May 2023.

Law Week

It has been many years since Law Week was programmed in Tasmania and the Board decided to host and organise Law Week in May 2023 as part of its ongoing statutory function to conduct education programs relating to client-lawyer relationships for members of the public.

Law Week is a national week of community events and activities designed to help the community understand their rights, find answers to legal questions, explore what help is available and how the legal system works. It is described as an annual festival that is all about creating greater access to justice for Australians.

As part of Law Week this year, the Chief Justice, the Hon. Alan Blow AO, opened Law Week at a function hosted by the University of Tasmania. There were also a plethora of activities available to the public over the week with many of the State's legal organisations, such as the Board and the Supreme Court, hosting community focused events. All events were well attended by the Tasmanian community and the Board intends to continue with Law Week in coming years.

Engagement with the Profession

The Board's Manager Operations, Mrs Marilyn Williams, 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 Tasmania University 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.

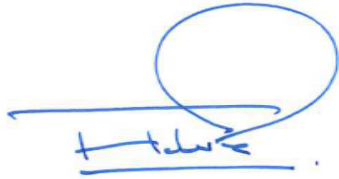
Finance and Resources

The Board has continued to exercise financial restraint in all of its dealings within the reporting period. As I have noted in previous reports, although the *Legal Profession Act 2007* empowers the Board to impose levies on local legal practitioners (s 592(2)), it has not been necessary to do so since the commencement of the Board's operations in 2009.

Notwithstanding the strains placed upon the organisation through higher complaint litigation activity, I am grateful to all members and employees for consistently appreciating the need for financial restraint and careful financial planning to ensure the Board is able to meet its obligations and liabilities into the future.

I also take this opportunity to gratefully acknowledge the Attorney-General, the Honourable Elise Archer, for supporting the Board's work which enables the Board to fulfil its statutory obligations.

Finally, it is with great 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

Part 1.

The Legal
Profession Board

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 lawyers and 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 lawyers and 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 KC

Mr Keyran Pitt KC has formerly held appointments as Chairman of the Resource Management and Planning Appeal Tribunal; the Planning Appeals Board; the Mental Health Review Tribunal; the Medical Complaints Tribunal; and as a coroner. He was also the Deputy Chairman for the Building Appeals Board and the Environmental Protection Appeal Board.

Mr Pitt KC 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 KC worked as a Barrister until 30 June 2022. He currently works as an Arbitrator and is also a Senior Member of the Tasmanian Civil and Administrative Tribunal (TASCAT), and President of the Property Agents Tribunal. He is an Honorary Fellow of the Royal Planning Institute of Australia.

Mr Pitt KC is a nominee of the Minister.

Lay Members



Ms Heather Kent

Ms Heather Kent commenced her term in November 2018.

Ms Kent is presently CEO of the St Vincent de Paul Society of Tasmania, a large organisation that provides support to those most vulnerable across the community through a broad variety of programs. Prior to this, she was CEO of the RHH Research Foundation, an independent entity that is recognised as one of the largest funding bodies for local medical research in Tasmania.

In pursuing a desire to contribute to the community, Ms Kent has previously served on the Board of the Tasmanian Community Fund, Primary Health Tasmania and Crimestoppers Tasmania. She also served two terms as the Deputy National Chair of the Australian Marketing Institute and Chaired the Board of St Michael's Collegiate School for five years.

Ms Kent has previously been 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 Kent was acknowledged as the Telstra Business Woman of the Year (Community and Government) in 2013.

Ms Kent 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 across the areas of 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 Tasmanian Civil and Administrative Tribunal (TASCAT) Mental Health Stream, 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 Graeme 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.

Mr Jones 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 Anthony Mihal is a director of a generalist law practice in Ulverstone and he undertakes mainly litigious work including civil, criminal and child protection matters.

Mr Mihal 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 Tasmanian Civil and Administrative Tribunal (TASCAT), Guardianship Stream.

Mr Mihal is a nominee of the Law Society.



Ms Maree Norton

Ms Maree Norton commenced her term as a legal member of the Board in February 2022. With 15 years of practice experience in Melbourne, Ms Norton returned to Tasmania in late 2020 and now practices across the two jurisdictions.

Ms Norton has a First Class Honours degree in law from the University of Tasmania and a Master of Law degree from the University of Cambridge. Following her admission in 2005 has practised as a solicitor with Allens, before joining the Victorian Bar in 2010. She also served as an Associate to the Honourable Justice Neave of the Victorian Court of Appeal.

Maree has a busy trial and appellate practice, focused on the following areas:

- Employment law
- Inquests, inquiries and commissions
- Personal injuries and tort
- Public and administrative law

Maree appeared as Counsel Assisting the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings.

She is also a member of the Australian Bar Association Ethics Committee.

Ms Norton was a nominee of the Tasmanian Bar and, as noted in the Report of the Chairperson, Ms Norton resigned from her appointment in November 2022.

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.

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 2022-2023

BOARD MEMBER	BOARD MEETINGS	S450(A) HEARING	S456 HEARING
Keyran Pitt KC	11	0	1
Heather Kent	9	0	2
Marion Hale	11	0	2
Graeme Jones	11	0	2
Anthony Mihal	11	0	2
*Maree Norton	3	0	1

In addition to the above meetings, the Board also convened 2 section 456(1) hearings for less serious complaints.

Consequent to the Board meetings and hearings, the Board produced 86 written complaint determinations with reasons during the reporting period.

* Ms Norton commenced her term in February 2022, resigning in November 2022.

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 2022-23, the funding which was approved in principle by the Minister was **\$1,783,340.00**. Funding was provided through the Department of Justice, as noted by the Report of the Chairperson.

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.

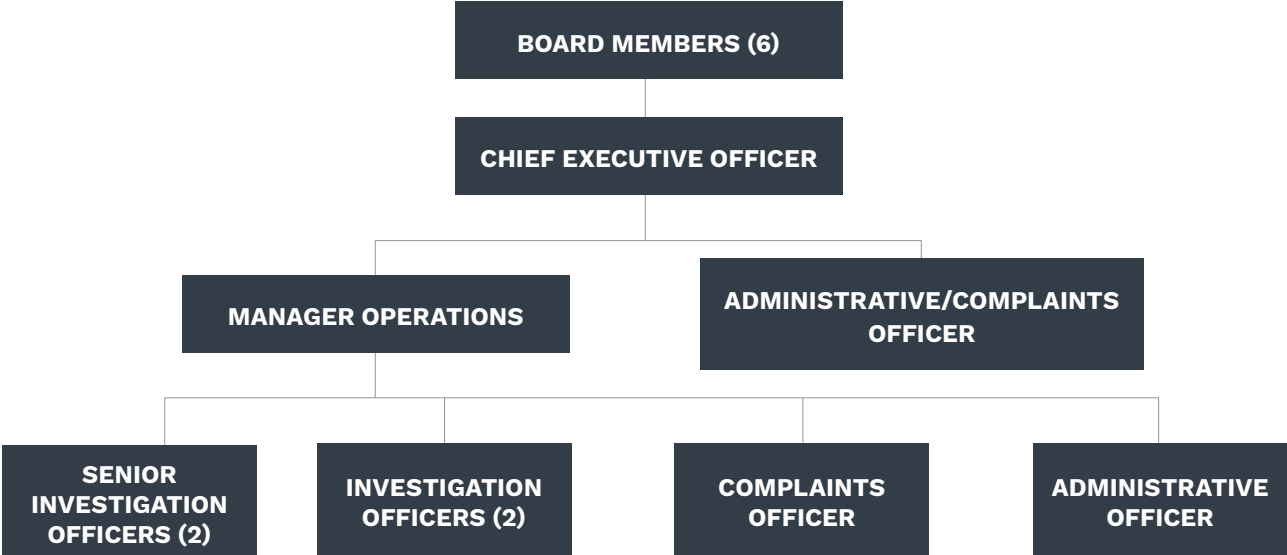
THE BOARD'S GOAL

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 2023.

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



Part 2.

Operations Report

COMPLAINTS TO THE LEGAL PROFESSION BOARD OF TASMANIA

The following statistical information regarding the Board's performance is based on the twelve-month period, 1 July 2022 to 30 June 2023.

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 **195** 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 modest decrease is likely attributable to the increased information available online.

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 **21** minutes.

A total of **64** enquiries in the reporting period resulted in a written complaint. This represents a conversion rate of **33%**.

Over **85%** 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.

Consistent with our complaints data, enquiries primarily concern:

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

Fees, costs, and perceptions of overcharging or 'bill shock' continue to be the most common queries 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 indicate that a client's understanding of what to expect and of what has happened, and the lawyers delivery of that service, can be at times at odds. In the vast majority of matters, it is the lack of communication that leads to problems rather than any actual wrongdoing.

TABLE 2 - ENQUIRIES BY SOURCE

MONTH	ENQUIRIES BY PHONE	ENQUIRIES IN PERSON	ENQUIRIES BY EMAIL	ENQUIRIES BY LETTER	TOTAL ENQUIRIES 2022-23	TOTAL ENQUIRIES 2021-22	TOTAL ENQUIRIES 2020-21
July	12	0	3	0	15	27	23
August	5	2	2	0	9	17	21
September	10	1	0	1	12	19	8
October	19	0	1	0	20	18	20
November	17	0	2	0	19	15	16
December	8	0	3	0	11	15	12
January	18	0	2	0	20	13	9
February	13	0	2	0	15	14	19
March	15	0	1	0	16	14	35
April	12	2	1	0	15	11	21
May	16	1	2	0	19	13	22
June	22	1	1	0	24	16	15
Total Enquiries	167	7	20	1	195	192	221

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.



COMPLAINTS

Our process

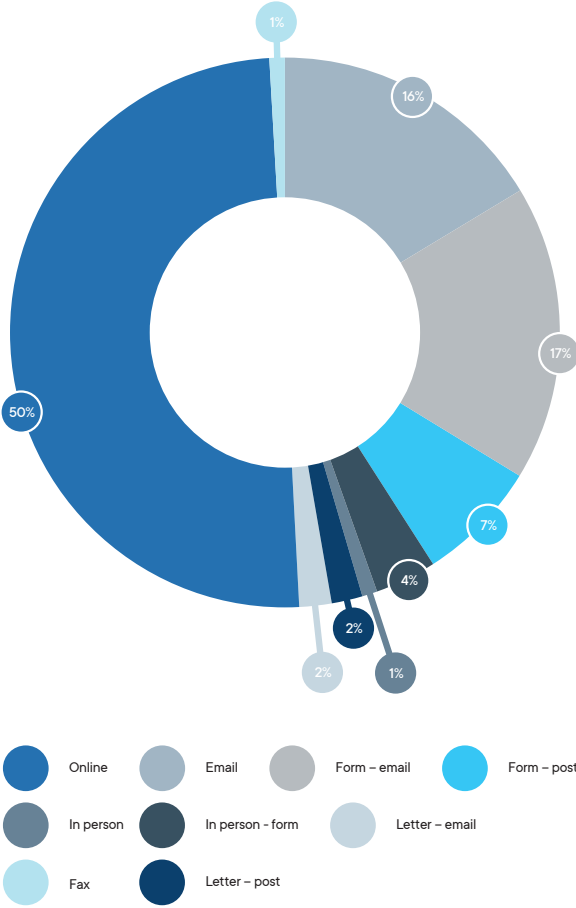
A complaint may be made about the conduct of an Australian legal practitioner by any person, including the Board itself. The Board is required by the Act to take all reasonable steps to ensure that any person wishing to make a written complaint is given the appropriate assistance to do so.

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.

- 55 complaints via the online form
- 19 complaint forms by email
- 18 email
- 8 complaint forms by post
- 4 complaint forms in person
- 2 letters of complaint by post
- 2 letters of complaint by email
- 1 faxed complaint
- 1 in person

As can be seen in the chart on the right, complaints are in the main received via the online form on the Board's website followed by emailed 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 require assistance.



Anonymous communications

On occasion, 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.

FLOW CHART 1 – PROGRESS OF A COMPLAINT THROUGH THE BOARD

When a complaint is received by the Board, a preliminary consideration is made and, if necessary, further information is sought from the complainant to specifically identify the conduct that is alleged to have occurred, to seek documents referred to in the complaint or to seek additional information relevant to the Board’s jurisdiction.

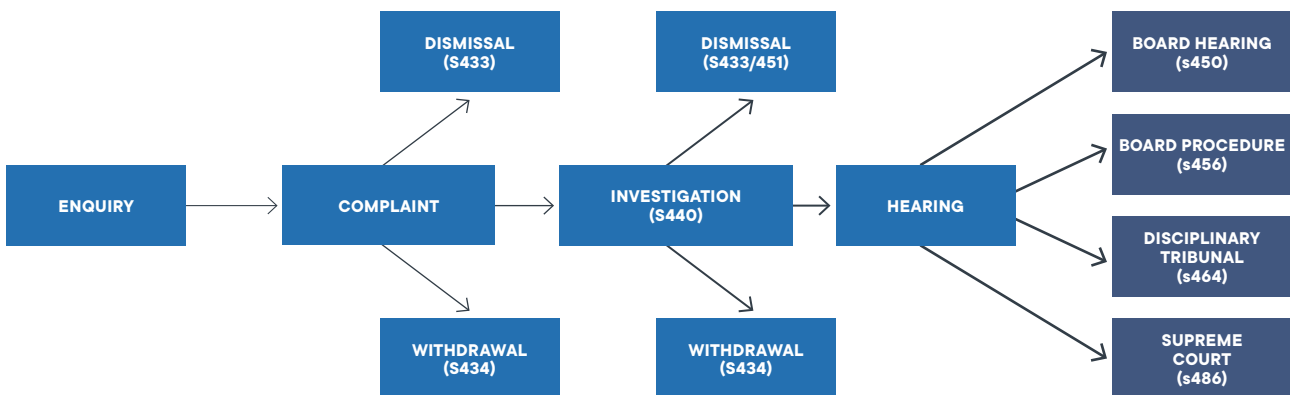
A complaint may include any number of allegations against a legal practitioner or law firm.

If a complainant is not able to clearly describe the specific matters of complaint against a practitioner, the Board is required, under section 427(5) of the Act, to take all reasonable steps to ensure that they are given the necessary assistance to do so. 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 of the information obtained initially is collated and all of the material is then considered by the Board at a monthly meeting. At that stage the complaint will either proceed to have an investigator appointed, or is summarily dismissed. As complaints may contain a number of allegations, on some occasions the Board may summarily dismiss part of the complaint, with the balance remaining until the investigation is finalised.

The Board has a duty to deal with complaints as efficiently and expeditiously as is practicable. The preliminary process prior to the appointment of an investigator, or the complaint being summarily dismissed, 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 to understand the statutory framework for dealing with complaints.

Complaints this year

The Board received **110** complaints in the reporting period which represents a **17%** decrease for the same period last year however continues a general upward trend of complaint numbers since 2016-17.

TABLE 3 - WRITTEN COMPLAINTS RECEIVED

MONTH	COMPLAINTS RECEIVED 2022-23	COMPLAINTS RECEIVED 2021-22	COMPLAINTS RECEIVED 2020-21	COMPLAINTS RECEIVED 2019-20
July	13	11	7	19
August	11	35	6	11
September	3	18	4	13
October	16	10	9	10
November	11	7	16	13
December	2	8	5	4
January	5	2	2	6
February	13	15	8	10
March	7	10	8	11
April	6	5	11	9
May	12	6	15	16
June	11	6	11	9
Total Complaints	110	133	102	131

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

Practising certificates

Of the 110 complaints, **94** were directed against lawyers who held local practising certificates issued by the prescribed authority (the Law Society of Tasmania).

The Board received **1** complaint against a legal practice and there were **2** complaints received concerning lawyers holding practising certificates in New South Wales and Victoria respectively, however the alleged conduct principally arose in Tasmania.

A further **3** complaints concerned TASCAT Members.

There were **5** complaints against Australian lawyers whom 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.

In the reporting period the Board also received **7** complaints against Tasmanian 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.

Consistent with the previous year, the majority of complaints were made against lawyers holding a principal local practising certificate (**45%**) 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	1
Corporate	2
Employed	33
Principal	49
Grand Total	94

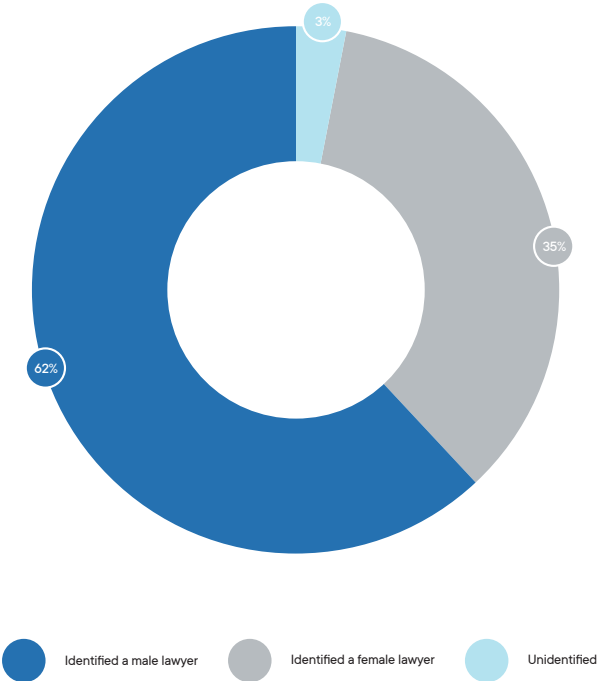
38 complaints identified lawyers employed by an incorporated legal practice with **54** against lawyers working in a law firm. **1** complaint was against a lawyer working at a community legal centre, **2** complaints were against corporate lawyers and **9** complaints were against barristers.



Gender

Of the **110** new complaints, **69** complaints (**62%**) identified a male lawyer while **38** identified a female lawyer (**35%**). **1** complaint against Tasmania Legal Aid (**1%**) and **2** invalid complaints (**2%**)*

*The Complainant was not able to identify the lawyer



Admission dates

The admission date of the lawyer against whom a complaint had been made was available for **105** of the complaints received.

NO OF COMPLAINTS	DATE RANGE OF ADMISSION	MALE	FEMALE	PRINCIPAL PC
12	2018 - 2023	10	2	0
13	2014 - 2017	8	5	2
25	2004 - 2013	11	14	15
55	Prior to 2003	39	16	31

Overwhelmingly, and similar to previous years, the majority of the complaints were made against lawyers with more than 20 years' experience. Of those **105** complaints, **65%** were against male practitioners. Of the lawyers with more than 20 years' experience, **56%** held a Principal practising certificate. This is a consistent trend, and continues to indicate that senior lawyers may benefit from targeted continuing legal education around complaint matters.

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 identified.

As can be seen from Table 5, allegations relating to negligence and competency, criminal allegations, costs/overcharging and dishonest/misleading conduct comprised a significant proportion of complaint allegations received by the Board in the reporting period.

TABLE 5 - PRINCIPAL ALLEGATIONS AGAINST LEGAL PRACTITIONERS

PRINCIPAL ALLEGATION	2022-23	2022-23	2021-22	2021-22	2020-21	2020-21
		%		%		%
Abusive/Rude/Threat	7	6%	6	4%	7	7%
Breach of Act, rules, court order or undertaking	7	6%	11	8%	1	1%
Communication with client - including failure to communicate	5	5%	3	2%	4	4%
Confidentiality breach	2	2%	4	3%	1	1%
Conflict of interest	3	3%	9	6%	3	3%
Costs/Bills/Fees/Overcharging	15	13%	13	9%	22	21%
Court performance	-	-	1	1%	8	8%
Delay	9	8%	6	4%	10	10%
Dishonest/Misleading (including misleading the Court)	19	17%	12	9%	17	16%
Instructions - failure to act or to comply	5	5%	6	5%	8	8%
Instructions - acting without instructions	1	1%	1	1%	2	2%
Negligence/Competency - including poor handling of case	30	27%	29	22%	12	12%
Criminal allegations	2	2%	26	20%	0	-
Trust money - including failure to account	-	-	2	2%	2	2%
Inappropriately ceasing to act	2	2%	1	1%	5	5%
Inappropriately withholding client file	3	3%	1	1%	0	-
Nil / No allegation	-	-	2	2%	0	-
Totals	110	100%	133	100%	102	100%

TABLE 6 - AREA OF LAW TO WHICH COMPLAINTS RELATED

AREA OF THE LAW	2022-23	2022-23	2021-22	2021-22	2020-21	2020-21
		%		%		%
Administrative	3	3%	5	3%	-	-
Building	2	2%	1	1%	2	2%
Commercial/Corporations/Franchise	4	4%	1	1%	5	4%
Other - Civil includes debt collection, anti-discrimination, defamation	8	7%	8	6%	7	7%
Conveyancing	12	10%	13	10%	7	7%
Criminal	6	5%	28	21%	19	19%
Family/de facto	27	24%	17	12%	26	26%
Employment	2	2%	3	3%	1	1%
Personal Injury	3	3%	4	3%	7	7%
Probate/Family Provision	22	20%	30	22%	21	21%
Wills/Powers of Attorney	3	3%	4	3%	5	4%
Workers' Compensation	8	7%	7	5%	1	1%
Immigration	1	1%	-	-	1	1%
Land & Environment	3	3%	-	-	-	-
Victim Compensation	-	-	1	1%	-	-
Leases/Mortgages	2	2%	8	6%	-	-
Insolvency	-	-	1	1%	-	-
Unknown	4	4%	2	2%	-	-
Total	110	100%	133	100%	102	100%

Table 6 indicates that the area of law most often involved in complaints received by the Board in the reporting period, at a combined **44%** of complaints was Family/De Facto and Probate and Family Provisions.

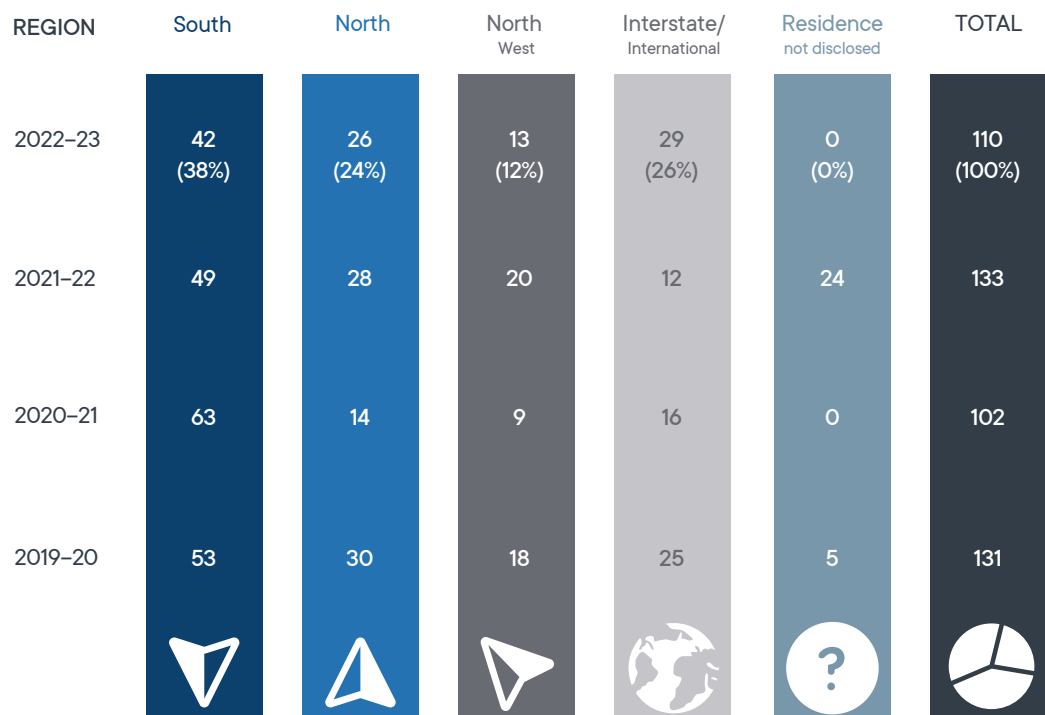
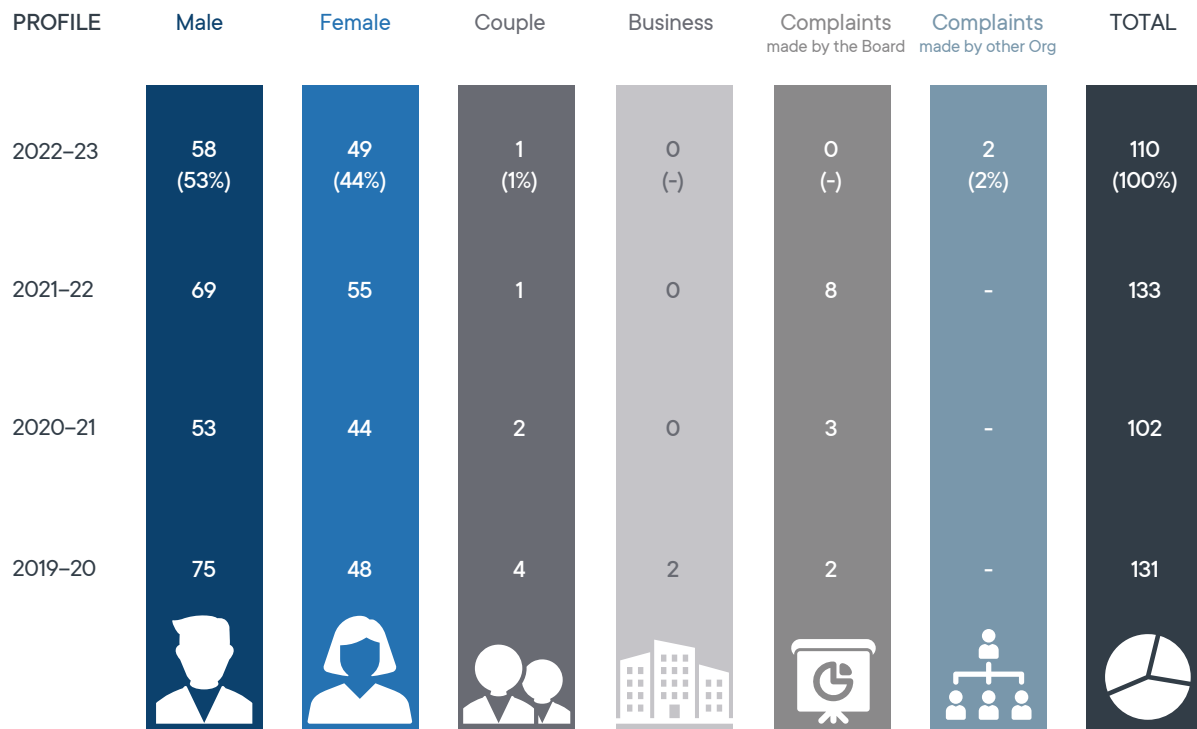
The areas of law also highly represented in the reporting period were Conveyancing, Other - Civil and Workers Compensation. Those three areas of law represent **24%** of complaints to the Board.

The Board is able to accept complaints made to it by people residing outside of Tasmania. In the reporting period, **29** 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 situations, the Board may elect to make a complaint of its own motion. The Board has developed a fact sheet, available on its website, to provide context as to when the Board will commence a board initiated complaint.

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

TABLE 7 - COMPLAINANTS' PROFILE (REGION & GENDER)



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In addition to the **110** complaints received the Board also dealt with a further **90** complaints carried forward from the 2021-22 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 AS AT 1 JULY 2022

COMPLAINTS	CARRIED FORWARD AS AT 1 JULY 2022	%
Unfinalised complaints pending (an investigator yet to be appointed or awaiting hearing) as at 30 June 2022	31	35%
Complaints under investigation	39	43%
Complaints referred to a hearing	20	22%
Total carried forward as at 1 July 2022	90	100%

90
complaints
carried
forward



INVESTIGATIONS

39 investigations were carried forward from the previous reporting year and a total of 11 complaints proceeded to have an investigator appointed in the reporting period.

A total of 11 investigations were completed by way of a dismissal or withdrawal. A further 8 completed investigations were referred to prosecution either by way of a meeting of the Board, the Disciplinary Tribunal or the Supreme Court.

The total of 19 completed investigations is consistent with the previous year.

The Board, where necessary, utilises external resources to assist in clearing the backlog of investigations. This year one external investigator was appointed to investigate a matter and another external investigator continued to investigate two interrelated matters.

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 to do so, 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 2022-23

MONTH	INVESTIGATIONS COMMENCED 2022-23	INVESTIGATIONS COMPLETED 2022-23	INVESTIGATIONS COMMENCED 2021-22	INVESTIGATIONS COMPLETED 2021-22	INVESTIGATIONS COMMENCED 2020-21	INVESTIGATIONS COMPLETED 2020-21
July	0	0	1	2	6	1
August	0	2	3	0	3	0
September	3	1	8	1	3	6
October	1	2	3	2	0	2
November	2	1	6	3	2	2
December	1	1	3	2	1	1
January	0	0	0	0	0	0
February	2	1	4	4	3	3
March	0	1	2	1	2	3
April	0	2	2	0	0	1
May	1	0	3	2	0	2
June	1	0	1	3	2	1
Total	11	11	36	20	22	22

TABLE 10 – COMPLEXITY OF INVESTIGATIONS TO WHICH AN INVESTIGATOR IS APPOINTED

CATEGORY OF INVESTIGATION	INVESTIGATION CRITERIA	INVESTIGATOR APPOINTED 2022-23	%	INVESTIGATOR APPOINTED 2021-22	INVESTIGATOR APPOINTED 2020-21
SIMPLE	Basic investigation, low volume of documentary evidence, no witness or 3rd party involvement	5	45%	12	8
INTERMEDIATE	Medium volume of documentary evidence, single witness or 3rd party involvement	5	45%	18	11
COMPLEX	Multiple witnesses, significant volume of evidence	1	10%	6	-
VERY COMPLEX	High volume of evidence, multiple witnesses, interaction with commercial entities	-	-	-	3
Total		11	100%	36	22

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 Investigation Officer’s ability to readily access information held by either the practitioner or complainant.

In the reporting period to 30 June 2023, the Board classified the majority (**55%**) of all investigations where an investigator was appointed in the period, as more complex than a simple investigation.

The average length of investigations in the reporting period from the appointment of the investigator to the Board determination, or referral to prosecution, was **10** months.

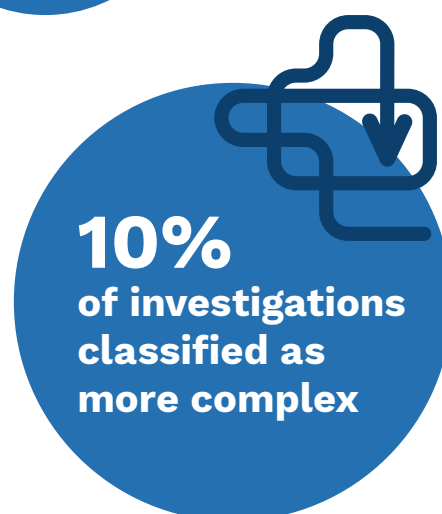


TABLE 11 – COMPLAINTS FINALISED AND METHOD OF FINALISATION FROM 2022-23

METHOD OF FINALISATION	RELEVANT SECTION OF ACT	DESCRIPTION	NUMBER FINALISED	% FINALISED COMPARED TO TOTAL FINALISATIONS	NUMBER FINALISED 2021-22
FINALISATIONS PRIOR TO APPOINTMENT OF AN INVESTIGATOR:					
Summarily dismissed	s.433 (1) (a)	Complaint lacking in substance, vexatious, misconceived or frivolous	52	52%	70
Summarily dismissed	s.433 (1) (e)	Complaint is not one that the Board has the power to deal with	1	1%	15
Summarily dismissed	s.433 (1) (b)	Subject of a previous complaint that has been dismissed	0	-	0
Summarily dismissed	s.433 (2) (a)	Further information not given or complaint not verified	4	4%	7
Summarily dismissed	s.433 (3) & (4)	Complaint requires no further investigation or no public interest in continuing	3	3%	1
Summarily dismissed	s.433 (1) (a) & (e)	Complaint lacking in substance, vexatious, misconceived or frivolous and not one that the Board has the power to deal with	6	6%	0
Summarily dismissed	s.433 (1) (a) & (2)(a)	Complaint lacking in substance, vexatious, misconceived or frivolous and further information not given or complaint not verified	1	1%	0
Dismissed following an investigation but before an investigator was appointed	s. 451(a)	No reasonable likelihood that the practitioner will be found guilty	1	1%	0
Withdrawal	s.434	Complaint withdrawn by complainant prior to an investigation	13	13%	10
Other		Invalid complaints	4	4%	3
Sub Total			85	85%	106
FINALISATIONS FOLLOWING COMPLETION OF INVESTIGATION:					
Dismissed following an investigation	s.451 (a)	No reasonable likelihood that the practitioner will be found guilty	8	8%	16
Dismissed following an investigation	s.451 (b)	No public interest to continue	0	-	1
Withdrawal	s.434	Complaint withdrawn (after mediation) following an investigation	2	2%	0
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			11	11%	20

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METHOD OF FINALISATION	RELEVANT SECTION OF ACT	DESCRIPTION	NUMBER FINALISED	% FINALISED COMPARED TO TOTAL FINALISATIONS	NUMBER FINALISED 2021-22
FINALISATIONS FOLLOWING A MEETING/HEARING 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	0	-	0
Practitioner found guilty of unsatisfactory professional conduct	s.456 (7) (a)	Practitioner cautioned or reprimanded	0	-	2
Practitioner found guilty of unsatisfactory professional conduct	s.456 (7) (ab) & (b)	Practitioner required to make an apology or no further action	1	1%	1
Practitioner found guilty of unsatisfactory professional conduct	s.454 (2)	Practitioner reprimanded, & required to pay costs	0	-	0
Sub Total			2	2%	3
FINALISATIONS FOLLOWING A HEARING OF THE DISCIPLINARY TRIBUNAL OR SUPREME COURT*:					
*Does not include application for rehearing					
Practitioner found guilty of either unsatisfactory professional conduct or professional misconduct	s.471	Practitioner suspended and fined	0	-	1
Practitioner found guilty of unsatisfactory professional conduct	s.473 s.479	Practitioner required to pay compensation	0	-	0
Practitioner found guilty of professional misconduct	s. 487	Practitioner required to pay a fine	2	2%	1
Practitioner found guilty of professional misconduct	Supreme Court Inherent Jurisdiction	Practitioner removed from Roll	0	-	1
Other		Resolved by consent orders prior to hearing in the Supreme Court	0	-	2
Sub Total			2	2%	4
TOTAL FINALISATIONS			100	100%	133

Finalisations:

Table 11 shows that a total of **100** complaints were finalised for the reporting period ending 30 June 2023.

Consistent with previous years, the majority (**85%**) 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.

A further **11** complaints were finalised by the Board following completion of the investigation, once an investigator had been appointed and prior to a hearing.

There were **2** finalisations as a result of mediatory intervention after an investigator was appointed. The Board maintains a strategy to resolve matters, in appropriate circumstances.

The matters which were referred to a Board, 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 meeting or hearing of the Board 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 **110** complaints within the reporting period and finalised a total of **100** complaints to 30 June 2023. The clearance rate achieved during the reporting period was therefore **91%**, which indicates the Board is keeping up with its workload.

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 section 456 (procedure for less serious complaint); make an application to either the Disciplinary Tribunal or Supreme Court for the complaint to be heard and determined; or dismiss the complaint. Table 12 shows that the Board referred, or resolved to refer for hearing, a total of **10** complaints within the reporting period.

The Board held a section 456 meeting in relation to **2** complaints; **1** matter resulted in the Board being satisfied that the matter had been substantiated, making a determination which is recorded on the Disciplinary Register as required by the Act; and **1** matter was dismissed as the Board was not satisfied that the matter had been substantiated.

The Board resolved in October 2022 to refer **2** matters to the Disciplinary Tribunal and filing of the applications has occurred, with the hearings of both matters pending at the end of the reporting period.

The Board resolved in February 2023 to refer a further **4** matters to the Disciplinary Tribunal and the filing of the applications was pending at the end of the reporting period.

The Board resolved to refer **1** matter to the Supreme Court.

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TABLE 12 – COMPLAINTS REFERRED (OR RESOLVED TO BE REFERRED) TO DISCIPLINARY TRIBUNAL, SUPREME COURT OR FOR BOARD HEARING/MEETING 2022-23

COMPLAINTS REFERRED	SECTION OF ACT	REFERRED 2022-23	REFERRED 2021-22	REFERRED 2020-21
Board Meeting (s.456 procedure for less serious complaint)	s.450 (b)	3	3	5
Board Hearing	s.450 (a)	0	0	0
Disciplinary Tribunal	s.450 (c) (d)	6	1	0
Supreme Court	s.450 (e)	1	3	10
Total Complaints Referred		10	7	15

TABLE 13 – NUMBER OF PENDING COMPLAINTS AS AT 30 JUNE 2023

COMPLAINT SOURCE	2022-23	2021-22	2020-21
Unfinalised complaints pending (investigator yet to be appointed) as at 30 June 2022	31	39	38
Unfinalised complaints with investigator appointed, as at 30 June 2022	39	26	42
Complaints referred to a hearing	20	22	20
Subtotal Pending Complaints as at 30 June 2023	90	87	100
Complaints received 1 July 2022 to 30 June 2023	110	133	102
Subtotal complaints for current reporting period	200	220	202
Finalised complaints 1 July 2022 to 30 June 2023	100	130	111
Balance of complaints on hand as at 30 June 2023	100	90	91

Table 13 above indicates that **100** complaints remain unfinalised as at 30 June 2023. This includes pending complaints, pending investigations and pending matters referred, equivalent to last year.

Notifications to the Prescribed Authority

The *Legal Profession Act 2007* requires the Board to notify the prescribed authority responsible for the issuing of practicing 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 **234** 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:

- One application made to the Supreme Court in March 2018. That application was adjourned pending the outcome an appeal, which was delivered by the Full Bench of the Federal Court on 28 June 2023. This matter will be progressed during the next reporting period.
- 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.
- The Board filed an originating application in the Supreme Court on 25 March 2020 against an interstate practitioner with respect to a Tasmanian complaint. This matter has been combined to be heard at the same time as an originating application filed 3 November 2021 against the same interstate practitioner, with a hearing listed in the next reporting period.
- One matter that was heard by the Supreme Court on 6 December 2021, with decision delivered on 4 August 2022.
- One matter that involves four complaints filed as one proceeding in March 2021. That matter was heard and a decision is pending.
- One matter that was referred to the Supreme Court on 6 December 2022, to be heard in the next reporting period.
- One matter appealed by the Board to Full Court of the Supreme Court, to be determined in the next reporting period.
- One matter that was referred to the Supreme Court by the Board on 6 December 2022, to be heard in the next reporting period.

The Supreme Court handed down the following decisions:

- *Legal Profession Board of Tasmania v A Legal Practitioner* [2022] TASSC 54
- *Legal Profession Board of Tasmania v Glynn Williams* [2022] TASSC 46

There was one application by the Board to the Supreme Court with respect to an order made by the Disciplinary Tribunal. The decision in that matter was delivered on 15 November 2022.

The Board made three applications to the Disciplinary Tribunal in the reporting period.

APPLICATIONS FOR SEARCH WARRANTS

No applications for a search warrant were made under section 576 of the 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.



Case Study 1

ISSUES ARISING OUT OF COMPLAINTS

Acting for both Sides of a Transaction – Remembering your Obligations

The Legal Framework

There are rules that dictate the circumstances in which a practitioner may act for both parties to a transaction simultaneously.¹ The obligation of a practitioner to fulfil their duty to a client, and avoid undertaking irreconcilable duties is well established. The fiduciary duties owing to clients, arising from the lawyer-client relationship, proscribes a practitioner from acting for two or more clients with conflicting interests.² The proscription aims to foster undivided or single-minded loyalty by a lawyer to a client, which cannot be fulfilled for clients who have opposing interests.³ Notably, the fiduciary proscription extends beyond the individual lawyer to the firm in which the lawyer is a partner, associate or employee. It is the firm, rather than individual lawyers, that owes a fiduciary duty to clients. As the law superimposes fiduciary obligations for the benefit of clients, it is within their power to consent to their lawyer engaging in a conflict situation.⁴ However, this rests upon consent that is informed and given by a client who fully understands the incidents and ramifications of the conflict.

Case Study

The Board recently considered a matter in which the Practitioner acted for two parties in a related transaction; Client A, who were selling their matrimonial house with their ex-spouse, and Client B, who were selling their house to Client A's ex-spouse. Due to a specific clause in Client B's sale contract, the two transactions were intrinsically linked. While the Practitioner's fiduciary obligations did not prevent them from representing both clients concurrently, the Practitioner ought to have been on alert for the presence of what could emerge or constitute a conflict between the clients. Further, during the course of the retainers, in the event of such a conflict arising, absent informed client consent,

the Practitioner ought to have been aware that their fiduciary duties to each client would be compromised.

Irrespective of the above, where no conflict is apparent on the face of the instructions, a practitioner is not absolved from disclosing to the prospective clients the potential for conflict and its repercussions were it to arise.⁵ It follows that a practitioner invited by multiple clients to perform transactional work must determine whether the proposed retainer carries with it the likelihood of a conflict of interest; in doing so, the practitioner should enquire into the nature and scope of the retainer, and clearly ascertain what they are being retained to do.⁶

In the matter considered by the Board, a conflict of interest arose during the course of the Practitioner's representation of Client A and Client B. However, the Practitioner did not inform both parties of the related transaction, nor did the Practitioner obtain informed consent to continue to act for both. The Board in this matter considered that the Practitioner misapprehended that there was a conflict between the two parties and therefore acted in that conflict to the prejudice of one of the clients.

Issues of Confidentiality

In respect to a practitioner obtaining informed consent from both parties where a conflict arises, a further issue can occur in relation to a practitioner's duty of confidentiality. As noted in *Clark Boyce v Mouat*,⁷ the implications of such a conflict are that 'the solicitor may be disabled from disclosing to each party the full knowledge which he possesses as to the transaction or may be disabled from giving advice to one party which conflicts with the interests of the other'. This represents a heavy onus on the practitioner, and one best discharged in writing and pursuant to independent legal advice.

Key Learnings

The key take away from the above, is that practitioners should be cautious about the circumstances in which they elect to act for more than one party to a transaction. Where they do, full regard must be had to the Rules and their professional obligations to ensure that their duties are being discharged equally to each client.

1 See Rule 15 of the Legal Profession (Solicitors' Conduct) Rules 2020 (the Rules).

2 G E Dal Pont, *Lawyers' Professional Responsibility*, (Lawbook Co – Thomson Reuters), 6th Ed. at [7.30].

3 Ibid

4 G E Dal Pont, *Lawyer Discipline*, (LexisNexis Butterworths) at [7.70].

5 G E Dal Pont, *Lawyers' Professional Responsibility*, (Lawbook Co – Thomson Reuters), 6th Ed. at [7.120].

6 Ibid [7.120].

7 [1994] 1 AC 428 at 435.

Case Study 2

Lawyer-client confidentiality – ‘Public information’ as an exception

A fundamental duty of lawyers that is well-known by both the profession and the public is that of lawyer-client confidentiality. This important duty promotes public confidence in the legal system and the profession as it gives clients the confidence to seek and obtain legal advice without prejudice, and gives them confidence in knowing that the information they provide to their lawyer will not be disclosed to others. Without this duty, clients may not be comfortable in having full and frank discussions with their lawyer, or may not be comfortable in seeking legal advice in the first place.

One of the exceptions to this duty that is perhaps not discussed as frequently as others, is disclosing information that is already ‘publicly known’. Once information that was previously subject to confidentiality becomes public knowledge, it is logical that the information is no longer ‘confidential’ in nature and therefore the duty of confidentiality is no longer in force. But when is information considered ‘public information’ and subsequently allowed to be disclosed?

Lawyers need to ensure they are exercising care when making any client-related disclosure, even when the information being disclosed is known by others or is ‘widespread’ information. Professor Dal Pont highlights that caution should be exercised in disclosing what is perceived to be ‘public information’:

It is conceivable that clients may nonetheless perceive a remnant of a duty of loyalty owed by their lawyer and feel betrayed by the disclosure. Merely because this vests no legal entitlement in the client does not mean that the lawyer should feel completely free to speak as if no duty of confidentiality ever attached to the information in question.⁸

Practitioners should be mindful that, even if information is publicly accessible or is in the ‘public domain’, repetition of that information may give it further credibility than it otherwise would have had. An example of this is seen in the infamous Queensland matter arising from Mr Robin Tampoe’s representation of Schapelle Corby, *Legal Services Commissioner v Tampoe*.⁹ Mr Tampoe made disparaging remarks about his former client, Ms Corby, on national television, including disclosing her prior criminal convictions. He contended that the information was in

the public domain and he therefore didn’t commit an offence in disclosing it. He was ultimately struck off by the Queensland Legal Practice Tribunal, making a finding of professional misconduct, as it was held that the disclosed information had been communicated by the client to Mr Tampoe on a confidential basis. The Tribunal noted that Mr Tampoe’s actions had brought the profession into disrepute.

Information is not always ‘public knowledge’ just because it is publicly available. Professor Dal Pont highlights this with reference to examples such as information discussed in open court, or information available in court records, libraries or other public sources of information.¹⁰

Ultimately, whether a piece of information is no longer confidential in nature (and a lawyer’s obligation to withhold that information has ceased) is largely a question of fact, and practitioners should remain vigilant to the risks. A breach of the duty of confidence can have adverse consequences for lawyers, such as a client’s entitlement to seek damages for the breach or the commencement of disciplinary proceedings against the lawyer.

A practitioner’s duty of confidentiality is grounded in fostering trust with their client, and this is why the duty is so important. Trust between a lawyer and their client may erode if confidential information is disclosed, irrespective of whether that information is in the ‘public domain’, and therefore lawyers must exercise care when considering disclosing information that relates to their clients.

⁸ G E Dal Pont, *Lawyers’ Professional Responsibility* (7th ed.) at 365.

⁹ *Legal Services Commissioner v Tampoe* [2009] LPT 14.

¹⁰ G E Dal Pont, *Lawyers’ Professional Responsibility* (7th ed.) at 365 with reference to: The American Bar Association, Standing Committee on Ethics and Professional Responsibility, *The “Generally Known” Exception to Former-Client Confidentiality* (Formal Opinion 479, 15 December 2017) page 1.

Case Study 3

Amendments to the Legal Profession Act 2007 (Tas.) ('the Act')

With effect from 30 November 2022, amendments were incorporated into the Act. Section 464A was added to the Act to resolve technical legal issues arising as a result of the decision in *Burns v Corbett* [2018] HCA 15 ('Burns').

In simplistic terms, the effect of *Burns* is that the Board is unable to exercise 'judicial power' in matters involving federal diversity jurisdiction; relevant to the Board's work, disputes between natural persons residing in different States.

This is not a problem for complaints alleging conduct which the Board considers is capable of amounting to professional misconduct because the Board would make an application to the Supreme Court to hear and determine the complaint. The Supreme Court has jurisdiction in relation to matters involving federal diversity jurisdiction.

However, *Burns* does create a problem for complaints alleging conduct which the Board considers is capable of amounting to, the less serious, unsatisfactory professional conduct. Prior to the amendments to the Act, the Board would have been forced to dismiss the complaint for want of jurisdiction in those circumstances.

The amendments to the Act create a mechanism to enable the Board to deal with the subject matter of less serious complaints involving federal diversity jurisdiction. This is achieved by the Board dismissing the original complaint, making a new complaint in relation to any matter to which the original complaint relates and then making an application to the Disciplinary Tribunal to hear and determine the new complaint.

The net effect of this procedure is that the Board is not forced to dismiss the complaint and appropriate elements of the original complaint can be dealt with because the Board, as the complainant in the new complaint, and as an incorporated body, is not a resident of any State.

Case Study 4

Mediation – the wolf in sheep’s clothing?

It is widely recognised that alternative dispute resolution mechanisms have the potential to play an important role in the resolution of disputes. Complaints made to the Board are no exception. Its role and function are recognised in Part 4.3 of Chapter 4 of the Act ('Part 4.3'); which specifically deals with mediation.

However, a recent case demonstrates that it is important to appreciate that not all complaints are amenable to mediation. The suitability of mediation as a means of 'resolving' a complaint very much depends on the circumstances.

Once a complaint has been made to the Board, Part 4.2, specifically section 434, and Part 4.3 of the Act are facilitative of mediation in 3 contexts:

1. Mediation whereby the Board plays no role in the process ('mediation outside the auspices of the Act'); the Board need not have knowledge of the mediation (this is enabled by section 434 of the Act which provides no fetter on the reasons for which a complainant may withdraw a complaint);
2. Where the Board 'endorses' mediation under Part 4.3 in that the Board considers the complaint is capable of resolution by mediation and it suggests to the parties that they enter into a process of mediation but otherwise leaves it to the parties to, between themselves, establish and follow through with the mediation; or
3. Where the Board 'endorses' mediation under Part 4.3 and the Board plays an active role by facilitating the mediation.

The opportunity for the Board to 'endorse' mediation is contingent on 3 preconditions. Firstly, the Board must consider the complaint is capable of resolution by mediation. Secondly, the parties must agree to enter into a process of mediation. Thirdly, the conduct alleged must not be conduct which the Board considers the practitioner would be likely to be found guilty of professional misconduct if proceedings were instituted in the Disciplinary Tribunal.

In the recent case, before the Board had commenced the investigation proper, the practitioner made enquiry of the Board as to the opportunity to have the complaint resolved by mediation. Ultimately, the Board, at the time, was unable to consider the complaint capable of resolution by mediation. This was because the Board's investigation was in its infancy and, on the face of the materials then available to it, the Board was unable to form a view (as distinct from forming a view one way or the other) about whether or not the complaint was capable of

resolution by mediation. The Board did not 'endorse' mediation on that basis.

What was also borne out by the recent case was the need for careful consideration by anyone contemplating mediation as a means of resolving the complaint. A 'successful' mediation has the potential to procure a resolution of the concerns held by the complainant and, potentially, some form of redress. This may motivate the complainant to discontinue or withdraw their complaint.

Clearly therefore, successful mediation would appear to be a desirable process for a practitioner to enter into. This certainly may be true in a number of contexts however, it does not automatically follow that a complainant's withdrawal of the complaint brings to an end the Board's role with respect to the subject matter of the complaint. Section 434 provides that the Board may, notwithstanding the withdrawal of a complaint, continue to investigate the complaint or make a complaint about a matter that is the subject of the withdrawn complaint.

Clearly enough, it would be an uneasy situation if the Board were to endorse mediation under Part 4.3 and then, subsequent to a successful mediation, decide to continue investigating or make a complaint about a matter that is the subject of the withdrawn complaint. Nevertheless, it is theoretically possible for circumstances to exist justifying the Board, in reliance on the provisions of the Act, to adopt that course.

A further consideration is that mediation outside the auspices of the Act may not have the same protections afforded to mediation endorsed by the Board under Part 4.3. Section 438 of the Act provides that evidence of anything said or admitted during mediation, or a document prepared for the purposes of mediation, under Part 4.3 is not admissible in any proceedings in a court or before a person or body authorised to hear and receive evidence.

Therefore, while the Board is supportive of the parties to a complaint engaging in processes to resolve the concerns giving rise to the subject matter of the complaint, parties should understand that mediation is not a suitable process for all complaints and successful mediation provides no guarantees that the Board will not continue investigating the complaint or otherwise make a complaint about a matter that is the subject of the withdrawn complaint.

Case Study 5

Recent Regulatory Decisions

LEGAL PROFESSION BOARD OF TASMANIA V A LEGAL PRACTITIONER [2022] TASSC 54

On 24 August 2022, the Supreme Court of Tasmania handed down the decision in *LPBT v A Legal Practitioner*. The decision concerned overcharging for conveyancing, with the initial overcharging compounded by dishonesty.

This complaint proceeded on a consent basis. The Court agreed with the characterisation of the practitioner's conduct as professional misconduct.

The complaint arose from conveyancing matters, more particularly, the quantum of fees charged by the practitioner for the sale and purchase of two properties, on a time costing basis, without the practitioner advising the complainants that standard residential conveyancing fees at a fixed rate is the usual practice and that others performing the conveyancing in Tasmania would charge less.

The fees the practitioner charged for a standard sale and purchase conveyance totalled \$16,590.00. The Board had obtained expert evidence that the practitioner charged \$14,542.91 in excess of what might reasonably have been charged for work done. The complainants questioned the amount charged given one of the vendors lawyer only charged \$1,200 for that transaction.

The court found that the practitioner's response to the complainants on the amounts charged was dishonest. The practitioner had told the complainants that much more time was involved in the purchase conveyance, with numerous problems involved, and the quantum of fees charged by other practitioners.

His Honour, Justice Geason, found that the dishonest statements were directed towards complainants taking any further action regarding the quantum of fees charged and that the dishonest statements compounded the seriousness of the initial overcharging. His Honour stated:

[12] There can be no question that the conduct engaged in by the practitioner constituted professional misconduct at common law and the Court so held. It was, as I have said, dishonest, and disgraceful, as evidenced by the scale of the overcharging and the attempt to mislead the clients as to the reasons for it. Those attempts disguised the truth and were calculated to discourage any further action by the clients, a course which exploited the solicitor/client relationship, and the trust that had developed over a period of time.

Additionally, in terms of penalty, his Honour stated:

[15] If it is thought that a reprimand, the punitive component of the order, is unduly lenient, the Court records that it had regard to the fact that an apology had been given, that the clients had been repaid, and that the practitioner had retired and was unlikely to practice again. It gave weight to the Board's submissions including that it considered a reprimand sufficient in the circumstances. The practitioner's retirement meant that the need to protect the public, an important objective of disciplinary proceedings, was not relevant.

Importantly, His Honour added:

[16] Practitioners should be in no doubt however, that an order striking off a practitioner will be within the range of orders properly considered by a court dealing with a practitioner guilty of overcharging clients. Such conduct constitutes a fundamental breach of the professional obligations owed to a client. It squarely raise issues of a practitioner's suitability to continue in practice. In such cases an order striking off a practitioner may be necessary in order to protect the public.

The final orders made were that the practitioner be reprimanded, he apologise to his clients for the conduct the subject of the complaint, to pay to the clients the sum of \$14,542.91 (the apology and repayment had been made prior to the hearing) and to pay the Board's costs.

The judgment is available on the Board's disciplinary register and on AustLII or JADE.

LEGAL PROFESSION BOARD OF TASMANIA V GLYNN WILLIAMS [2022] TASSC 46

On 17 March 2023, the Full Court of the Supreme Court of Tasmania, consisting of their Honours Justice Escourt, Jago and Acting Justice Porter, allowed an appeal by the Board of a finding at first instance of unsatisfactory professional conduct against a practitioner who conveyed his clients instructions to offer to settle family law property matters if his client's ex-wife withdrew complaints to police made by her against the practitioner's client.

The facts were that in February 2018, a client of the practitioner was charged with two counts of common assault against his former wife after she had made complaints to Tasmania Police alleging that the respondent had assaulted her. She had taken out a police family violence order against the client for her protection.

On 9 March 2018, the client wrote to the complainant, through the practitioner, offering to settle their matrimonial property dispute on terms which included that "all legal pursuits and accusations cease including Tas Police. All matters are then resolved, finalised".

On 19 March 2018, the practitioner's client was charged with the crime of perverting justice in breach of s 105 of the Criminal Code Act 1924. The respondent appeared on behalf of his client in the Burnie Magistrates Court in respect of that matter.

All of that notwithstanding, subsequently, on 13 April 2018 and 31 May 2018, the practitioner himself wrote to the lawyer acting for the client's former wife conveying an offer to settle the matrimonial property dispute between the parties on terms expressed to be conditional upon the withdrawal by the former wife of the complaints she had made to Tasmania Police against his client.

The Full Court found the conduct to be professional misconduct as the gravity of the attempt to have charges pending before a court withdrawn or undermined justifies a conclusion that the conduct amounts to substantial failure to reach or maintain a reasonable standard of competence.

His Honour Justice Estcourt stated:

[1] I do not have the slightest doubt that it is professional misconduct for a lawyer to offer to settle a client's dispute with another person on the condition that the other person

withdraw a criminal complaint that person has made against the client and which is pending before a court.

The practitioner claimed, in response to the investigation into his conduct, that he was bound by his client's instructions and that the accusations made by his former wife were false. His Honour Justice Estcourt stated 'Such an explanation is no answer to the appellant's assertion of professional misconduct' [10].

Her Honour, Justice Jago and His Honour, Acting Justice Porter concurred that the previous orders should be set aside and, instead, there be a declaration that the practitioner is guilty of professional misconduct.

The Full Court also settled an issue as to the interpretation of sections 421(a) and (b) of the Legal Profession Act 2007 in relation to a finding of professional misconduct.

The judgment is available on AustLII or JADE.

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.

The Manager Operations, Senior Investigator and one of our investigators delivered the 2 seminars across June and July 2023 in face-to-face seminars.

In addition the Manager Operations presented a session with the Supreme Court of Tasmania on the requirements for an Application for Admission to the Roll of Legal Practitioners.

CPD Session Through the Law Society

The annual 2023 round up for CPD was delivered face-to-face to 101 participants on 19 April 2023 at the Law Society of Tasmania.

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
- Guidance Note – Note taking (capacity)
- Practitioner Wellbeing Resources
- Statement – Sexual harassment
- Sexual Harassment in the Legal Profession
- Guidance Note – Delay

The Board has developed during the year, in conjunction with the Elker Speak Safely portal, a number of resources which provide information about sexual harassment and what a person might consider doing if experiencing or witnessing sexual harassment. These resources are available for the public and the wider legal profession:

- Guide for people experiencing sexual harassment
- Guide for people witnessing sexual harassment
- FAQs – making a report or complaint of sexual harassment to the Board
- Fact Sheet – Sexual Harassment

The Board is registered with the Tasmanian Interpreter Service.

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.

Delay

A historical canvas of complaints data since the Board's inception has revealed a significant number of complaints where delay in some form is alleged against a practitioner. The data suggests that in 10 out of 13 years, delay has featured in the top five allegations made against practitioners.

In an effort to provide guidance to the profession in relation to appropriate standards of conduct, the Board has developed a guidance note for lawyers relating to common scenarios of delay which may arise in legal practice. In developing the guidance note, the Board consulted with the Law Society of Tasmania.

It is hoped that the development of the guidance note will assist in educating the profession on situations where delays may extend beyond a reasonable time frame increasing the risk of a conduct complaint or disciplinary action.

Sexual harassment

An important function of the Board as a regulator is to identify and address issues that emerge within the legal profession which affect practitioners.

In February 2020, the Board commenced a project to seek to address cultural change within the legal profession in relation to the issue of sexual harassment. As a result of that project:

- The Board and staff members have undertaken the *sexual harassment, changing workplace culture workshop* held by the Law Society. This training is now a requirement for all persons holding a PC.
- A number of staff members have also undertaken specialised training regarding sexual harassment to enable the appropriate and effective handling of sensitive complaints.
- The Board convened a working group of influential and progressive leaders within the Tasmanian legal profession, to identify initiatives to facilitate cultural change regarding sexual harassment in the legal profession in Tasmania. The Working Group was first convened in February 2021, and met a number of times between 2021 and 2022.
- Developed a statement of intent and a factsheet on sexual harassment. The Statement and fact sheet were published on the Board's website in August 2020.

Sexual Harassment Reporting Tool

This year, the Board has continued its work in relation to sexual harassment in the legal profession, and as part of its ongoing commitment, the Board has implemented a sexual harassment reporting tool for the legal profession.

The sexual harassment reporting tool was officially launched in February 2023 by the Attorney General. The tool, developed by Elker, is an online portal to report on any incidents of sexual harassment that a person experiences or witnesses in the legal profession. Importantly, the portal is designed to allow the option of anonymity when reporting, and allows a person the choice of making a formal complaint or an informal report.

The tool is designed to make reporting incidents of harassment easier, and is accessible via the Board's website. Some key benefits and features of the Elker portal are:

- A reporter can remain anonymous throughout the process or provide contact details.
- There is a 'quick exit' button within the reporting tool that allows a reporter to quickly leave the site if they are concerned about someone looking over their shoulder.
- A list of support services is provided for assistance or support.
- A reporter can select whether they want to be contacted or not, and their preferred method of communication.
- Anyone can make a report; either the person who experienced the harassment or a third party or witness.
- There is a free text area where a reporter can tell their story in their own words.

Reports are received by the Board's response team, who have specialised training in managing sexual harassment complaints.

A range of information resources were developed by the Board to accompany the online portal, including:

- FAQs about the portal and how the response team can assist
- Factsheet for someone who has experienced sexual harassment
- Fact sheet for someone who has witnessed sexual harassment
- And a case study

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.

A chiding was issued by the Board on **1** dismissed matter.

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.

86 applications for admission were served on the Board during the reporting period. The Board objected to **2** applications. The originating applications objecting to the admission to the legal profession of those 2 applicants have been filed by the Board, with those matters ongoing as at the end of the reporting period.

Appointment of Managers

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

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, **0** from the Disciplinary Tribunal and **2** from the Board.

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

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

Decisions made by the Legal Professional Disciplinary Tribunal of Tasmania (TASLPDT) are available on AustLII.

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. The Board nominee is Mrs Merrilyn Williams, Manager Operations.

WHAT IS LAW WEEK?

Law week is a national event providing members of the public with opportunities to learn about the law and their legal rights. The annual event is designed to make learning about the law easy and accessible to everyone, helping the community find answers to legal questions, know what help is available and understand how the legal system works. It is described as an annual festival that is all about creating greater access to justice for Australians.

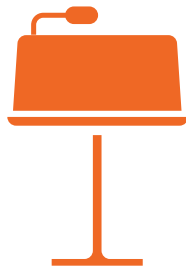
2023 PROGRAM OF EVENTS

A program of 26 events and 18 podcasts was put together by the legal profession and facilitated by the Board.

Over 57,520 people were
reached by Law Week 2023



The Hon. Alan Blow AO, Chief Justice of Tasmania delivered a keynote address at the launch of Law Week, hosted by the Faculty of Law, UTAS, and the Dean of Law Professor Gino Dal Pont. This was followed by a panel discussion on human rights.



The Legal Profession Board conducted x2 information sessions covering questions about legal fees and what to do if you're unhappy with your lawyer.



Will and Estate Planning Seminars

The Public Trustee

The Public Trustee held three live seminars across the state and one webinar to assist members of the public to learn how to protect and make your financial, medical and legal wishes known.

Forced Marriage Training for Frontline Workers

Anti-Slavery Australia

Anti-Slavery Australia presented two free training sessions for frontline workers in the Tasmanian community on identifying, preventing and responding to forced marriage.

Employment Rights 101

JobWatch

JobWatch held two webinars for the community to learn about their rights within the workplace, including a specific webinar on pregnancy discrimination at work.

Pop-up Information Clinics and Pizza Night

WorkerAssist Tasmania

WorkerAssist hosted three pop-up clinics, a pizza night and two live Q&A sessions to provide the community with free and independent advice about workers compensation, rehabilitation and returning to work following a workplace injury.



Supreme Court

Supreme Court building tour and Sentencing Workshop

The Supreme Court of Tasmania deals with criminal cases and civil disputes, as well as hearing appeals from the Magistrates Court and statutory tribunals. The tour took a look at the courtrooms and registries where all the action happens, and also gave workshop members a chance to participate in a fictitious case, trying their hand at being judge.



A Guide to Using Free Resources of the Tasmanian Law Library

The Tasmanian Law Library

The Tasmanian Law Library provided a free online guide to assist members of the public in using the free resources available on its website, including navigating the judgment and sentencing database and links to self-help material.



TasCAT Tour and Presentation

TasCAT

Established in 2021, the conducted tour consisted of their hearing rooms and registry, whilst also providing a presentation and overview about the 9 Tribunals that make up Tasmania's Civil and Administrative Tribunal and its functions.



UTAS Hosted Events

University of Tasmania

UTAS hosted two additional events, 'The Law as an Instrument for Change' which heard from community sector groups and how they have used the law as part of their toolkit to achieve change, and 'Tasmania Tigers and Freshwater Snails: what role does the law have in (de)extinction?', looking at the role of law in the management of conservation, restoration, extinction and de-extinction.



Smart Complaining with the Ombudsman

Richard Connock

Ombudsman, Richard Connock, provided an overview of the role of the Ombudsman and the offices' various functions including dealing with Right to Information applications and investigating complaints as the Energy Ombudsman, under the Water and Sewerage Industry Act and as the Health Complaints Commissioner.



18 Podcasts:

8x presented by Lawfully Explained

in conjunction with Law Society of NSW

1x podcast by Tasmanian Refugee Legal Service (TRLS)

8x 'Rule of Thumb' Podcasts presented by Women's Legal Service Tasmania

1x Podcast on legal information for seniors presented by Tasmania Legal Aid



Part 3.

Administrative
Matters

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.

The Board received no 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) 2022

The Board's CEO and Manager Operations attended the in person event in Brisbane, Queensland on 3 and 4 November 2022. The program included presentations on:

- The Adaptability Quotient – develop adaptable thinking to be able to thrive in a world of constant change
- Future diversity in the legal profession
- An address by The Honourable Helen Bowskill, Chief Justice of Queensland on emerging issues in the legal profession including sexual harassment
- Inappropriate conduct in the legal profession
- Ethical Pursuit? Former lawyer Julian Morrow from the television series *The Chaser* was host of a witty ethical quiz
- New Law and Practice in 2022 – new and inventive ways to provide easy and instant access to legal services for consumers
- Legal Disruption – technology re-engineering the way legal services are being delivered
- Regulation perceptions, reflections and challenges beyond 2022

Going forward, the Legal Profession Board Tasmania is delighted to be the host of the Conference of Regulatory Officers (CORO) in 2023, with the theme Regulation: Dealing with BIG issues. The theme is designed to stimulate thinking and engage with regulation colleagues across the jurisdictions and New Zealand. The conference will be held in Hobart from 23 to 25 October 2023.

ACCOUNTABILITY

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

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

Board members are subject to the legislative provisions of the *Legal Profession Act 2007* (Schedule 3) with respect to their ongoing obligations regarding 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 Register of local practicing certificates and locally registered foreign lawyers.

The Board also has relevant delegations to the Chief Executive Officer, 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 2022– 2023

Legal Profession Act 2007, s. 617

Number of Applications made under s 464:

- Three Applications have been made to the Tribunal during the financial year ending 30 June 2023.

Nature of Applications and Orders Made:

Matter No 02/23DT

- An application was filed by the Legal Profession Board of Tasmania ('the Board') on 16 March 2023.
- The Board seeks orders against a practitioner, including (amongst other things) orders for a reprimand and a fine.
- The Board's allegation is that the practitioner engaged in professional misconduct, or alternatively, unsatisfactory professional conduct, by falling below the requisite standards of competence and diligence in taking instructions from and administering the estate of a deceased person.
- The Tribunal has not made orders against the practitioner. It has made directions to enable it to hear and determine the matter. A hearing date has not yet been fixed.

Matter No 03/23DT


- An application was filed by the Board on 24 March 2023.
- The Board seeks orders against a practitioner, including (amongst others) orders for a reprimand and for the practitioner to undertake and satisfactorily complete a course in professional ethics.
- The Tribunal has not made orders against the practitioner. It has made directions for disclosure of documents necessary for the hearing and determination of the matter and will make further directions to bring the matter to hearing in due course.

Matter No 06/23DT

- An application was filed by the Board on 20 April 2023.
- The Board seeks orders against a practitioner, including (amongst others) orders for a reprimand.
- The Board alleges that the practitioner has engaged in professional misconduct, or alternatively, unsatisfactory professional conduct, by falling below the requisite standards of competence and diligence, in that he failed over a 12 month period to attend competently to a client's matter in the Magistrates Court (Civil Division) or communicate with his client in respect of the matter.
- The Tribunal has not made orders against the practitioner. It has made directions to enable it to hear and determine the matter. A hearing date has not yet been fixed.

The first of those orders was by consent of the parties pursuant to s. 479 of the Act. The second and third orders were imposed by the Tribunal after taking submissions from the parties.

The Tribunal's decision was published with the medium neutral citation: *Legal Profession Board of Tasmania v Green (No. 2) [2022] TASLPDT 2*.



Michael O'Farrell SC

Chairperson

10 July 2023

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*.



25 July 2023

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

Dear Mr Pitt KC

Annual Report of the Prescribed Authority 2022/2023

I am pleased to present this report to the Legal Profession Board of Tasmania (the Board) pursuant to Section 653(3) of the *Legal Profession Act 2007* which requires the prescribed authority, to prepare and present to the Board a report on its operations for the previous financial year.

Overview

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* appoint the Law Society as the prescribed authority for the purposes of some 129 parts of the Act. They include the:

- (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) regulation of trust accounts;
- (d) appointment of investigators to law practices; and

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- (e) 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 by the Tasmanian legal profession, ostensibly through 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. 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 2022 to 30 June 2023:

	2020/2021	2021/2022	2022/2023
Principal and Employee	562	590	622
Barrister	56	56	55
Corporate	80	78	95
Government	10	13	21
Locum	3	1	2
Community legal centre	76	84	79
Volunteer	10	6	5
Total	797	828	879

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 Tasmania Legal Aid.

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 in 2022-2023 were as follows:

1. All Practising Certificates
 - To complete the Law Society of Tasmania Sexual Harassment Changing Workplace Culture workshop if the practitioner has not already done so.
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 or as a volunteer with a community legal centre.
5. Government
 - The holder of the certificate must not engage in legal practice otherwise than as a government lawyer engaged in government work.
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 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:
 - (a) is to act only for clients of a complying community legal centre;
 - (b) must have professional indemnity insurance pursuant to a policy approved by the Law Society;
 - (c) is not to receive or hold any money for any client; and
 - (d) 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 additional practising certificate conditions which are reasonable or relevant – section 56(2) of the *Legal Profession Act 2007*. Typical additional conditions include:

- (a) Practitioners who transition to operating as a sole practitioner for the first time are subject to conditions appointing a mentor and additional conditions requiring regular meetings with that mentor as well as reporting to the Society. If operating a trust account, those practitioners are subject to a condition that a report from the Society's trust accounting examiner be provided within certain time frames;
- (b) New principal practising certificate holders wishing to be a trust account signatory must complete the Legal Bookkeepers Institute online trust accounting course;
- (c) A number of principal practitioners have a condition imposed that the practitioner is 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;
- (d) Conditions requiring the obtaining of CPD points in excess of those required by Practice Guideline No. 4.

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.

Trust account examinations relate to a calendar year. The following information therefore relates to the 2019 to 2022 calendar years;

Year	2019	2020	2021	2022
Number of firms with trust accounts	106	103	110	108
Number of trust receipts	108,112	104,793	112,669	102,229
Total amount of trust receipts	\$9.7 billion	\$9.5 billion	\$12.8 billion	\$12.5 billion
Amount held on trust at 31 December	\$175 million	\$208.5 million	\$311.8 million	\$326.6 million
Amount held on investment at 31 December	\$76 million	\$68.5million	\$66.5 million	\$70.9million

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 approved form of its intention to do so.

There are 64 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.

Appointment of a Manager

On 7 November 2022 the Society, acting pursuant to a delegation from the Legal Profession Board, appointed Mr Zac Nicholson as manager of the firm, Michael Briant Barrister & Solicitor, following the death of Mr Briant.

The appointment was subsequently extended to 6 November 2023.

Growth of the Legal Profession

The profession continues to grow. In the relevant period the Society issued approximately 6% more practising certificates than it did in the previous 12 months. The Society's major source of income is practising certificate fees. Those fees are governed by the *Legal Profession Regulations* and are a number of fee units. Unfortunately, increases in the value of a fee unit have failed to keep pace with increases in operational costs which place an increasingly heavy burden on the Society in fulfilling its regulatory obligations.

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.

In carrying out its functions as the prescribed authority in 2022-23 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; and
- 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



Amanda Thompson
PRESIDENT

c.c. Attorney-General for Tasmania

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Part 6.

Independent Audit Report and Financial Statement as at 30 June 2023

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

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

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**Independent Auditor's Report
To the Members of Parliament
Legal Profession Board of Tasmania
Report on the Audit of the Financial Statements**

Opinion

I have audited the financial statements of the Legal Profession Board of Tasmania (the Board), which comprises the statement of financial position as at 30 June 2023 and statements of comprehensive income, changes in equity and cash flows for the year then ended, notes to the financial statements, including a summary of significant accounting policies, other explanatory notes and the statement of certification by the Chairman and Chief Executive Officer of the Board.

In my opinion, the accompanying financial statements:

- (a) present fairly, in all material respects, the Board's financial position as at 30 June 2023 and its financial performance and its cash flows for the year then ended
- (b) are in accordance with the *Legal Profession Act 2007*, *Financial Management Act 2016* 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 Statements* 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 statements in Australia. I have also fulfilled my other ethical responsibilities in accordance with the Code.

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

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

Responsibilities of the Members for the Financial Statements

The Members are responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, and the financial reporting requirements of the *Legal Profession Act 2007* and *Financial Management Act 2016*. This responsibility includes such internal control as determined necessary to enable the preparation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, 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 intends to cease operations, or has no realistic alternative but to do so.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are 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 the financial statements.

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 statements, 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 statements or, if such disclosures are inadequate, to modify my opinion. My conclusion is based on the audit evidence obtained up to

the date of my auditor's report. However, future events or conditions may cause the Board to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent 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.



Stephen Morrison
Assistant Auditor-General
Delegate of the Auditor-General
Tasmanian Audit Office

29 August 2023
Hobart



Statement by Chairman and Chief Executive Officer

The accompanying Financial Statements of the Legal Profession Board of Tasmania are in agreement with the relevant accounts and records and have been prepared in compliance with Treasurer's Instructions issued under the provision of the Financial Management and Audit Act 1990 and section 599 of the Legal Profession Act 2007 to present fairly the financial transactions for the period ended 30 June 2022 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 9th day of August 2023

Keyran Pitt QC
CHAIRPERSON

Frank Ederle
CHIEF EXECUTIVE OFFICER

Statement of Comprehensive Income for the year ended 30 June 2023

	Notes	2023 \$'000	2022 \$'000
Revenue and other income from continuing operations			
Revenue from Solicitor's Guarantee Fund	1.1	1 848	1 782
Other revenue	1.2	155	99
Total revenue and other income from continuing operations		2 003	1 881
Expenses from continuing operations			
Employee benefits	2.1	1 148	1 099
Depreciation	2.2	75	74
Supplies and consumables	2.3	251	172
Finance costs	2.4	7	14
Other expenses	2.5	346	413
Total expenses from continuing operations		1 827	1 772
Net result		176	109
Comprehensive result		176	109

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

Statement of Financial Position as at 30 June 2023

	Notes	2023 \$'000	2022 \$'000
Assets			
Financial Assets			
Cash and cash equivalents	6.1	543	297
Receivables	3.1	10	38
Non-Financial Assets			
Right-of-use assets	3.3	25	100
Other assets	3.4	8	8
Total Assets		586	443
Liabilities			
Payables	4.1	55	40
Lease liabilities	4.2	31	117
Employee benefits	4.3	244	206
Total liabilities		330	363
Net assets		256	80
Equity			
Accumulated funds		256	80
Total equity		256	80

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

Statement of Cash Flows for the year ended 30 June 2023

	Notes	2023 \$'000	2022 \$'000
		Inflows (Outflows)	Inflows (Outflows)
Cash flows from operating activities			
Cash inflows			
State government grants	1.1	1 848	-
Solicitor's Guarantee Fund Receipts		-	1 782
GST Receipts		250	57
Other cash receipts		178	76
Total cash inflows		2 276	1 915
Cash outflows			
Employee benefits		(1 110)	(1 073)
Finance costs		(7)	(14)
GST payments		(246)	(59)
Supplies and consumables		(240)	(171)
Other expenses		(340)	(386)
Total cash outflows		1 943	1 703
Net cash from/(used in) operating activities	6.2	333	212
Cash flows from financing activities			
Cash Outflows			
Repayment of lease liabilities (excluding interest)		(87)	(79)
Total cash out flows		(87)	(79)
Net cash from/ (used by) financing activities		(87)	(79)
Net increase/(decrease) in cash and cash equivalents held		246	133
Cash and deposits at the beginning of the reporting period		297	164
Cash and deposits at the end of the reporting period	6.1	543	297

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 2023

	Accumulated surplus	Total equity
	\$'000	\$'000
Balance as at 1 July 2022	80	80
Total comprehensive result	176	176
Total	176	176
Balance as at 30 June 2023	256	256

	Accumulated surplus / deficit	Total equity
	\$'000	\$'000
Balance as at 1 July 2021	29	29
Total comprehensive result	109	109
Total	109	109
Balance as at 30 June 2022	80	80

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 2023

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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.

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 Operational Revenue

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

	2023 \$'000	2022 \$'000
Solicitor's Guarantee Fund	-	1 782
Government Grants	1 848	-
Total revenue from Solicitor's Guarantee Fund	1 848	1 782

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.

Lease income from operating leases where the Board is a lessor is recognised on a straight line basis. The Board does not have any finance leases as lessor.

	2023 \$'000	2022 \$'000
Interest Revenue	20	2
Other Revenue	135	97
Total	155	99

NOTE 2 EXPENSES

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

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

	2023 \$'000	2022 \$'000
Wages and salaries (Staff)	838	786
Member fees	179	201
Superannuation – defined contribution scheme	90	75
Superannuation – defined benefit scheme	23	23
Other employee expenses	18	14
Total	1 148	1 099

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 (2022: 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 10.5 per cent (2022: 10 per cent) of salary.

(b) Remuneration of Key Management Personnel

2023	Short-term benefits		Long-term benefits			Total \$'000
	Salary	Other Benefits	Super-annuation	Leave Benefits	Termination Benefits	
	\$'000	\$'000	\$'000	\$'000	\$'000	
Key management personnel						
Frank Ederle, Chief Executive Officer	183	21	24	11	-	239
Merrilyn Williams, Manager Operations	126	-	13	6	-	145
Keyran Pitt KC, Chairman	44	-	5	-	-	49
Graeme Jones, Member	40	3	4	-	-	47
Marion Hale, Member	32	2	3	-	-	37
Anthony Mihal, Member	32	2	3	-	-	37
Heather Kent, Member	27	-	3	-	-	30
Maree Northon, Member (Resigned 12 October 2022)	7	-	1	-	-	8
	491	28	56	17	-	592

2022	Short-term benefits		Long-term benefits			Total
	Salary	Other Benefits	Super-annuation	Leave Benefits	Termination Benefits	
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Key management personnel						
Frank Ederle, Chief Executive Officer	179	21	23	-2	-	221
Merrilyn Williams, Manager Operations	107	-	11	5	-	123
Keyran Pitt QC, Chairman	49	-	5	-	-	54
Graeme Jones, Member	40	2	4	-	-	46
David Lewis, Member (Term finished on 25 December 2021)	14	1	1	-	-	16
Anthony Mihal, Member	35	2	3	-	-	40
Heather Francis, Member	32	-	3	-	-	35
Marion Hale, Member	29	1	3	-	-	33
Maree Norton, Member (Appointed February 2022)	3	-	-	-	-	3
	485	27	53	3	-	568

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 2022-23 for key personnel is set by the Attorney General. Remuneration and other terms of employment are specified in employment contracts. Remuneration includes salary and other non-monetary benefits (Fringe Benefits Tax).

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 4.3) which may change from year to year, it is possible for key personnel to accrue negative leave benefits in any particular financial year, or they may utilise more leave than they accrue in any particular financial year.

Acting Arrangements

When members of key management personnel are unable to fulfil their duties, consideration is given to appointing other members of senior staff to their position during their period of absence. Individuals are considered members of key management personnel when acting arrangements are for more than a period of one month. There were no acting arrangements in either of the 2022-23 or 2021-22 financial years.

(c) Related Party Transactions

There are no 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

	Major depreciation period	2023 \$'000	2022 \$'000
Rightofuse Assets	4 years	75	74
Total		75	74

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.

	2023 \$'000	2022 \$'000
Audit fees	15	7
Operating leases	11	8
Consultants	44	16
Property expenses	32	26
Communications	8	8
Information technology	79	55
Travel and transport	16	11
Plant and equipment	5	4
Advertising and promotion	3	12
Library charges	16	9
Other supplies and consumables	22	25
Total	251	172

The external audit fee for 2022-23 is \$15,000 (\$7,070 for 2021-22).

Lease expense includes lease rentals for short-term leases, lease of low value assets and variable lease payments. Refer to note 4.2 for breakdown of lease expenses and other lease disclosures.

2.4 Finance costs

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

Finance costs include lease charges.

	2023	2022
	\$'000	\$'000
Interest on lease liabilities	7	14
Total	7	14

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.

	2023	2022
	\$'000	\$'000
Legal Costs	325	394
Other Expenses	21	19
Total	346	413

NOTE 3 ASSETS

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

3.1 Receivables

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

Receivables are held with the objective to collect the contractual cash flows and are subsequently measured 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. An allowance for expected credit losses is recognised 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.

	2023 \$'000	2022 \$'000
GST Receivables	9	14
Recoupment of costs	1	24
Total	10	38
Settled within 12 months	10	38
Total	10	38

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). All assets within a class of assets are measured on the same basis.

Cost includes expenditure that is directly attributable to the acquisition of the asset. The costs of self-constructed assets includes the cost of materials and direct labour, any other costs directly attributable to bringing the asset to a working condition for its intended use, and the costs of dismantling and removing the items and restoring the site on which they are located. Purchased software that is integral to the functionality of the related equipment is capitalised as part of that equipment.

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 Board's Office Improvements, Plant and Equipment was fully written off as at 30 June 2019 but are still in use by the Board.

(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 daytoday 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

AASB 16 requires the Board to recognise a rightofuse asset, where it has control of the underlying asset over the lease term. A rightofuse 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.

The Board has elected not to recognise rightofuse assets and lease liabilities arising from shortterm leases, rental arrangements for which FinanceGeneral has substantive substitution rights over the assets and leases for which the underlying asset is of lowvalue. Substantive substitution rights relate primarily to office accommodation. An asset is considered lowvalue when it is expected to cost less than \$10 000.

Rightofuse 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.

2023	Buildings \$'000	Total \$'000
Carrying value at 1 July 2022	100	100
Additions	-	-
Disposals / derecognition	-	-
Increase (decrease) due to reassessment lease liability of CPI	-	-
Depreciation and amortisation	(75)	(75)
Other movements	-	-
Carrying value at 30 June 2023	25	25

2022	Buildings \$'000	Total \$'000
Carrying value at 1 July 2021	169	169
Additions	-	-
Disposals / derecognition	-	-
Increase (decrease) due to reassessment lease liability of CPI	5	5
Depreciation and amortisation	(74)	(74)
Other movements	-	-
Carrying value at 30 June 2022	100	100

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.

	2023 \$'000	2022 \$'000
Other current assets		
Prepayments	8	8
Total	8	8
Utilised within 12 months	8	8
Total other assets	8	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.

	2023 \$'000	2022 \$'000
Payables	-	1
Accrued expenses	55	39
Total	55	40
Settled within 12 months	55	40
Total	55	40

Settlement is usually made within 30 days.

4.2 Lease Liabilities

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 rightofuse assets and lease liabilities arising from shortterm leases, rental arrangements for which FinanceGeneral has substantive substitution rights over the assets and leases for which the underlying asset is of lowvalue. Substantive substitution rights relate primarily to office accommodation. An asset is considered lowvalue 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 (Suites 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.

	2023 \$'000	2022 \$'000
Current		
Lease liabilities	31	86
Non-current		
Lease liabilities	-	31
Total	31	117

Maturity analysis of lease liabilities

	2023 \$'000	2022 \$'000
One year or less	31	94
From one to two years	-	31
Total	31	125

The lease liability in the maturity analysis is presented using undiscounted contractual amounts before deducting finance charges.

The following amounts are recognised in the Statement of Comprehensive Income

	2023 \$'000	2022 \$'000
Interest on lease liabilities included in note 2.4	7	14
Short term leases and/or low-value leases	11	8
Net expenses from leasing activities	18	22

4.3 Employee Liabilities

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.

Other employee entitlements 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 until they are eligible 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.

	2023 \$'000	2022 \$'000
Accrued salaries	34	32
Annual leave	52	36
Long service leave	158	138
Total	244	206
Settled within 12 months	92	73
Settled in more than 12 months	152	133
Total	244	206

4.4 Superannuation

Key estimate and judgement

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 FinanceGeneral Division of the Department of Treasury and Finance.

NOTE 5 COMMITMENTS AND CONTINGENCIES

5.1 Schedule of Commitments

Commitments represent those contractual arrangements entered by the Board that are not reflected in the Statement of Financial Position.

Leases are recognised as right-of-use assets and lease liabilities in the Statement of Financial Position, excluding short term leases and leases for which the underlying asset is of low value, which are recognised as an expense in the Statement of Comprehensive Income.

	2023	2022
	\$'000	\$'000
By type		
Lease Commitments		
Short terms and/or low value leases	33	50
Total lease commitments	33	50
By maturity		
Lease Commitments		
One year or less	27	22
From one to five years	6	28
Total lease commitments	33	50

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 Leases for 30 June 2023 commitments include motor vehicles and information technology equipment leases. All amounts shown are inclusive of GST where applicable.

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.

	2023 \$'000	2022 \$'000
Quantifiable contingent liabilities		
Contingent claims		
Contingent legal claims	105	70
Total quantifiable contingent liabilities	105	70

(b) Unquantifiable contingencies

At 30 June 2023 the Board had three 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

Cash means notes, coins, any deposits held at call with a bank or financial institution, as well as funds held in Specific Purpose Accounts, being short term of three months or less and highly liquid. Deposits are recognised at amortised cost, being their face value.

6.1 Cash and Cash Equivalents

Cash and cash equivalents includes the balance of the Specific Purpose Accounts held by the Board, and other cash held, excluding those accounts which are administered or held in a trustee capacity or agency arrangement.

	2023 \$'000	2022 \$'000
Operating Account	543	297
Total cash and cash equivalents	543	297

6.2 Reconciliation of Net Result to Net Cash from Operating Activities

	2023	2022
	\$'000	\$'000
Net result	176	109
Depreciation	75	74
(Increase) / Decrease in Receivables	27	(26)
Increase / (Decrease) in Employee benefits	39	26
Increase / (Decrease) in Payables	15	29
Net cash generated from operating activities	333	212

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.

2023	Lease Liabilities \$'000
Balance as at 1 July 2022	117
Increase (decrease) due to reassess lease liability of CPI	-
Changes from financing cash flows:	
Cash Repayments	(86)
Balance as at 30 June 2023	31

2022	Lease Liabilities \$'000
Balance as at 1 July 2021	191
Increase (decrease) due to reassess lease liability of CPI	5
Changes from financing cash flows:	
Cash Repayments	(79)
Balance as at 30 June 2022	117

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 Assets		
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:

	2023	2022
	\$'000	\$'000
Cash	543	297
Total	543	297

(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:

2023

Maturity analysis for financial liabilities

	1 Year	2 Years	3 Years	4 Years	Undiscounted Total	Carrying Amount
Financial liabilities						
Payables	55	-	-	-	55	55
Total	55	-	-	-	55	55

2022

Maturity analysis for financial liabilities

	1 Year	2 Years	3 Years	4 Years	Undiscounted Total	Carrying Amount
Financial liabilities						
Payables	40	-	-	-	40	40
Total	40	-	-	-	40	40

(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:

	2023 \$'000	2022 \$'000
Variable rate instruments		
Financial assets		
Cash and cash equivalents	543	297
Total	543	297

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	100 basis points decrease	100 basis points increase	100 basis points decrease
	\$'000	\$'000	\$'000	\$'000
30 June 2023				
Cash in Special Deposits and Trust Fund	5	(5)	5	(5)
Net sensitivity	5	(5)	5	(5)
30 June 2022				
Cash in Special Deposits and Trust Fund	3	(3)	3	(3)
Net sensitivity	3	(3)	3	(3)

7.2 Categories of Financial Assets and Liabilities

AASB 9 Carrying amount	2023	2022
	\$'000	\$'000
Financial assets		
Cash and cash equivalents	543	297
Receivables at amortised cost	10	38
Total	553	335
Financial Liabilities		
Financial liabilities measured at amortised cost	55	40
Total	55	40

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

	Carrying Amount	Net Fair Value	Carrying Amount	Net Fair Value
	2023	2023	2022	2022
	\$'000	\$'000	\$'000	\$'000
Financial assets				
Cash and cash equivalents	543	543	297	297
Receivables	10	10	38	38
Total financial assets	553	553	335	335
Financial liabilities				
Payables	55	55	40	40
Total financial liabilities	55	55	40	40

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 of the Board's Financial Statements as at 30 June 2023.

NOTE 9 SIGNIFICANT ACCOUNTING POLICIES

9.1 Objectives and Funding

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 (SGF) 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 9 August 2023.

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.

Following on from the Board's primary source of revenue, the SGF having insufficient funds to meet the costs of the Board in 2022-23, alternative funding from the Department of Justice (see Note 1.1) was obtained to ensure that the Board continued as a going concern. With the SGF now having sufficient funding to fund the Board in 2023-24, the financial statements have been prepared on the going concern basis, which assumes that the Board will be able to realise its assets and discharge its liabilities in the normal course of business.

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

There were no new or revised Standards and Interpretations issued by the Australian Accounting Standards Board that have a material impact on the reporting of the Board's operations for the current annual reporting period.

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

The Board has not applied a new Australian Accounting Standard or Interpretation that has been issued but is not yet effective. The following applicable Standards have been issued by the AASB and are yet to be applied:

- AASB 2021-2 Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates – This Standard amends:
 - AASB 7 Financial Instruments: Disclosures to clarify that information about measurement bases for financial instruments is expected to be material to an entity's financial statements;
 - AASB 101 Presentation of Financial Statements, to require entities to disclose their material accounting policy information rather than their significant accounting policies;
 - AASB 108 Accounting Policies, Changes in Accounting Estimates and Errors, to clarify how entities should distinguish changes in accounting policies and changes in accounting estimates;
 - AASB 134 Interim Financial Reporting, to identify material accounting policy information as a component of a complete set of financial statements; and
 - AASB Practice Statement 2 Making Materiality Judgements, to provide guidance on how to apply the concept of materiality to accounting policy disclosures.
- AASB 2020-6 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current - This Standard amends AASB 101 Presentation of Financial Statements to clarify that a liability is classified as non-current if an entity has the right at the end of the reporting period to defer settlement of the liability for at least 12 months after the reporting period. The meaning of settlement of a liability is also clarified in these amendments. This standard will apply to the Board's 2023/24 financial statements. The implementation of AASB 2020-6 is not expected to have a material impact on the statements of the Board.
- AASB 17 Insurance Contracts – This standard establishes principles for the recognition, measurement, presentation and disclosure of insurance contracts issued. It also requires similar principles to be applied to reinsurance contracts held and investment contracts with discretionary participation features issued. The objective is to ensure that entities provide relevant information in a way that faithfully represents those contracts. This information gives a basis for users of financial statements to assess the effect that contracts within the scope of AASB 17 have on the financial position, financial performance and cash flows of the entity. The date for application of this Standard is not yet known for public sector entities. The implementation of AASB 17 is not expected to have a material impact on the statements of the Board.

The Board has undertaken an assessment of the impact of new and revised Accounting Standards and those yet to be applied and has determined they will have no material impact on the Board's financial statements.

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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