

ANNUAL REPORT

2021–2022

**Legal Profession
Board of Tasmania**
Independent
Regulator

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12 September 2022

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 2021-22

Please find enclosed the Annual Report of the Legal Profession Board of Tasmania for the period 2021-22, in satisfaction of section 601(2) of the Legal Profession Act 2007.

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

Yours sincerely

K Pitt QC
CHAIRPERSON,
LEGAL PROFESSION BOARD OF TASMANIA

Frank Ederle
CHIEF EXECUTIVE OFFICER,
LEGAL PROFESSION BOARD OF TASMANIA

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

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Report of the Chairperson



I am pleased to present the Legal Profession Board of Tasmania's annual report for the financial period ending 30 June 2022.

This year's report marks 13 years since the Board commenced operations in January 2009, and my ninth year of service with the Board.

As has been the case with many other businesses, organisations and communities the Board has been affected by the global pandemic. Increased levels of COVID-19 related absences from the workplace have impacted upon the Board's productivity over the reporting period. That said, the Board has been able to ensure operations continue seamlessly, whilst ensuring the safety of the Board's members, employees and the wider community was maintained.

I take this opportunity to thank the Board's CEO, Mr Frank Ederle, and his team for their efforts in ensuring the organisation remains nimble and flexible in order to cope with all of the challenges which have surfaced during the ongoing pandemic.

Workload of the Board

For the period ending 30 June 2022, the Board received 133 complaints which was 31 more than for the same period last year, or a percentage increase of 30%. This result marks the highest number of complaints received by the Board since the commencement of operations in 2009. The increase in the volume of complaints received has also placed added pressure on the Board's operations.

On analysis of this year's statistics, complaint allegations in relation to negligence/competency; criminal conduct; costs/overcharging; and dishonest/misleading conduct remain the most prevalent issues raised by consumers of legal services for the reporting period. The Board formally appointed an investigator in respect of 36 complaints within the reporting period where an investigator was appointed by the Board. This was a marked increase of 63% compared to last year's result.

The Board finalised a total of 133 matters over the past 12 months, representing a clearance rate of 100%, which indicates the Board has been able to keep up with its workload in the period.

The Board maintains a commitment to the early resolution of complaints by mediation in appropriate circumstances, and I am pleased to report that in excess of 10 finalised complaints were as a result of some measure of mediatory intervention by the Board and its Officers.

This year's report provides further 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 **3** section 456 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*, 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 **88** written determinations and reasons in the reporting period.

Membership of the Board

Mr David Lewis, the nominee of the Tasmanian Bar, finished his term with the Board in November 2021. On behalf of the Board I extend my thanks to Mr Lewis for his dedication, hard work and sage advice which he gave over the course of his tenure with the Board.

I am pleased to report Ms Maree Norton was appointed to the Board in February 2022. It is pleasing to note that Ms Norton's appointment to the Board marks the first appointment of a female legal member to the Board since the Board commenced operations in 2009.

The Board continues to operate in an efficient and effective manner and is supported by a dedicated team of professional employees under the guidance of the 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 reported last year 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 is 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, throughout the reporting period, worked hard to establish an anonymous online reporting tool which will be made available to all who work within, or engage with, the wider legal profession. This reporting tool will, in the Board's view, provide a significant advancement in breaking down the stigma of reporting sexual harassment and also establish a platform for ongoing cultural change within the legal profession in Tasmania.

Funding of the Board

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

It is with satisfaction that I am able to report that over the past thirteen years of the Board's operations, no additional funding over the course of any reporting period 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 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 QC

CHAIRPERSON, LEGAL PROFESSION BOARD OF TASMANIA

Report of the Chief Executive Officer



The period ending 30 June 2022 has again been challenging from the perspective of running an organisation in circumstances of a global pandemic. New business models; renewed processes and procedures; and the ability to be flexible have been very much the order of the day. Employees of the Board have taken these challenges in their collective stride, and the work of the Board has continued.

Over the last 12 months of operations there has been a significant increase in the number of complaints received by the Board. The Board received a total of 133 complaint to 30 June 2022, representing a 30% increase (or 31 complaints) compared with the same period last year. This higher intake of complaints, combined with the challenges presented by virtue of

COVID-19, has stretched the resources of the Board within the reporting period.

Also in the 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 record levels. At the conclusion of the reporting period, the Board had 19 active litigation matters on foot. This high volume of litigation matters places pressure on the Board's financial resources.

Notwithstanding the increased complaint and litigation activity, the Board was able to advance two very significant projects including the establishment 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 2022.

Sexual Harassment

The Board recognises that sexual harassment of any kind is unacceptable. For lawyers and members of the legal profession generally, it is also conduct that is capable of resulting in serious disciplinary action. In 2021 the Board established the Sexual Harassment Working Group (SHWG) made up of influential and progressive leaders within the Tasmanian legal profession.

The work of the SHWG is supported by the Judiciary, and its purpose and goals include identifying initiatives in order to facilitate cultural change regarding sexual harassment in the legal profession in Tasmania. In this reporting period, the Board partnered with Elker Pty Ltd in establishing an online anonymous reporting tool

for the reporting of instances of sexual harassment within the legal profession. The reporting tool will be formally launched in the next financial year.

Law Week

It has been many years since Law Week was programed in Tasmania and the Board decided to host and organise Law Week in May 2022 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, know 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, opened Law Week at a function hosted by the Law Society of Tasmania.

There were also a plethora of activities available to the public over the week including for example sessions hosted by the Board to discuss legal costs and how to deal with your lawyer; live and recorded webinars on *A Quick Guide to Workers Compensation in Tasmania* (hosted by Worker Assist Tasmania); tours of the Supreme Court; a live in-person event, *How the Tasmanian Coronial system searches for answers* (hosted by Coroners McTaggart and Cooper); and a live and recorded interview by ABC radio of the President of TasCAT, Malcolm Schyvens.

All events were well attended by the Tasmanian community and the Board intends to continue with Law Week in the years to come and to increase the awareness of this worthwhile event.

Engagement with the Profession

The Acting Manager Operations, Ms Merrilyn 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.

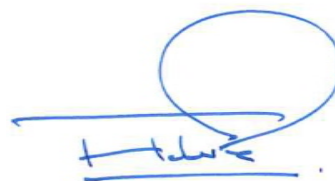
Finance and Resources

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 funding application for the period, which underpins the Board's ability 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 Tribunal or Supreme Court for hearing and determination;
- to approve terms and conditions of professional indemnity insurance policies provided to law practices;
- to advise the profession on appropriate standards of conduct;
- to monitor and identify trends and issues that emerge within the legal profession;
- to approve courses of continuing legal education;
- to advise the Minister for Justice on any matters relating to the Act;
- to conduct education programs relating to client-lawyer relationships for members of the public; and
- any other functions imposed by the Act or any other Act.

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

THE PURPOSE OF THE DISCIPLINARY PROVISIONS

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

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

OUR BOARD MEMBERS

The Board is the independent statutory body responsible for receiving and investigating complaints about the conduct of lawyers. It consists of six members appointed by the Governor of Tasmania for a term not exceeding five years.

Chairperson of the Board



Mr Keyran Pitt QC

Mr Pitt QC has formerly held appointments as Chairman of the Resource Management and Planning Appeal Tribunal; the Planning Appeals Board; the Mental Health Review Tribunal; 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 QC is a former President of the Bar Association of Tasmania and Medico-Legal Society of Tasmania. He actively supported the legal profession in Tasmania as a former Council Member of the Law Society of Tasmania and Bar Association of Tasmania.

Mr Pitt QC worked as a Barrister until 30 June 2022. He currently works as an Arbitrator and is also the Chairman of the Forest Practices Tribunal, and President of the Property Agents Tribunal. He is an Honorary Fellow of the Royal Planning Institute of Australia.

Mr Pitt QC is a nominee of the Minister.

Lay Members



Ms Heather Francis

Ms Heather Francis commenced her term in November 2018.

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

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

Ms Francis is a nominee of the Minister.



Ms Marion Hale

Ms Marion Hale commenced her term in November 2018.

Ms Hale has worked in improving equity and justice in the community for the last 28 years. Her career has spanned education, crisis support, counselling, community development, policy development and population health. In 2012 Ms Hale was awarded a Churchill Fellowship to visit programs, around the world, that support women to become smoke free in pregnancy. As a result of the Fellowship, Ms Hale was elected to be the President of the International Network of Women Against Tobacco in 2015 and is serving her second three-year term as President.

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

Ms Hale is a nominee of the Minister.

Legal Members



Mr Graeme Jones

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

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

- Legal Assistance Committee member (1983-1990)
- Bar Association Committee member (1981-1992)
- Member of the Board of Legal Education (2004-2008)
- Council member of the Law Society of Tasmania (2006-2013)
- President of the Law Society of Tasmania (2009-2010)
- Chairman Law Foundation of Tasmania (2009-2010)
- Board member of the Centre of Legal Studies (2008-2019)
- Member of the Legal Profession Board of Tasmania (2015-current)
- Board member of Eskleigh Foundation Inc. (2005-2009)
- Board member of Wildcare Inc. (2009-2013)

He recently retired from private legal practice and is an experienced legal practitioner having practiced as both a barrister and solicitor for over thirty-five years.

Mr Jones is a nominee of the Law Society.



Mr Anthony Mihal

Mr Mihal is a director of a generalist law practice in Ulverstone and he undertakes mainly litigious work including civil, criminal and child protection matters. He served on the Council of the Law Society of Tasmania for 7 years including as President in 2013/2014, the Law Foundation of Tasmania, the Management Committee of the North West Community Legal Centre including as Chair, and the Law Council of Australia's Regional, Remote, Rural Lawyers' Advisory Committee. He is currently Chairman of a charitable organisation called the Roland View Estate Trust, and a member of the Local Government Code of Conduct Panel and Tasmanian Civil and Administrative Tribunal (TASCAT), Guardianship Stream.

Mr Mihal is a nominee of the Law Society.



Mr David Lewis

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

Mr Lewis is a nominee of the Tasmanian Bar. His term with the Board ended when he attended his last meeting on 29 November 2021.



Ms Maree Norton

Ms 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 she 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.

Ms Norton 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

Ms Norton is currently appearing 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 is a nominee of the Tasmanian Bar.

PART ONE – THE LEGAL PROFESSION BOARD

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 2021-2022

BOARD MEMBER	BOARD MEETINGS	S450(A) HEARING	S456 HEARING
Keyran Pitt QC	11	0	3
Heather Francis	11	0	3
Marion Hale	11	0	2
Graeme Jones	11	0	3
Anthony Mihal	11	0	2
*David Lewis	3	0	0
*Maree Norton	2	0	1

* Mr Lewis ended his term with the Board in November 2021 and Ms Norton commenced her term in February 2022.

Consequent to the Board meetings and hearings, the Board produced **88**** written complaint determinations with reasons during the reporting period. This is a slight decrease from last year.

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

FUNDING OF THE BOARD

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

In 2021-22, the funding which was approved by the Minister was **\$1,782,182**.

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.

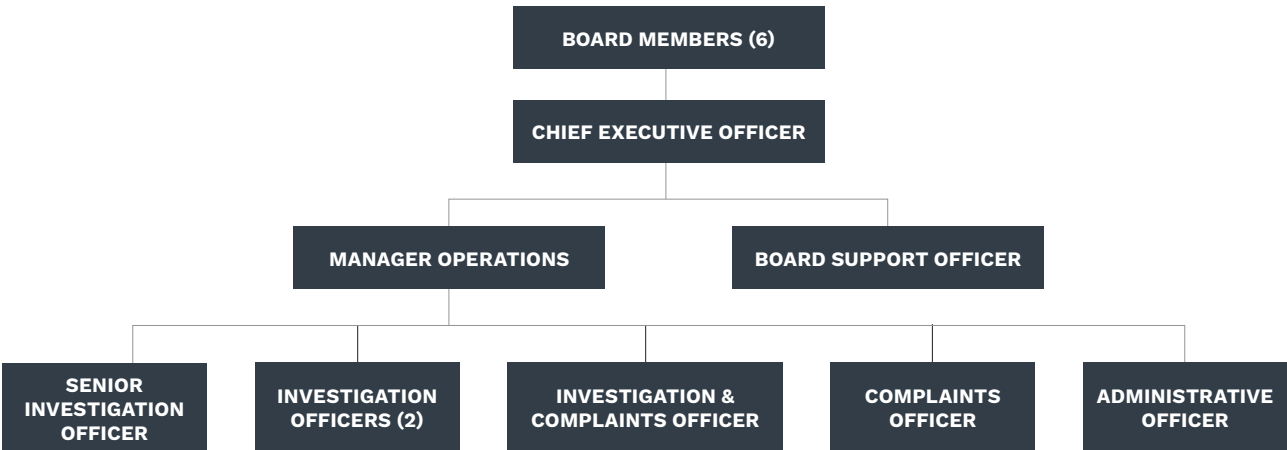
THE BOARD'S GOAL

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 2022. In addition, one external investigator was appointed to investigate two matters.

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



Part 2.

Operation 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 2021 to 30 June 2022.

COVID-19

During the previous reporting period, like other institutions Australia wide, the Board was impacted by the declaration of the COVID-19 pandemic. In an attempt to ensure employee and board member safety, and that the Board's statutory obligations were maintained for as long as possible, the Board operated in line with its business continuity plan developed by the CEO in mid-March 2020. The plan primarily saw a shift towards employees working from home, board members attended meetings remotely and restricted access to the Board's office premises during the peak of the pandemic.

As of January 2022, the Board was able to return to its standard operations resulting in a return to the office for employees and in-person board meetings. A number of complaints which had been referred to section 456 meetings and held in abeyance due to restrictions imposed by COVID-19 were able to be scheduled to be heard in 2022.

As will be noted below, the continuing effects of the pandemic did not impact complaint numbers.

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 **192** enquiries. The number of enquiries has remained, in the main, reasonably constant since the Board commenced operations, with a slight downward trend over the last 3 years. This might be attributable to the increased information available online, as despite the enquiry numbers, the number of complaints has increased this year.

The Board records the total time spent per enquiry throughout the period which includes not only the time taken with the initial enquiry, but also the administrative work that flowed from the enquiry. The average time spent per enquiry, including follow up if required, is just over **18** minutes.

A total of **44** enquiries in the reporting period resulted in a written complaint. This represents a conversion rate of **23%**.

Over **81%** 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. **6** 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, perceptions of overcharging or 'bill shock' continue to be the most common query to the Board, irrespective of the area of law. Queries about perceived delay by lawyers were a close second followed by negligence/competency.

The enquiries the Board receives, 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 actual wrongdoing.

TABLE 2 - ENQUIRIES BY SOURCE

MONTH	ENQUIRIES BY PHONE	ENQUIRIES IN PERSON	ENQUIRIES BY EMAIL	ENQUIRIES BY LETTER	TOTAL ENQUIRIES 2021-22	TOTAL ENQUIRIES 2020-21	TOTAL ENQUIRIES 2019-20
July	23	0	4	0	27	23	20
August	9	1	6	1	17	21	18
September	16	2	1	0	19	8	25
October	13	1	3	1	18	20	22
November	12	1	1	1	15	16	19
December	15	0	0	0	15	12	12
January	11	0	1	1	13	9	14
February	12	1	1	0	14	19	23
March	12	0	1	1	14	35	22
April	11	0	0	0	11	21	15
May	11	0	2	0	13	22	24
June	11	0	5	0	16	15	13
Total Enquiries	156	6	25	5	192	221	227

Enquiries about non-lawyers

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

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

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

In this reporting period, the Board received **9** complaints where the information provided to the Board alleged the person, who was not an Australian lawyer nor a legal practitioner, was engaging in legal practice contrary to the Act. The Board considered the information received was insufficient to refer for further investigation.



COMPLAINTS

Our process

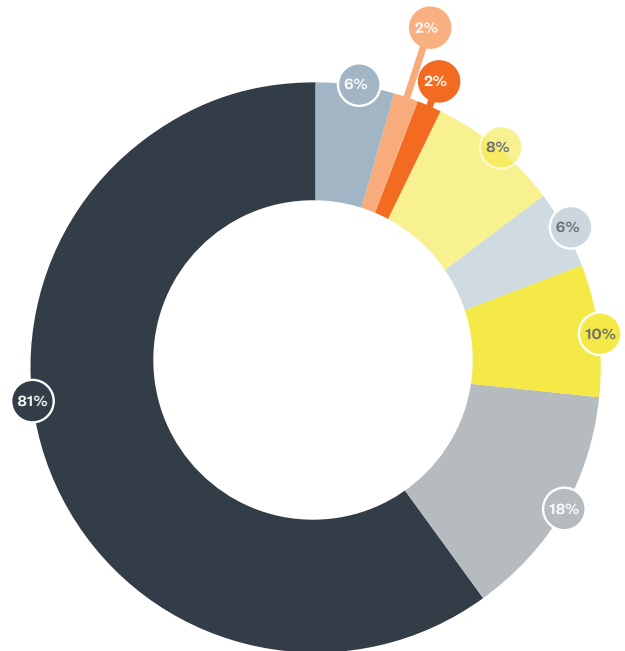
A complaint may be made about the conduct of an Australian legal practitioner by any person, including the Board itself. The Board is required by the Act to take all reasonable steps to ensure that any person wishing to make a written complaint is given the appropriate assistance to do so.

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

- 81 online
- 6 email
- 18 form email
- 2 in person
- 10 form post
- 2 letter post
- 6 letter email
- 8 own motion

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

A small number of complaints are made to the Board in person. The Board, pursuant to its obligations under section 511 of the Act to provide assistance to members of the public in making complaints, will meet with complainants when they seek assistance.



Anonymous communications

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

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.

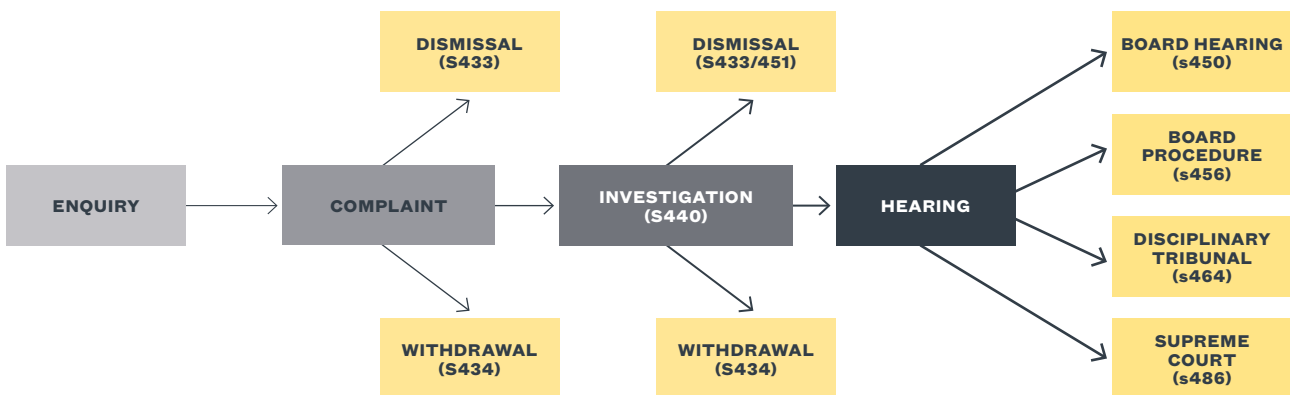
A complaint may include any number of allegations against a legal practitioner or law firm.

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 information obtained initially is collated and all of the material is then considered by the Board at a monthly meeting. At this stage, the Board will either summarily dismiss the complaint or cause the investigation of the complaint to continue to finalisation, usually by formally appointing an investigator. As complaints may contain a number of allegations, on some occasions the Board may summarily dismiss part of the complaint, with the balance of the complaint remaining until the investigation is finalised.

The Board has a duty to deal with complaints as efficiently and expeditiously as is practicable. The process prior to the appointment of an investigator, or the complaint being summarily dismissed, may take several months as sufficient time is allowed for both the complainant and the practitioner to provide submissions.

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

Complaints this year

The Board received a record **133** complaints in the reporting period, which is the highest number of complaints it has received since the Board commenced operations in 2009. It is a **30%** increase on last year and continues a general upward trend of complaint numbers since 2016-17.

TABLE 3 - WRITTEN COMPLAINTS RECEIVED

MONTH	COMPLAINTS RECEIVED 2021-22	COMPLAINTS RECEIVED 2020-21	COMPLAINTS RECEIVED 2019-20	COMPLAINTS RECEIVED 2018-19
July	11	7	19	22
August	35	6	11	13
September	18	4	13	10
October	10	9	10	3
November	7	16	13	13
December	8	5	4	3
January	2	2	6	7
February	15	8	10	12
March	10	8	11	11
April	5	11	9	7
May	6	15	16	9
June	6	11	9	3
Total Complaints	133	102	131	113

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.

The Board commenced **8** own motion complaints against legal practitioners arising from information provided to the Board.

Practising certificates

Of the 133 complaints, **114** were directed against lawyers who held local practising certificates issued by the prescribed authority in Tasmania (the Law Society of Tasmania).

The Board did not receive any complaints against legal practices, other than against individual lawyers, during the reporting period.

1 complaint concerned a lawyer holding a practising certificate in New South Wales but where the conduct principally arose in Tasmania.

A further **2** complaints concerned a judge or magistrate.

4 complaints were against Australian lawyers who at the time of the complaint did not hold a practising certificate for a variety of reasons including because they were retired, on extended personal leave, or had not renewed for unknown reasons. A further **7** complaints were made about people who were ultimately not Australian lawyers nor Australian legal practitioners.

This year the Board also received **5** 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 (**47%**) with the next biggest category being those holding an employee practising certificate.

Table 4 – Complaints by practising certificate type in Tasmania

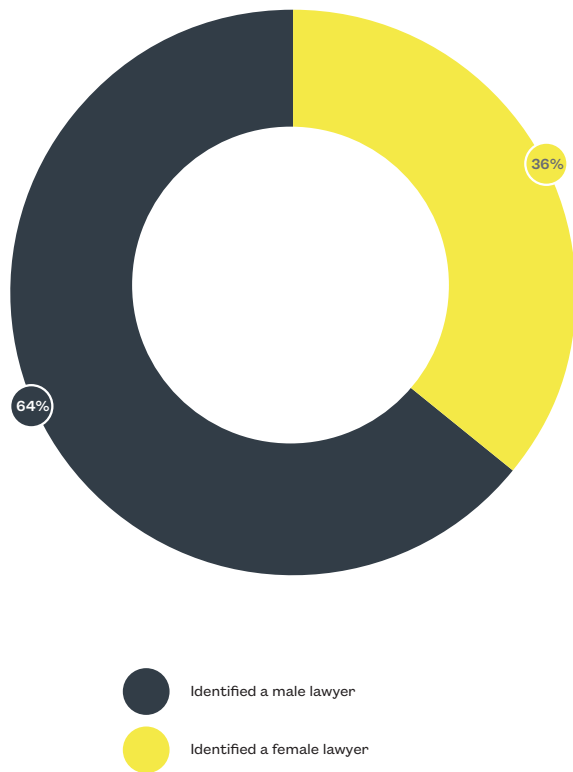
PC Type	Number of complaints
Barrister	16
Community	14
Corporate	3
Employed	30
Principal	62
Grand Total	115

38 complaints identified lawyers employed by an incorporated legal practice with **54** against lawyers working in a law firm. **4** complaints were against lawyers working at a community legal centre, **3** complaints were against corporate lawyers and **16** complaints were against barristers.



Gender

Of the **133** new complaints, **85** complaints (**64%**) identified a male lawyer while **47** identified a female lawyer (**36%**).



Admission dates

The admission date of the lawyer against whom a complaint had been made was available for **125** of the complaints received.

NO OF COMPLAINTS	DATE RANGE OF ADMISSION	MALE	FEMALE	PRINCIPAL PC
14	2017 - 2022	8	6	1
17	2012 - 2016	10	7	7
28	2002 - 2012	13	15	18
66	Prior to 2002	52	14	35

Overwhelmingly, and similar to previous years, the majority of the complaints were made against lawyers with more than 20 years' experience. Of those **125** complaints, **66%** were against male practitioners. Of the lawyers with more than 20 years' experience, **53%** 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 the one 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	2021-22	2021-22	2020-21	2020-21	2019-20	2019-20
		%		%		%
Abusive/Rude/Threat	6	4%	7	7%	10	8%
Breach of Act, rules, court order or undertaking	11	8%	1	1%	12	9%
Communication with client - including failure to communicate	3	2%	4	4%	7	6%
Confidentiality breach	4	3%	1	1%	1	0.5%
Conflict of interest	9	6%	3	3%	13	10%
Costs/Bills/Fees/Overcharging	13	9%	22	21%	14	11%
Court performance	1	1%	8	8	0	-
Delay	6	4%	10	10%	12	9%
Dishonest/Misleading (including misleading the Court)	12	9%	17	16%	3	2%
Instructions - failure to act or to comply	6	5%	8	8%	23	18%
Instructions - acting without instructions	1	1%	2	8%	3	2%
Negligence/Competency - including poor handling of case	29	22%	12	12%	26	20%
Criminal allegations	26	20%	0	-	3	2%
Trust money - including failure to account	2	2%	2	2%	3	2%
Inappropriately ceasing to act	1	1%	5	5%	2	0.5%
Inappropriately withholding client file	1	1%	0	-	0	-
Nil / No allegation	2	2%	0	-	0	-
Totals	133	100%	102	100%	131	100%

TABLE 6 - AREA OF LAW TO WHICH COMPLAINTS RELATED

AREA OF THE LAW	2021-22	2021-22	2020-21	2020-21	2019-20	2019-20
		%				%
Administrative	5	3%	0	-	5	4%
Building	1	1%	2	2%	0	-
Commercial/Corporations/franchise	1	1%	5	4%	9	7%
Other - civil includes debt collection, anti- discrimination, defamation	8	6%	7	7%	14	11%
Constitutional	0	-	0	-	0	-
Conveyancing	13	10%	7	7%	12	10%
Criminal	28	21%	19	19%	19	15%
Family/de facto	17	12%	26	26%	31	24%
Employment *Used to be Industrial relations	3	3%	1	1%	2	0.5%
Personal injury	4	3%	7	7%	3	2%
Probate/family provisions	30	22%	21	21%	21	16%
Wills/powers of attorney	4	3%	5	4%	6	5%
Workers' compensation	7	5%	1	1%	4	3%
Immigration	0	-	1	1%	1	0.5%
Land & Environment	0	-	0	-	1	0.5%
Victim Compensation	1	1%	0	-	0	-
Leases/Mortgages	8	6%	0	-	2	1%
Insolvency	1	1%	0	-	1	0.5%
Unknown	2	2%	0	-	0	-
Total	133	100%	102	100%	131	100%

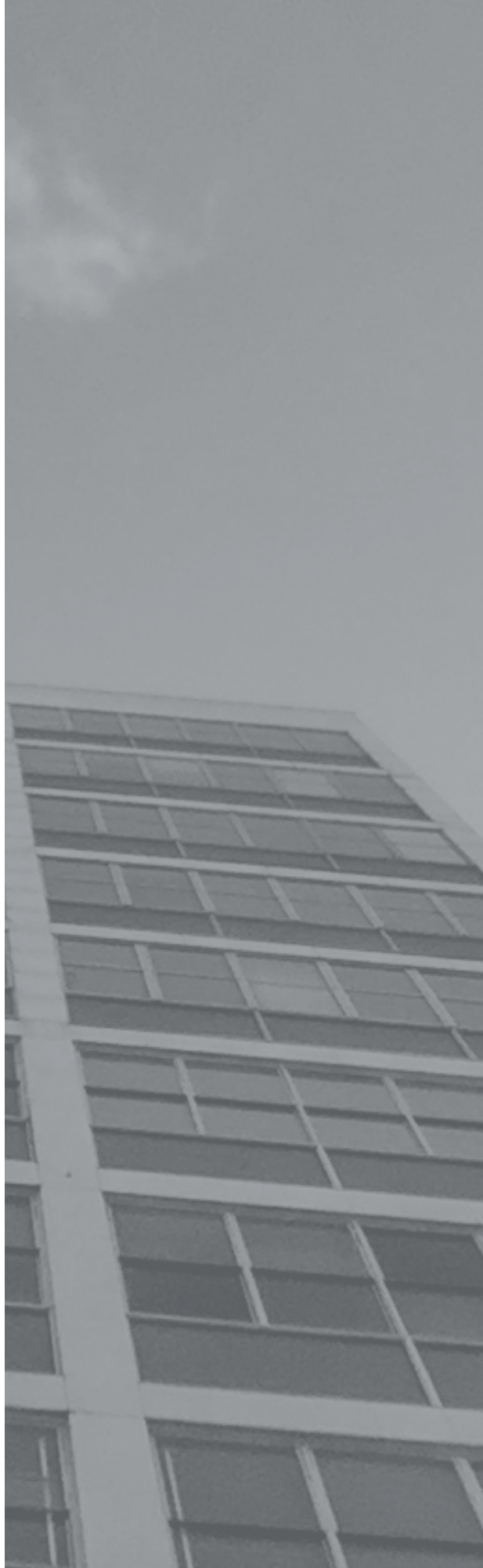


Table 6 indicates that the area of law most often involved in complaints received by the Board in the reporting period, at a combined **44%** of complaints were in the areas of Criminal law and Estate law.

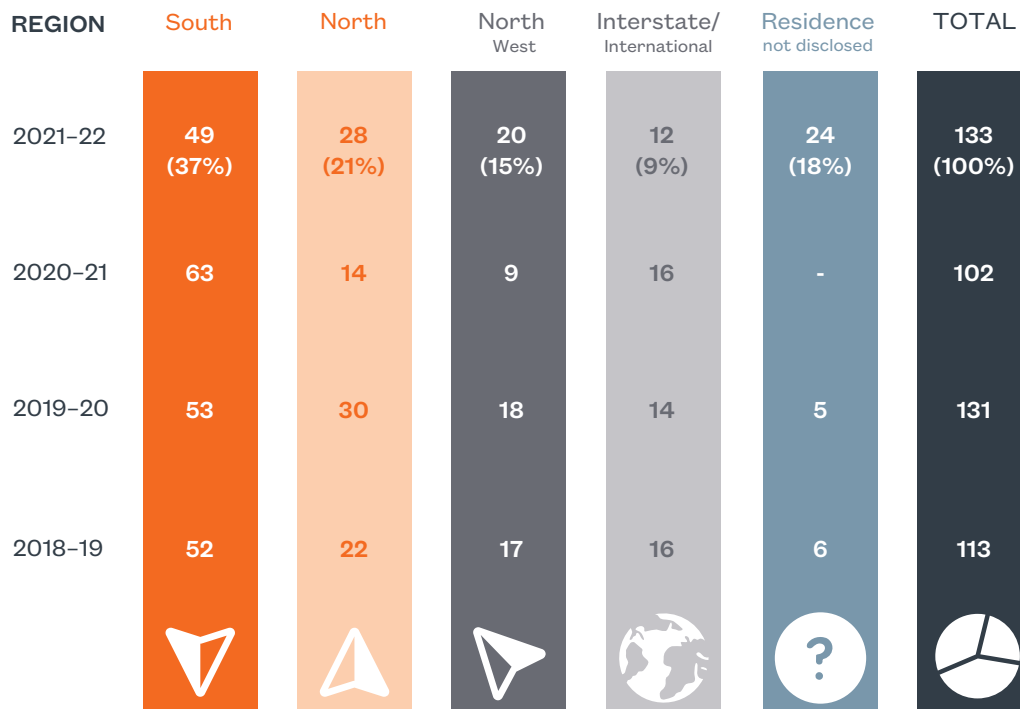
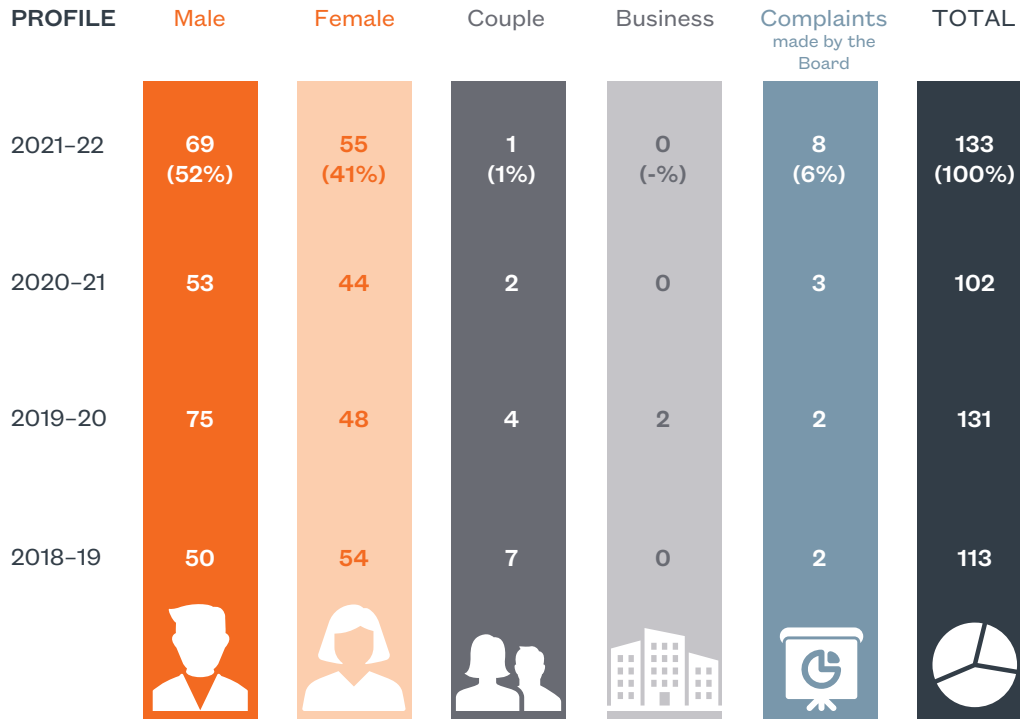
The areas of law also highly represented in the reporting period were Property law and Family law. Those two areas of law represent **22%** of complaints to the Board.

The Board is able to accept complaints made to it by people residing outside of Tasmania. In the reporting period, **12** complaints were received by the Board from either interstate or overseas complainants.

During the investigation of a complaint, the investigator may become aware of facts which the investigator considers may constitute unsatisfactory professional conduct or professional misconduct not already the subject of a complaint. In such a case, the investigator must refer the matter to the Board to consider whether disciplinary action should be taken. Further, circumstances may arise where a practitioner may fail to comply with a direction of the Board. In these circumstances, the Board may elect to make a complaint of its own motion. This year the Board initiated **8** complaints. 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 **133** complaints received, the Board also dealt with a further **90** complaints carried forward from the 2020-21 period, which included; complaints under investigation; complaints which had been referred for hearing to either the Board, Disciplinary Tribunal or Supreme Court; and complaints being dealt with in accordance with the preliminary statutory process prior to an investigator being appointed.

TABLE 8 - COMPLAINTS CARRIED FORWARD AT 1 JULY 2021

COMPLAINTS	CARRIED FORWARD AS AT 1 JULY 2021	%
Unfinalised complaints pending (an investigator yet to be appointed or awaiting hearing) as at 30 June 2021	41	46%
Complaints under investigation	27	30%
Complaints referred to a hearing	22	24%
Total carried forward as at 1 July 2021	90	100%

**90
complaints
carried
forward**



INVESTIGATIONS

27 investigations were carried forward from the previous reporting year and the Board appointed an investigator for a total of 36 complaints in the reporting period. The number of investigations which continued beyond the summary dismissal stage is a **60%** increase on the previous year and is reflective of the sustained increase in complaints received.

Of the **36** complaints for which the Board appointed an investigator, the appointment was made on average 4 months after the complaint was initially received by the Board. The average 4 month period enables the collation of material and submissions for consideration of the Board of as to jurisdiction or what action the Board is to take in relation to the complaint including summary dismissal.

A total of 20 complaints were either withdrawn before the Board completed its investigation or dismissed by the Board after the completion of its investigation. After the completion of its investigation, the Board referred a further 7 complaints to a prosecution either by way of a Board hearing, or in the Disciplinary Tribunal or the Supreme Court.

The total of **24** 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 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, 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 2021-22

MONTH	INVESTIGATIONS COMMENCED 2021-22	INVESTIGATIONS COMPLETED 2021-22	INVESTIGATIONS COMMENCED 2020-21	INVESTIGATIONS COMPLETED 2020-21	INVESTIGATIONS COMMENCED 2019-20	INVESTIGATIONS COMPLETED 2019-20
July	1	2	6	1	4	4
August	3	0	3	0	4	1
September	8	1	3	6	1	5
October	3	2	0	2	3	6
November	6	3	2	2	2	2
December	3	2	1	1	5	4
January	0	0	0	0	0	0
February	4	4	3	3	3	5
March	2	1	2	3	4	3
April	2	0	0	1	3	1
May	3	2	0	2	5	0
June	1	3	2	1	4	1
Total	36	20	22	22	38	29

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

CATEGORY OF INVESTIGATION	INVESTIGATION CRITERIA	INVESTIGATOR APPOINTED 2021-22	%	INVESTIGATOR APPOINTED 2020-21	INVESTIGATOR APPOINTED 2019-20
SIMPLE	Basic investigation, low volume of documentary evidence, no witness or 3rd party involvement	12	33%	8	14
INTERMEDIATE	Medium volume of documentary evidence, single witness or 3rd party involvement	18	50%	11	16
COMPLEX	Multiple witnesses, significant volume of evidence	6	17%	-	7
VERY COMPLEX	High volume of evidence, multiple witnesses, interaction with commercial entities	-	-	3	1
Total		36	100%	22	38

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 2022, the Board classified the majority (**67%**) 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.

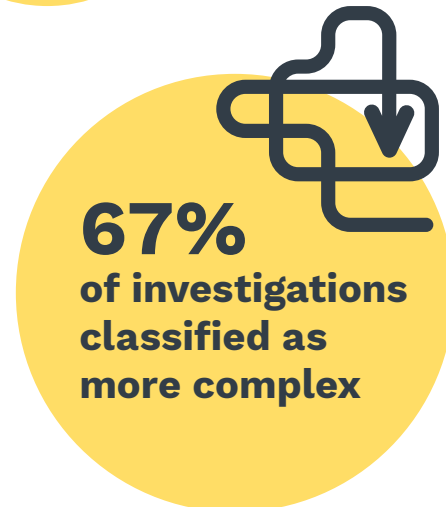


TABLE 11 – COMPLAINTS FINALISED AND METHOD OF FINALISATION FROM 2021-22

METHOD OF FINALISATION	RELEVANT SECTION OF ACT	DESCRIPTION	NUMBER FINALISED	% FINALISED COMPARED TO TOTAL FINALISATIONS	NUMBER FINALISED 2020-21
FINALISATIONS PRIOR TO APPOINTMENT OF AN INVESTIGATOR:					
Summarily dismissed	s.433 (1) (a)	Complaint lacking in substance, vexatious, misconceived or frivolous	70	53%	48
Summarily dismissed	s.433 (1) (e)	Complaint is not one that the Board has the power to deal with	15	11%	7
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	7	5%	5
Summarily dismissed	s.433 (3) & (4)	Complaint requires no further investigation or no public interest in continuing	1	1%	2
Withdrawal	s.434	Complaint withdrawn by complainant prior to an investigation	10	8%	15
Other		Invalid complaints	3	2%	0
Sub Total			106	80%	77
FINALISATIONS FOLLOWING COMPLETION OF INVESTIGATION:					
Dismissed following an investigation	s.451 (a)	No reasonable likelihood that the practitioner will be found guilty	16	12%	11
Dismissed following an investigation	s.451 (b)	No public interest to continue	1	1%	1
Withdrawal	s.434	Complaint withdrawn (after mediation) following an investigation	0	-	7
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	3	2%	3
Sub Total			20	15%	22
FINALISATIONS FOLLOWING A HEARING/MEETING OF THE BOARD:					
Matter not substantiated and dismissed	s.456 (6)	Dismissed	0	-	2

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METHOD OF FINALISATION	RELEVANT SECTION OF ACT	DESCRIPTION	NUMBER FINALISED	% FINALISED COMPARED TO TOTAL FINALISATIONS	NUMBER FINALISED 2020-21
Practitioner found guilty of unsatisfactory professional conduct	s.456 (7)	No determination	0	-	1
Practitioner found guilty of unsatisfactory professional conduct	s.456 (7) (a)	Practitioner cautioned or reprimanded	2	1%	7
Practitioner found guilty of unsatisfactory professional conduct	s.456 (7) (ab)	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			3	2%	11
FINALISATIONS FOLLOWING A HEARING OF THE DISCIPLINARY TRIBUNAL OR SUPREME COURT*:					
<i>*Does not include application for rehearing</i>					
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	1	1%	0
Application dismissed		Dismissal of complaint	0	-	0
Practitioner found guilty of professional misconduct	Supreme Court Inherent Jurisdiction	Practitioner removed from Roll	1	1%	0
Other		Resolved by consent orders prior to hearing in the Supreme Court	2	1%	0
Sub Total			4	3%	1
TOTAL FINALISATIONS			133	100%	111

Finalisations:

Table 11 shows that a total of **133** complaints were finalised for the reporting period to 30 June 2022.

Consistent with previous years, the majority (**80%**) of the Board's finalisations occurred prior to an investigator being appointed and involved complaints which were either summarily dismissed or withdrawn by the complainant following mediatory intervention by the Board.

A further **20** complaints were finalised by the Board following completion of the investigation, once an investigator had been appointed and prior to a hearing.

There were **11** finalisations as a result of mediatory intervention after an investigator was appointed. The Board maintains a strategy to resolve matters, in appropriate circumstances, prior to appointing an investigator.

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

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

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

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

Clearance Rate:

The Board received **133** complaints within the reporting period and finalised a total of **133** complaints to 30 June 2022. The clearance rate achieved during the reporting period was therefore **100%**, 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 **3** complaints within the reporting period.

The Board held a section 456 meeting in relation to **3** complaints; **2** matters 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 heard at the end of the reporting period, with the determination reserved.

The Board resolved in May 2022 to refer **1** matter to the Disciplinary Tribunal and filing of the application is pending at the end of the reporting period.

3 matters were resolved to be referred to the Supreme Court and filing of the applications and accompanying affidavits are pending.

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TABLE 12 – COMPLAINTS REFERRED (OR RESOLVED TO BE REFERRED) TO DISCIPLINARY TRIBUNAL, SUPREME COURT OR FOR BOARD HEARING/ MEETING 2021-22

COMPLAINTS REFERRED	SECTION OF ACT	REFERRED 2021-22	REFERRED 2020-21	REFERRED 2019-20
Board Meeting (s.456 procedure for less serious complaint)	s.450 (b)	3	5	9
Board Hearing	s.450 (a)	0	0	1
Disciplinary Tribunal	s.450 (c) (d)	1	0	0
Supreme Court	s.450 (e)	3	10	2
Total Complaints Referred		7	15	12

TABLE 13 – NUMBER OF PENDING COMPLAINTS AS AT 30 JUNE 2022

COMPLAINT SOURCE	2021-22	2020-21	2019-20
Unfinalised complaints pending (investigator yet to be appointed) as at 30 June 2021	39	38	28
Unfinalised complaints with investigator appointed, as at 30 June 2021	26	42	33
Complaints referred to a hearing	22	20	13
Subtotal Pending Complaints as at 30 June 2022	87	100	74
Complaints received 1 July 2021 to 30 June 2022	133	102	131
Subtotal complaints for current reporting period	220	202	205
Finalised complaints 1 July 2021 to 30 June 2022	130	111	170
Balance of complaints on hand as at 30 June 2022	90	91	98

Table 13 above indicates that **90** complaints remain unfinalised as at 30 June 2022. 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 **260** 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 is adjourned pending the outcome of a rehearing in the Administrative Appeals Tribunal.
- The Board determined to refer another matter to the Supreme Court in its inherent jurisdiction in October 2018. That matter is yet to be finalised.
- 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.
- One matter that was heard by the Supreme Court on 6 December 2021, with decision reserved.
- One matter that involves four complaints filed as one proceeding in March 2021. That matter was heard at the end of the reporting period and closing submissions are yet to be heard.
- One matter that was referred to the Supreme Court by the Board on 21 December 2020, to be heard in the next reporting period.

The Supreme Court handed down the following decisions:

- *LPBT v Barclay* [2022] TASSC 14 (23 February 2022)
A finding of professional misconduct for failing to progress a client's matter over a period of 13 years, coupled with a failure to communicate.
- *LPBT v Lester* [2021] TASSC 41 (8 September 2021)
A finding of professional misconduct for a gross delay in progressing a client's matter of which the practitioner dishonestly misled the client as to its progress.
- *Etter v LPBT* [2022] TASSC 11 (1 March 2022)
A finding of professional misconduct for the making of complaints against 2 practitioners and improperly attempting to influence a coroner's decision.

This matter has been appealed by the Board.

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

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

The Duty to Supervise

Delegating work to other lawyers or legal clerks in a firm is effective and efficient, for both a law practice and their clients. However, with delegation comes supervision.

Rule 43 of the *Legal Profession (Solicitors' Conduct) Rules 2020* (the Rules) requires that *'a solicitor with designated responsibility for a matter must exercise reasonable supervision over solicitors and all other employees engaged in the provision of the legal services for that matter'*.

A common failing identified in complaints received by the Board is a failure to supervise, with many practitioners failing to *actively* supervise matters which they are ultimately responsible for.¹ Often problems occur with individuals who are more experienced and seemingly more confident and competent. Of course, while the appropriate level of supervision will vary according to the employee's qualifications and experience, practitioners must properly supervise all legal work carried out on their behalf, noting that Rule 43 imposes a positive obligation to do so.

What constitutes 'reasonable' supervision as contemplated by the Rules is not specifically defined. However, the proverbial 'open door' policy is not considered adequate to meet the requisite standard of supervision, as it shifts the responsibility from the supervisor to the supervisee. Effective supervision therefore involves implementing systems and procedures for supervision, which involve common arrangements such as file audits and regular supervision meetings. Importantly, supervisors also need to be aware of common risks, which often relate to client communication and administration, rather than substantive legal work.

The below case study illustrates the potential problems that can arise in circumstances where legal clerks are left largely unsupervised.

Background

The practitioner acted for the vendors in the sale of their property. The contract for sale was conditional on the vendors a suitable property to purchase within 60 days of the date of the contract. A conveyancing clerk had carriage of the file on behalf of the practitioner, with a junior conveyancing clerk also assisting with the file. During the course of the conveyance, the junior conveyancing clerk gave notice to the purchaser's solicitors that the special clause had been satisfied, in circumstances where no such instructions were sought or received from the vendors. Subsequently, the vendor's contract for their purchase was terminated as they were unable to obtain finance. The vendors, who were unable to terminate their sale contract, eventually negotiated an outcome in which they returned the deposit and paid the purchaser's reasonable conveyancing costs.

The complaint received by the Board was that the practitioner failed to adequately supervise the junior conveyancing clerk, resulting in their client having to pay the other party's legal costs. The investigation of this complaint necessarily involved an evaluation of the practitioner's supervision systems. The investigation revealed what was described more appropriately as 'delegation' rather than 'supervision'. The practitioner's involvement in the matter extended to approval of initial engagement, monitoring of costs and disbursements and consultation of any questions of law or matters of dispute that were brought to his attention by the clerk. Further, the junior clerk was supervised by the conveyancing clerk.

Despite one of the clerks having substantial experience, the practitioner was obligated to provide actual supervision of the relevant clerks, by apprising themselves of the developments in the matter in a manner sufficient to ensure the matter was handled appropriately by the clerks.

The Board found that the practitioner had little to no involvement in the matter, and the level of supervision

¹ Note 'solicitor with designated responsibility' is defined in the Rules as meaning *'the solicitor ultimately responsible for a client's matter or the solicitor responsible for supervising another solicitor who has carriage of a client's matter'*.

exercised over the clerks was insufficient, having particular regard to the junior clerk's significant inexperience, and the lack of any discernible supervision system, other than an 'open door policy'. However, due to a jurisdictional issue ultimately no finding against the practitioner was made.

Tips on maintaining adequate supervision

The key take away when it comes to adequate supervision, is to ensure there is a system in place. This system should include practices such as, maintaining daily contact, monitoring all communications, reviewing all legal work undertaken and conducting one-on-one supervision meetings; no matter how experienced the supervisee.

End Note: This case study addresses supervision more generally with a focus on supervision of non-legally trained staff. Directors and Principals should additionally note sections 119 and 644 of the Act respectively, noting their liability for the acts or omissions of their employees.

Case Study 2

Public comment about your client's matter

A recent complaint considered by the Board concerned a practitioner making emotive and disparaging comments to the media, which were subsequently published through a national news website. The comments were critical of the timeliness, adequacy and nature of the other party's response to the practitioner's client's allegations of sexual abuse. At the time the comments were made and published, legal proceedings had not been initiated but attempts were being made to engage in pre-litigation settlement discussions.

It fell to the Board to consider the relevant standard of conduct in relation to a practitioner making public comment about their client's matter. However, before it did so, the Board noted the complainant was not alleging, nor did the evidence before the Board support a finding, that the practitioner's public comments were false, misleading, defamatory, threatening or intimidating, nor that they grossly exceeded the legitimate assertion of rights or entitlements of the practitioner's client or that they were made without the client's consent.

In considering the relevant standard, the Board noted Professor Gino Dal Pont's observations that there is no absolute prohibition requiring practitioners refrain from speaking to the media and, in fact, there may be circumstances when it is appropriate to do so:

'But any blanket prohibition leaves little scope for professional judgment on occasions where comment is legitimate. The consequences of public comment may not all be negative, and unduly curtailing lawyers' media comment may reinforce the perception that the law operates behind closed doors. The "gagging" of lawyers, moreover, has the capacity to (further) distance the profession from the community it serves, and present lawyers as lacking personal values or convictions'.²

Further, the Board noted the extent to which lawyers' freedom of speech should be curtailed in making out-of-court media communications, or in conference addresses, remains the subject of debate.³

Ultimately, lawyers must appreciate the dangers of making public and media comment on cases. These are often well left to the client. However, if made by a lawyer upon instruction, it has been recommended that any such comment follow a written statement agreed with the client, and that it be accurate and conservative.⁴

As to the civility of the practitioner's comments the Board noted Professor Dal Pont's comments that, *'there is sometimes a fine line between, on the one hand, the legitimate pursuit of a client's cause or defence via vigorous and forceful advocacy punctuated by strong language and, on the other hand, illegitimate (and thereby unprofessional) incivility'.⁵* Courts have acknowledged that the progeny of civility... need not always sound in niceties; lawyers are certainly not expected to be shrinking violets or verbal eunuchs.⁶

In *Lander v Council of the Law Society of the Australian Capital Territory* ('Lander'),⁷ it was relevantly observed, *'It may well be the case that the choice of confrontation rather than persuasion was not effective advocacy on the part of the solicitor. What is important is that it is not unsatisfactory professional conduct to choose a less effective option in representing a client to one which others might choose'.*

Poignantly, it has been noted that *'lawyers serve the public better by disinterested competence than by enthusiastic crusading'.⁸* Further that, *'disputes are rarely resolved by provocative statements or responses, which instead have the capacity to foster a snowballing of the issues in contention, and thereby prejudice their resolution'* and that part of a lawyers role is to *'assist the client by endeavouring to take some of the heat out of the dispute rather than writing provocative letters'.⁹*

2 Gino Dal Pont, *Lawyers' Professional Responsibility* (Law Book Company Thomson Reuters, 7th ed, 2021) 610 at [17.210].

3 Gino E Dal Pont, *Lawyers' Professional Responsibility* (Law Book Company Thomson Reuters, 7th ed, 2021) [1.125] page 607 at [17.200].

4 *Ibid.*, page 610 at [17.210].

5 Gino E Dal Pont, *Lawyer Discipline* (LexisNexis Butterworths, 2020) pages 343-344 at [14.25] – [14.26].

6 *Ibid.*

7 [2009] ACTSC 117 at [54].

8 Gino E Dal Pont, *LexisNexis Australia, Solicitors Manual* (online at 25 November 2021) [35,040.10] citing Cripps JA in *Prothonotary of the Supreme Court of New South Wales v Chapman* (CA(NSW), 14 December 1992, unreported, BC9201419) at 21.

9 Gino E Dal Pont, *Lawyer Discipline* (LexisNexis Butterworths, 2020) page 341 at [14.20] citing *Knight v Carter* [2015] NSWSC 609.

Ultimately, the Board considered the practitioner's comments were, at worst, capable of constituting unsatisfactory professional conduct, and not professional misconduct. Given the practitioner and complainant were residents of different states, the Board did not have power to deal with the complaint consistent with the decision in *Burns v Corbett & others* [2018] HCA 15. Accordingly, the Board was compelled to dismiss the complaint.

However, the Board noted it is a fine line between, on the one hand, a practitioner's legitimate advocacy on behalf of his or her client and, on the other, prejudicing a fair trial or the administration of justice, when a practitioner makes public comments about a client's matter. In the context of the foregoing, practitioners should exercise care and discretion if considering engaging in such conduct.

Case Study 3

Failing to respond to the regulator

Practitioners have a professional obligation to assist the regulator. With this general obligation as a backdrop, we look specifically to the requirement to respond to the regulator in the context of investigations.

Where a complaint proceeds to investigation,¹⁰ a Board appointed investigator¹¹ will request further information to ensure all the relevant information is before the Board for the purposes of the investigation. Ordinarily, a request may be for the delivery of a practitioner's file in relation to the complainant's legal matter, further detail by way of response to questions or information verified by statutory declaration. Often the timeframe set for compliance with that request will be between 14 to 21 days depending on what was requested or whether issues of client legal professional privilege arise.

Where a practitioner fails to respond to the initial request and any follow up made by the Board's investigator, a Notice to produce the information or documentation will be issued to the practitioner pursuant to section 572 of the *Legal Profession Act 2007* ('the Act').

Coercive power of section 572

Section 572 of the Act is a coercive means of obtaining relevant information in circumstances where a practitioner fails to cooperate with an investigation. Section 586 of the Act makes it unequivocal that Australian lawyers who are subject to a Notice issued under the Act must not, without a reasonable excuse, fail to comply with the requirement.

Whilst section 586 of the Act contains a provision for non-compliance, practitioners should note the following excuses will not discharge their obligation to comply:

- Large workload or other pressing deadlines

- Inadequate staffing levels
- File is too large to deliver
- Delayed reviewing the Notice and have run out of time to prepare the required information or documentation

A '*reasonable excuse*' for non-compliance with a section 572 Notice is rarely made out. As such, practitioners ought to be wary of failing to comply within the required timeframe and should notify the Board at the earliest opportunity if they are unable to do so.

Due to the coercive nature of a section 572 Notice, the Board is unable to provide an extension of time to comply. It will however consider any reasonable excuse provided by a practitioner for a delay in complying with a Notice and may elect not to take any disciplinary action in the circumstances.

Failure to comply

A failure to comply with the requirements of a Notice under the Act or the regulations, is conduct capable of constituting unsatisfactory professional conduct or professional misconduct.¹²

Non-compliance with a section 572 Notice can take two forms; firstly, delayed compliance concerning the period of time between the date for compliance expiring and when the Notice was complied with; and secondly, ongoing non-compliance whereby no response to a Notice is forthcoming.

Failing to respond to the regulator, particularly in circumstances where a practitioner is subject to a Notice issued under the Act, is conduct which generally attracts reprobation from lawyers of good repute and disciplinary bodies alike. To date in Tasmania, three practitioners have been found guilty of professional misconduct¹³ for failing to comply with a section 572 Notice and one practitioner was ordered by the Supreme Court to deliver a file in accordance with a Notice.¹⁴

¹⁰ Section 440 of the *Legal Profession Act 2007*

¹¹ Section 442 of the *Legal Profession Act 2007*

¹² Sections 422(1)(f) and 573(6) of the *Legal Profession Act 2007*

¹³ *Legal Profession Board of Tasmania v Guest* [2010] TASLPDT 5, *Legal Profession Board of Tasmania v Ruddle* [2014] TASLPDT 9, *Legal Profession Board of Tasmania v Walker* [2017] TASLPDT 1

¹⁴ *Etter v Legal Profession Board of Tasmania* [2018] TASFC 2

The Board has also referred a further matter to the Supreme Court where a practitioner failed to comply with four separate Notices arising out of two conduct complaints. That conduct will be considered by the Supreme Court along with conduct raised in one of the conduct complaints.

Lessons from the regulator

The below takeaways may be of assistance to practitioners if they are the subject of a Notice in the future:

- Do **not** ignore a Notice issued under the Act
- Review the Notice **early** to see what it is asking of you
- Consider whether client legal professional privilege arises and obtain independent legal advice, if required
- Seek clarification from the Investigator at the Board if anything is unclear
- Seek assistance, if required, from a colleague, Mentor, the Law Society's Members Advisors or Law Care
- Contact the Board before the deadline if you are having difficulty complying with a Notice within the required timeframe

Finally, it is of vital importance practitioners appreciate the significance of a Notice issued under the Act and understand their obligations to comply with the requirement set out within that Notice.

Case Study 4

Recent Regulatory Decisions

LEGAL PROFESSION BOARD OF TASMANIA V LESTER [2021] TASSC 41

This matter was heard in December 2020 and the decision handed down on 8 September 2021.

The practitioner's conduct featured gross delay coupled with dishonesty. The court made findings of unsatisfactory professional conduct and professional misconduct and recommended the practitioner be struck from the Roll of Legal Practitioners in the Australian Capital Territory, where he had been admitted.

Three complaints against the practitioner were prosecuted by the Board. The most significant one concerned the practitioner's conduct with respect to a client with a long standing workers compensation claim. Another concerned the failure to disclose a relevant disciplinary order of the ACT Law Society when applying for a practising certificate after relocating to Tasmania. The third was a failure to comply with a formal notice issued by an investigator (a section 572 notice, issued under the *Legal Profession Act 2007*).

The practitioner admitted the conduct in each complaint but argued characterisation with respect to the failure to disclose. He also argued against a strike off order largely because of his then untreated mental health condition. By the time the matter proceeded to trial the practitioner had voluntarily ceased practice but wanted the opportunity to recommence practice subject to supervision and strict conditions.

Invariably a failure to respond without reasonable excuse, to a formal section 572 notice, will result in a prosecution by the Board.

The failure to disclose a relevant disciplinary order was claimed by the practitioner to be a consequence of overlooking the findings when he sought renewal of his practising certificate, in circumstances where the ACT complaint had previously been disclosed. The court found the failure to disclose was probably because it had been overlooked and characterised the failing as unsatisfactory professional conduct.

The workers compensation complaint arose out of a client matter commenced in 2011. The practitioner told his client he had commenced proceedings on her behalf in 2012 but did not do so until 2017. The Board alleged

'ongoing and systemic course of dishonest conduct' by the practitioner which included fabricating documents, and lying about the tribunal proceedings and opposing lawyers. His client only discovered the deception when she contacted the tribunal herself and found that nothing had been filed.

The court said:

[45] In this case, the practitioner's dishonest conduct was systematic, repeated, and continued unabated over a period of almost six years. It directly related to and completely undermined the relationship of trust between the practitioner and his client. It involved considerable thought and premeditation. An example of this is the subsequent preparation of the false documentation, including in particular the handwritten notes. It had a devastating impact on the client. Finally, the dishonesty involved putting false blame on other practitioners and on the Tribunal.

The judgement is available on the Disciplinary Register and on AustLII or JADE.

LEGAL PROFESSION BOARD OF TASMANIA V GREEN (NO. 2) [2022] TASLPDT 2

This was a decision of the Disciplinary Tribunal handed down on 18 February 2022, following a negotiated consent position between the parties. It concerned a long standing estate matter with the complainant being an English lawyer acting for the English beneficiaries.

The matter concerned the administration of 3 estates which commenced and was probably completed in or around 1974 apart from some funds which had been retained in trust for professional costs. The accounts were never finalised and by 2011, the amount held in trust was approximately \$20,000. That amount was eventually paid into court in 2012 following an audit of accounts by a trust supervisor, and a 'direction' to pay the money into court if the relevant heirs of the original beneficiaries could not be found.

One of the allegations in the complaint was that the practitioner communicated:

'...recklessly with the Complainant in a manner likely to mislead the Complainant to believe that the Respondent had control of the funds and was working to distribute the funds to the beneficiaries when this was not in fact true.'

The communication trail between the practitioner and the complainant is well set out in the Tribunal's reasons.

The real crux of the issue is that the practitioner did not give any notice to the complainant from August 2012 that the payment into court had been made, despite many opportunities to do so. The complainant continued to communicate with the practitioner in the belief that the money was able to be distributed once all of the children of the beneficiaries were located and consented to the distribution. There were long periods of silence from the practitioner and when the practitioner did respond, the Tribunal observed:

[57] ...In our view, the only inference reasonably open is that the Respondent's email to the Complainant dated 24 March 2013 was deliberately evasive, and in the result, misleading.⁷

...

[60]. What can only be characterised up to this point as contemptuous disregard for the Complainant's enquiries and, through the Complainant, the Complainant's clients' interests, continued into 2014 and then into 2015.

Ultimately, the Tribunal made a finding of unsatisfactory professional conduct as per the parties consent position. The practitioner was reprimanded (also a consent position) and he was fined \$5,000 – a penalty imposed by the Tribunal over and above the consent position. The practitioner was ordered to pay the Board's taxed costs of and incidental to the application.

The Tribunal decision is available on the Disciplinary Register and on AustLII.

LEGAL PROFESSION BOARD OF TASMANIA V BARCLAY [2022] TASSC 14

On 23 February 2022, the Supreme Court handed down the decision in LPBT v Barclay. This decision was only concerned with delay, with lack of communication a feature.

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 a personal injury claim commenced by the complainant's parents shortly after her birth, following injuries sustained during birth in 1989.

The practitioner assumed carriage of the file in mid-1992 and the file followed him as he moved law firms, until he ceased practice in December 2016. By that stage the complainant was 27 years old.

Medical negligence cases involving young children can be complex and in this matter there was significant 'waiting' time while the injuries stabilised. The complainant turned 18 in 2007.

Work on the file was effectively non-existent by 2010. The complainant and her mother made numerous efforts to contact the practitioner and progress the matter. They kept records of their contact which were not reflected on the file.

After the practitioner ceased practice, the complainant was required to find a new practitioner, with an application to the court as no steps had been taken in more than 6 years. The stress on the complainant and her mother was significant. The matter eventually settled.

The practitioner did not contest the history, and did not have an adequate explanation for his delay, particularly once the complainant turned 18.

With respect to why the court considered the conduct to be professional misconduct, his Honour, Justice Brett stated:

[12] I am satisfied that the respondent's conduct falls squarely within the definition of professional misconduct. It is accepted that the relevant conduct is confined only to this case, but the length of the delay and the persistent failure to take any meaningful action over that period can only result in a finding that the conduct "involves a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence".

The practitioner was reprimanded, although the court noted that it was heavily influenced by his previous unblemished record. He was required to pay the Board's costs.

The judgement is available on the Disciplinary Register and on AustLII or JADE.

Case Study 4

A COMPLAINANT V BENJAMIN JOHN LILLAS [2021] LPBT 48

On 2 August 2021, the Board made a determination that the practitioner's conduct in relation the complaint amounts to unsatisfactory professional conduct.

The complainant and her husband were purchasers of vacant land. They engaged the practitioner to act for them in the purchase. In October 2018, the Practitioner agreed to the vendor's request for an extension of time to obtain a separate title for the land, when the practitioner did not have instructions from the Complainant nor her husband to do so.

In submissions to the Board, the practitioner accepted that his conduct amounted to unsatisfactory professional conduct and submitted that the Board should deal with the complaint under the procedure for a less serious complaint in the Act (section 456).

The practitioner conceded that he failed to seek instructions from his clients regarding the extension of time, explaining that at the time he considered that they would agree to the extension, because he believed they were keen to complete their purchase.

The clients were in fact content to treat the contract as at an end if the vendor could not obtain separate title within the time allowed. The complainant stated that if the practitioner sought instructions, they would not have instructed him to agree to the extension of time.

The practitioner did not dispute any aspect of the facts as put by the complainant, acknowledged his error, apologised and did not seek payment for the work he undertook.

The Board found the practitioner had shown insight and accepted the practitioner's submissions that his conduct was a single and isolated incident which can be characterised as unsatisfactory professional conduct.

The Board determined under section 456 (7)(a) and (b) of the Act that the Practitioner is cautioned and that he make an apology to the Complainant and her husband, in terms approved by the Board, within 30 days.

The Board's determination and reasons for determination are available on the Disciplinary Register.

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 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.

Our Acting Manager Operations, senior investigator and three of our investigators delivered the 2022 seminars across June and July 2022 in face to face seminars.

In addition our senior investigator presented a session with the Supreme Court of Tasmania on the requirements for an Application for Admission to the Roll of Practitioners.

CPD Sessions Through the Law Society

- LPBT Annual Update 2022

The annual 2022 round up for CPD was delivered virtually via a recording to participants on 31 March 2022.

- An Hour in the Life of LPBT (Northern Young Lawyers)

The seminar, also delivered virtually via a recording to participants in July 2021, provided an overview of the Board's functions, key statistics and information targeted to young lawyers, including hints and tips to minimise the chance of a complaint being made.

Availability of interpreters

The Board is registered with the Tasmanian Interpreter Service.

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 Well-being Resources
- Statement – Sexual harassment
- Sexual Harassment in the Legal Profession
- Guidance Note – Delay

lawweek

TASMANIA 2022

It has been many years since Law Week was hosted in Tasmania. This year saw the relaunch of Law Week in Tasmania which ran from 16 to 22 May 2022.

WHAT IS LAW WEEK?

Law Week is a national week of community events and activities that is designed to help the community understand their rights, find answers to legal questions, know 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.

2022 PROGRAM OF EVENTS

A program of 18 events and 11 podcasts was put together by the legal profession and facilitated by the Board.

Over 3,300 people were reached by Law Week 2022



More than just a 'Will': Estate planning in Tasmania

Tremayne Fay & Rheinberger Lawyers

Director and principal lawyer, Bridget Rheinberger, provided an intimate discussion of what should be included in a will and the documents that are included in 'estate planning'.

TasCAT Explained: Tasmania's new super tribunal

TasCAT President Malcolm Schyvens & ABC Journalist Airlie Ward

This question and answer presentation provided an overview about the 9 different tribunals which make up Tasmania's new Civil and Administrative Tribunal, what the process is for a hearing before TasCAT, costs of an application and the qualifications of the Tribunal members.

The Hon. Alan Blow AO, Chief Justice of Tasmania opened Law Week with a keynote speech.



Tasmania Abuse Law: About the Commission of Inquiry and survivor's compensation rights

This online webinar discussed the Commission of Inquiry into the Tasmanian Government's responses to child sexual abuse in institutional settings, the potential impact of the Commission's findings on civil abuse claims going forward and the evolution of the Tasmanian abuse law landscape compared to Victoria.

An Ombudsman of many things

Ombudsman, Richard Connock

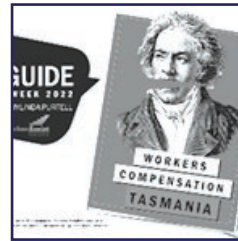
Ombudsman, Richard Connock, provided an overview of the role of the Ombudsman and the offices' various functions including dealing with Right to Information applications and investigating complaints as the Energy Ombudsman, under the Water and Sewerage Industry Act and as the Health Complaints Commissioner.



Supreme Court

**The Hon. Alan Blow AO,
Chief Justice of Tasmania**

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.



Quick guide to workers compensation in Tasmania

Mylinda Purtell

Principal Solicitor, Mylinda Purtell, provided an overview of what to do when injured at work, what is needed to make a worker's compensation claim in Tasmania and what happens in the early stages of a workers compensation claim.



How the Tasmanian Coronial system searches for answers

Coroners Olivia McTaggart & Simon Cooper

Chief Coroner McTaggart and Coroner Cooper discussed the types of matters which are referred to the Coroner's Court, recent statistics against the backdrop of COVID and snippets of their most interesting cases.

Medical Negligence: I've suffered an injury caused by a medical practitioner. What do I do now?

Carroll & O'Dea Lawyers

Special Counsel, Lucinda Gunning, provided some case studies from her experience. She also discussed what is needed to prove a medical negligence claim, who can make a claim and the possible damages/compensation that can be awarded in a successful claim.



11 Podcasts:
10x presented by Lawfully Explained in conjunction with Law Society of NSW.
1x podcast by Tasmanian Refugee Legal Service (TRLS)



Legal Profession Board conducted x4 information sessions covering questions about legal fees and what to do if you're unhappy with your lawyer.



The E-Safety Commissioner conducted an online webinar covered the most common scams, tips on how to spot them & where to get help.



Job Watch produced 2 short online quizzes in relation to employment rights for migrant and visa workers and is your work life affecting your work?

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 and the Tasmanian Bar Association.

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 has since:

- Endorsed LPBT staff to undertake training with Equal Opportunity Tasmania in relation to sexual harassment complaint handling. This was completed by all staff in September 2020.
- 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.

- 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.

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 is in the process of implementing a sexual harassment reporting tool for the legal profession.

The sexual harassment reporting tool, developed by Elker, is a portal to report on any incidents or experiences 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 will be 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.

The Board is committed to continual work in this area.

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.

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

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 **7** new disciplinary findings were uploaded to the Register, **2** from the Supreme Court of Tasmania, **1** from the Disciplinary Tribunal and **3** from the Board.

Of the Board matters, there was **1** finding of unsatisfactory professional conduct arising from section 456.

The Supreme Court of Tasmania made **1** finding of professional misconduct against one practitioner and **1** finding of unsatisfactory professional conduct against one practitioner. The Court also recommended the removal of one practitioner's name from the roll of legal practitioners

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.

Unless ordered otherwise, reasons of the Disciplinary Tribunal for a determination, decision or order on and from 1 July 2018 are now published on AustLII. AustLII decisions can now be searched for the Legal Professional Disciplinary Tribunal of Tasmania (TASLPDT).

BOARD OF LEGAL EDUCATION

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

Membership of the Board of Legal Education includes a local legal practitioner nominated by the Board. The Board nominee is Ms Gayle Johnston, Senior Investigator.

Part 3.

Administrative Matters



PART THREE – ADMINISTRATIVE MATTERS

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 Acting 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.

Sexual Harassment and Workplace Culture Workshop

On 7 April 2021, all legal practitioners and members of staff employed by the Board attended the Law Society of Tasmania's Sexual Harassment and Workplace Culture interactive workshop. The workshop is designed specifically for the legal profession and uses recorded scenes featuring professional actors to reflect common behaviours and aid learning and understanding of what constitutes sexual harassment; and what can be implemented by you and your workplace to instigate a change in culture.

The following areas were covered in this session:

- What constitutes sexual harassment
- Bullying in the workplace
- The role of bystanders
- Workplace cultural traits
- The reporting and management of complaints

The Board's staff and other participants were challenged to consider what they can do to reduce the harm to individuals, organisations, and the profession as a result of sexual harassment.

Conference of Regulatory Officers (CORO) 2022

The Board's CEO, Acting Manager of Operations and Investigators attended the virtual event Conference of Regulatory Officers (CORO) 8 to 11 November 2021. The program included presentations on:

- Legal regulation in a changing world
- Emerging issues for professional regulation: has anything changed in a post-COVID world?
- Doing things differently – new approaches to regulating the legal profession
- Jurisdictional initiatives to respond to sexual harassment in the legal profession
- Mental health and capacity issues
- Can we enhance the value of Continuing Legal Education?
- The future of national regulation of the Legal Profession in Australia

In addition, jurisdictional updates were provided by regulatory representatives of each state, territory and New Zealand. The Board's Acting Manager of Operations together with the Law Society of Tasmania's Executive Director delivered Tasmania's jurisdictional update to the conference.

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 with respect to disclosing their interests.

DELEGATIONS

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

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

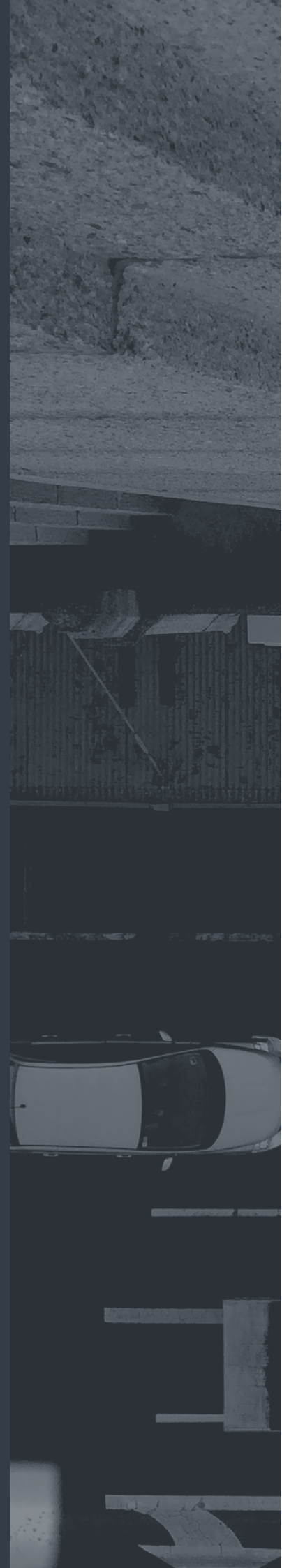
The Board also has relevant delegations to the Chief Executive Officer, the Manager Operations and the Complaints Officer to enable the efficient and effective functioning of the Board with respect to the processes associated with the receipt of complaints and for applications of admission.

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 2021– 2022

Legal Profession Act 2007, s. 617

- No application was made to the Disciplinary Tribunal under section 464 of the *Legal Profession Act 2007 (Act)* during the year ended 30 June 2022.
- On 18 February 2022 the Tribunal published reasons for decision in Proceedings No. 4/2019, commenced by application dated 21 June 2019 lodged with the Tribunal on 3 July 2019.

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

The Tribunal made a finding, by consent of the parties, that the conduct that was the subject of complaint constituted unsatisfactory professional conduct.

Upon that finding, the Tribunal made the following orders:

- That the Respondent be reprimanded.
- That the Respondent pay a fine in the amount of \$5,000.00, such fine to be paid on or before 31 March 2022.
- That the Respondent pay the Applicant's costs of and incidental to the Application, those costs to be taxed in accordance with the *Supreme Court Rules 2000*.

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*.



Philip Jackson SC

Chairman

23 June 2022

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*.



15 August 2022

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

Dear Mr Pitt QC

Annual Report of the Prescribed Authority 2021/2022

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

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

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

Funding of the Prescribed Authority

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

Practising Certificate Regulation

A major role of the prescribed authority is the granting of new practising certificates and the annual renewal of existing certificates. The renewal process begins in May with renewal

applications sent to individual practitioners. 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 2021 to 30 June 2022:

	2020	2021
Principal and Employee	562	590
Barrister	56	56
Corporate	80	78
Government	10	13
Locum	3	1
Community legal centre	76	84
Volunteer	10	6
Total	797	828

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 2021-2022 were as follows:

1. Principal
 - To complete the Law Society of Tasmania Sexual Harassment Changing Workplace Culture workshop by 30 April 2022.
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*.
 - To complete the Law Society of Tasmania Sexual Harassment Changing Workplace Culture workshop by 30 April 2022.
4. Corporate.
 - The practitioner must not engage in legal practice otherwise than by providing in house legal services to a corporation by which the lawyer is employed or to a related body corporate.
5. Government.
 - The holder of the certificate must not engage in legal practice otherwise than as a government lawyer engaged in government work.

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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:
 - i. Is to act only for clients of a complying community legal centre
 - ii. Must have professional indemnity insurance pursuant to a policy approved by the Law Society
 - iii. Is not to receive or hold any money for any client
 - iv. The practitioner is not to recover costs for the community legal centre from any client or from any adverse party other than disbursements, professional fees or charges necessary for the successful carriage of the work of the client. Any disbursements, professional fees or charges so received shall immediately be paid to the credit of the community legal centre

Additional Conditions

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

- a. Practitioners who transitioned 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 were 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 trust accounting course.
- c. A number of principal practitioners have a condition imposed that the practitioner was not authorised to receive trust monies. That condition does not relate to the honesty of the practitioner but is an acknowledgement that the practitioner does not intend to operate a trust account and requires further training before being authorised to do so.
- 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.

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

Trust account examinations relate to a calendar year. The following information therefore relates to the 2018 to 2021 calendar years;

Year	2018	2019	2020	2021
Number of firms with trust accounts	104	106	103	110
Number of trust receipts	108,314	108,112	104,793	112,669
Total amount of trust receipts	\$9.2 billion	\$9.7 billion	\$9.5 billion	\$12.8 billion
Amount held on trust at 31 December	\$145 million	\$175 million	\$208.5 million	\$311.8 million
Amount held on investment at 31 December	\$100 million	\$76 million	\$68.5million	\$66.5 million

Incorporated Legal Practices

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

There are 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.

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Growth of the Legal Profession

The 2020-2021 Annual Report noted that between 2011 and 2020 the number of solicitors in the private profession grew by 43%. The growth of the profession continued in 2021-2022, with the number of practising certificates issued to practitioners in firms increasing by 5%.

Dealings with the Board

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

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

In carrying out its functions as the prescribed authority in 2020-21 the Law Society sought to:

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

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

Yours faithfully



Simon Gates
PRESIDENT

c.c. Attorney-General for Tasmania

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Part 6.

Independent audit report and Financial statements as at 30 June 2022

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 2022 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 2022 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.

Material Uncertainty Related to Going Concern

I draw attention to Note 9.2 in the financial report, which indicates that the Board has not received confirmation of its funding for 2022-23. As at 30 June 2022, the Board had cash reserves of \$297,060 which were considered insufficient by the Members of the Board (Members) to cover the operating expenses for 2022-23. As stated in Note 9.2, these events indicate that a material uncertainty exists that may cast significant doubt on the Board's ability to continue as a going concern. My opinion is not modified in respect of this matter.

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 the *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 intend to cease operations, or have no realistic alternative but to do so.

Auditor's Responsibilities for the Audit of the Financial Statements

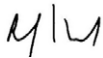
My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that 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 Members use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Board's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial 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.



Rod Whitehead
Auditor-General
Tasmanian Audit Office

5 September 2022
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 Act 2016 and Section 599 of the Legal Profession Act 2007 to present fairly the financial transactions for the year 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 this 1st day of September 2022

Keyran Pitt QC
CHAIRPERSON

Frank Ederle
CHIEF EXECUTIVE OFFICER

Statement of Comprehensive Income for the year ended 30 June 2022

	Notes	2022 \$'000	2021 \$'000
Revenue and other income from continuing operations			
Revenue from Solicitor's Guarantee Fund	1.1	1 782	1 493
Other revenue	1.2	99	79
Total revenue and other income from continuing operations		1 881	1 572
Expenses from continuing operations			
Employee benefits	2.1	1 099	1 045
Depreciation	2.2	74	73
Supplies and consumables	2.3	172	146
Finance costs	2.4	14	20
Other expenses	2.5	413	370
Total expenses from continuing operations		1 772	1 654
Net result		109	(82)
Comprehensive result		109	(82)

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

Statement of Financial Position as at 30 June 2022

	Notes	2022 \$'000	2021 \$'000
Assets			
Financial Assets			
Cash and cash equivalents	6.1	297	164
Receivables	3.1	38	12
Non-Financial Assets			
Right-of-use assets	3.3	100	169
Other assets	3.4	8	8
Total Assets		443	353
Liabilities			
Payables	4.1	40	11
Lease liabilities	4.2	117	191
Employee benefits	4.3	206	180
Total liabilities		363	382
Net assets		80	(29)
Equity			
Accumulated funds		80	(29)
Total equity		80	(29)

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

Statement of Cash Flows for the year ended 30 June 2022

	Notes	2022 \$'000	2021 \$'000
		Inflows (Outflows)	Inflows (Outflows)
Cash flows from operating activities			
Cash inflows			
Solicitor's Guarantee Fund Receipts		1 782	1 493
GST Receipts		57	57
Other cash receipts		76	80
Total cash inflows		1 915	1 630
Cash outflows			
Employee benefits		(1 073)	(1 059)
Finance costs		(14)	(20)
GST payments		(59)	(58)
Supplies and consumables		(171)	(147)
Other expenses		(386)	(378)
Total cash outflows		1 703	(1 662)
Net cash from/(used in) operating activities	6.2	212	(32)
Cash flows from financing activities			
Cash Outflows			
Repayment of lease liabilities (excluding interest)		(79)	(71)
Total cash out flows		(79)	(71)
Net cash from/ (used by) financing activities		(79)	(71)
Net increase/(decrease) in cash and cash equivalents held		133	(103)
Cash and deposits at the beginning of the reporting period		164	267
Cash and deposits at the end of the reporting period	6.1	297	164

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 2022

	Accumulated surplus	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

	Accumulated surplus / deficit	Total equity
	\$'000	\$'000
Balance as at 1 July 2020	53	53
Total comprehensive result	(82)	(82)
Total	(82)	(82)
Balance as at 30 June 2021	(29)	(29)

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 2022

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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 Solicitor's Guarantee Fund

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.

	2022	2021
	\$'000	\$'000
Solicitor's Guarantee Fund Revenue	1 782	1 493
Total revenue from Solicitor's Guarantee Fund	1 782	1 493

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.

	2022	2021
	\$'000	\$'000
Interest Revenue	2	2
Other Revenue	97	77
Total	99	79

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

	2022 \$'000	2021 \$'000
Wages and salaries (Staff)	786	718
Member fees	201	228
Superannuation – defined contribution scheme	75	67
Superannuation – defined benefit scheme	23	21
Other employee expenses	14	11
Total	1 099	1 045

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 13.45 per cent (2021: 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 per cent (2021: 9.5 per cent) of salary.

(b) Remuneration of Key Management Personnel

2022	Short-term benefits		Long-term benefits			Total \$'000
	Salary \$'000	Other Benefits \$'000	Super- annuation \$'000	Leave Benefits \$'000	Termination Benefits \$'000	
Key management personnel						
Frank Ederle, Chief Executive Officer	179	21	23	-2	-	221
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
	378	27	42	-2	-	445

2021	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	163	21	21	-11	-	190
Keyran Pitt QC, Chairman	51	-	5	-	-	56
Graeme Jones, Member	42	1	4	-	-	47
David Lewis, Member	35	1	3	-	-	39
Anthony Mihal, Member	33	1	3	-	-	37
Heather Francis, Member	30	-	3	-	-	33
Marion Hale, Member	31	-	3	-	-	34
	385	24	42	-11	-	436

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 2021-22 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).

Longterm 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 2020-21 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	2022 \$'000	2021 \$'000
4 years	74	73
	74	73

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.

	2022 \$'000	2021 \$'000
Audit fees	7	7
Operating leases	8	7
Consultants	16	23
Property expenses	26	20
Communications	8	7
Information technology	55	53
Travel and transport	11	5
Plant and equipment	4	5
Advertising and promotion	12	1
Other supplies and consumables	25	18
Total	172	146

The external audit fee for 2021-22 is \$7,070 (\$6,810 for 2020-21).

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.

	2022	2021
		\$'000
Interest on lease liabilities	14	20
Total	14	20

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.

	2022	2021
	\$'000	\$'000
Legal Costs	394	348
Other Expenses	19	22
Total	413	370

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.

	2022 \$'000	2021 \$'000
GST Receivables	14	12
Recoupment of costs	24	-
Total	38	12
Settled within 12 months	38	12
Total	38	12

3.2 Office Improvements, Plant and Equipment

(i) Valuation basis

Office improvements, plant and equipment is valued at historic cost less accumulated depreciation and accumulated impairment losses (where relevant). 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 2022 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.

2022	Buildings	Total
	\$'000	\$'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

2021	Buildings	Total
	\$'000	\$'000
Carrying value at 1 July 2020	252	252
Additions	-	-
Disposals / derecognition	-	-
Increase (decrease) due to reassessment lease liability of CPI	(10)	(10)
Depreciation and amortisation	(73)	(73)
Other movements	-	-
Carrying value at 30 June 2021	169	169

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.

	2022	2021
	\$'000	\$'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.

	2022	2021
	\$'000	\$'000
Payables	1	-
Accrued expenses	39	11
Total	40	11
Settled within 12 months	40	11
Total	40	11

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.

	2022 \$'000	2021 \$'000
Current		
Lease liabilities	86	77
Non-current		
Lease liabilities	31	114
Total	117	191

Maturity analysis of lease liabilities

	2022 \$'000	2021 \$'000
One year or less	94	91
From one to two years	31	91
From two to three years	-	30
Total	125	212

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

	2022 \$'000	2021 \$'000
Interest on lease liabilities included in note 2.4	14	20
Short term leases and/or low-value leases	8	7
Net expenses from leasing activities	22	27

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 long enough to take it. For those staff eligible to take their long service leave, the Board assumes that they will utilise it on average, evenly over the following ten years. All long service leave that will be settled within 12 months is calculated at nominal value and all long service leave that will be settled in greater than 12 months is calculated at present value.

	2022	2021
	\$'000	\$'000
Accrued salaries	32	28
Annual leave	36	26
Long service leave	138	126
Total	206	180
Settled within 12 months	73	56
Settled in more than 12 months	133	124
Total	206	180

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.

	2022	2021
	\$'000	\$'000
By type		
Lease Commitments		
Short terms and/or low value leases	50	25
Total lease commitments	50	25
By maturity		
Operating Lease commitments		
One year or less	22	13
From one to five years	28	12
Total lease commitments	50	25

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 2022 commitments include motor vehicles and information technology equipment leases. All amounts shown are inclusive of GST.

5.2 CONTINGENT ASSETS AND LIABILITIES

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

(a) Quantifiable contingencies

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

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

	2022 \$'000	2021 \$'000
Quantifiable contingent liabilities		
Contingent claims		
Contingent legal claims	70	180
Total quantifiable contingent liabilities	70	180

(b) Unquantifiable contingencies

At 30 June 2022 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.

	2022 \$'000	2021 \$'000
Operating Account	297	164
Total cash and cash equivalents	297	164

6.2 Reconciliation of Net Result to Net Cash from Operating Activities

	2022	2021
	\$'000	\$'000
Net result	109	(82)
Depreciation	74	73
(Increase) / Decrease in Receivables	(26)	(1)
Decrease (increase) in Prepayments	-	-
Increase / (Decrease) in Employee benefits	26	(13)
Increase / (Decrease) in Payables	29	(9)
Net cash generated from operating activities	212	(32)

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.

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
2021	Lease Liabilities
	\$'000
Balance as at 1 July 2020	272
Increase (decrease) due to reassess lease liability of CPI	(10)
Changes from financing cash flows:	
Cash Repayments	(71)
Balance as at 30 June 2021	191

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:

	2022	2021
	\$'000	\$'000
Cash	297	164
Total	297	164

(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:

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

2021

Maturity analysis for financial liabilities						
	1 Year	2 Years	3 Years	4 Years	Undiscounted Total	Carrying Amount
Financial liabilities						
Payables	12	-	-	-	12	12
Total	12	-	-	-	12	12

(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:

	2022 \$'000	2021 \$'000
Variable rate instruments		
Financial assets		
Cash and cash equivalents	297	164
Total	297	164

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

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

	Statement of Comprehensive Income			Equity
	100 basis points increase \$'000	100 basis points decrease \$'000	100 basis points increase \$'000	100 basis points decrease \$'000
30 June 2022				
Cash in Special Deposits and Trust Fund	3	(3)	3	(3)
Net sensitivity	3	(3)	3	(3)
30 June 2021				
Cash in Special Deposits and Trust Fund	2	(2)	2	(2)
Net sensitivity	2	(2)	2	(2)

7.2 Categories of Financial Assets and Liabilities

AASB 9 Carrying amount	2022	2021
	\$'000	\$'000
Financial assets		
Cash and cash equivalents	297	164
Receivables at amortised cost	38	12
Total	335	176
Financial Liabilities		
Financial liabilities measured at amortised cost	40	11
Lease liabilities measured at amortised cost	117	191
Total	157	202

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
	2022	2022	2021	2021
	\$'000	\$'000	\$'000	\$'000
Financial assets				
Cash and cash equivalents	297	297	164	164
Receivables	38	38	12	12
Total financial assets	335	335	176	176
Financial liabilities				
Payables	40	40	11	11
Total financial liabilities	40	40	11	11

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 2022

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 and directs the Solicitors' Trust to pay the approved amount from the Fund to the Board.

9.2 Going Concern

The financial report has been prepared on a 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.

On 27 May 2022, the Board received advice from the Attorney-General that she was unable to authorise the payment of the Board's funding for 2022-23 from the Solicitors' Guarantee Fund (the Fund) due to the Fund's minimum balance being lower than that required by legislation. The Board has been advised that the Department of Justice will provide short-term funding in the interim. At the date of signing this report, the Board has not received confirmation of its funding source for 2022-23 beyond the short-term funding provided by the Department of Justice.

As at 30 June 2022, the Board had cash reserves of \$297,060 which were insufficient to cover the operating expenses of the Board for 2022-23.

These events indicate that a material uncertainty exists that may cast significant doubt on the Board's ability to continue as a going concern and therefore, the Board may be unable to realise its assets and discharge its liabilities in the normal course of business.

The Board has reviewed the appropriateness of continuing to prepare the financial report on the going concern basis for the year ended 30 June 2022. It has resolved that it is appropriate to prepare the financial report on the basis that the Board is a going concern, as it has received its first quarter of funding for 2022-23 from the Department of Justice. The Board is working with the Department of Justice to identify a funding source for 2022-23.

The Board is aware that it is dependent on either the Fund, or an alternative State Government funding source until such time as the Fund attains its statutory minimum balance, to remain financially sustainable in future years.

9.3 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 1 September 2022.

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 Members of the Board are confident of the Board's ability to continue as a going concern as the Legal Profession Act 2007 makes provision for the Solicitors' Trust to apply from the Solicitors' Guarantee Fund such amounts as are necessary to pay or discharge of the expenses, charges and obligations of the Board in the performance of its functions or the exercise of its powers. As disclosed in note 8, the Board has been advised that it will be provided with its requested funding for the 2022-23 financial year by the Department of Justice until such time as the Solicitors' Guarantee Fund attains the agreed minimum balance or alternative funding sources have been identified.

9.4 Functional and Presentation Currency

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

9.5 Changes in Accounting Policies

(a) Impact of new and revised Accounting Standards

- In the current year, the Board has adopted all of the new and revised Standards and Interpretations issued by the Australian Accounting Standards Board that are relevant to its operations and effective for the current annual reporting period. New and revised Australian Accounting Standards, amendments thereof, and Interpretations effective for the current year that are relevant to the Board include:
- AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-Current and AASB 2020-6 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current – Deferral of Effective Date (effective for annual reporting periods beginning on or after 1 January 2022)
- AASB 2020-3 Amendments to Australian Accounting Standards – Annual Improvements 2018-2020 and Other Amendments (effective for annual reporting periods beginning on or after 1 January 2022)
- AASB 2020-8 Amendments to Australian Accounting Standards – Interest Rate Benchmark reform – Phase 2
- AASB 2021-3 Amendments to Australian Accounting Standards – Covid-19-Related Rent Concessions beyond 30 June 2021.

(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. Those that have an impact on the Board's financial statements include:

- AASB 17 Insurance Contracts (as amended) (effective for annual reporting periods beginning on or after 1 January 2023)
- AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current and AASB 2020-6 Amendments to Australian Accounting Standards – Classification of Liabilities as current or Non-current – Deferral of Effective Date (effective for annual reporting periods beginning on or after 1 January 2023)
- AASB 2020-3 Amendments to Australian Accounting Standards – Annual Improvements 2018-2020 and Other Amendments (effective for annual reporting periods beginning on or after 1 January 2022)
- AASB 2021-2 Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definition of Accounting Estimates (effective for annual reporting periods beginning on or after 1 January 2023)
- AASB 2022-1 Amendments to Australian Accounting Standards – Initial Application of AASB 17 and AASB 9 – Comparative Information (effective for annual reporting periods beginning on or after 1 January 2023)

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.

9.6 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.

9.7 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.

9.8 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.

We are located at:
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