



LEGAL  
PROFESSION  
BOARD OF  
TASMANIA

# ANNUAL REPORT 2015 -2016

*This report is submitted in accordance with section 601 (2) of the Legal Profession Act, 2007, pursuant to which the Legal Profession Board of Tasmania is to prepare and present to the Minister a report on its operations for the financial year.*

## PART ONE: CHAIRPERSON'S REPORT

The following report provides a summary of the activities of the Board in the reporting period and highlights a number of achievements and challenges occurring within the financial year ending 30 June 2016.

### MEMBERSHIP OF THE BOARD:

The Board, now in its eighth year of operation, bid farewell to three of its legal members during the reporting period. Mr John Upcher and Mr David Bessell, both inaugural members of the Board, retired in July and November 2015 respectively. Mr Duncan Fairley was appointed as Magistrate in early 2016 and departed the Board at that time. On behalf of all of the Board and its officers I extend our sincere gratitude to Messrs Upcher, Bessell and Fairley for their dedication, hard work and sound judgment during their respective terms with the Board. I wish them the very best in all of their future endeavours.

The legal member vacancies were duly filled by Mr Graeme Jones, Mr Anthony Mihal and most recently by Mr David Lewis. I extend a warm welcome to those new members who collectively bring many years of professional experience to the Board.

### THE WORKLOAD OF THE BOARD:

#### **Complaints and Investigations:**

Complaint handling and complaint investigations have been the core activities of the Board, not only in the reporting period, but also over the eight years the Board has been operating. These activities consume the majority of the Board's resources. I am pleased to report the number of complaints received during the course of the reporting period, together with those complaints that remained unfinalised as at 30 June 2016, amounted to 117, compared with 158 complaints at the end of last financial year. This has been an improvement of 26%.

The Board received 50 written complaints made in accordance with Chapter 4 of the *Legal Profession Act 2007* in the reporting period and brought 78 complaints to finality. Accordingly, the Board was able to make significant inroads into the backlog of complaints, which I am pleased to report, that at the end of June 2016, has been all but eliminated. The balance of complaints on hand at 30 June 2016 rests at 39, which is a reduction of nearly 42% from the same time last year.

The Board's focus on resolving complaints at an early stage in circumstances where it is appropriate to do so, continued to be successful in the reporting period with 30% of all complaints resolved prior to an investigation having been commenced.

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

### **Meetings and Determinations of the Board:**

The Board convened 9 complaints-specific meetings during the reporting period. The Board, where possible, continues to combine its administrative meetings with complaints meetings in an effort to reduce time and costs.

The Board is obliged to provide to the complainant, the practitioner and the Law Society of Tasmania a written determination and reasons following a decision to finalise a complaint. The Board produced 46 written complaint determinations and reasons during the reporting period.

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

Section 591 (h) of the Act provides that the Board is to advise the Minister on any matters relating to the Act. No amendments to the Act were undertaken within the reporting period.

### **Other statutory functions of the Board:**

The Board has, over the course of the reporting period, continued its community educative role by dealing comprehensively with the community's enquiries when contact is made with the Board. 260 such enquiries were made in the reporting period and the Board's Officers have dedicated substantial time per enquiry by way of assistance to the public in developing their understanding of the legal and complaints processes, as well as addressing their substantive issues regarding their legal representative or legal matter.

In the majority of cases, the Board's Officers attempt to provide, for each enquirer, guidance on how to manage their relationship with their respective legal representatives and to provide assistance generally in relation to the legal process.

When opportunities arise, Officers for the Board actively engage with the legal profession in relation to advising practitioners on appropriate standards of conduct. To that end, the CEO of the Board delivered a lecture to the profession as part of the Law Society of Tasmania's continuing professional development programme and the Board's Investigation Officer, Ms Warner, also gave a lecture to the Tasmanian Legal Practice Course students in the reporting period.

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

The Board has not, within the reporting period, been called upon to approve any new courses of continuing legal education, or to approve terms and conditions of professional indemnity insurance policies.

## STRATEGIC DIRECTION

In the reporting period, the Board received funding to employ a newly created position of Manager Operations. An extensive recruitment process was undertaken which yielded a successful applicant who will commence in late August 2016.

Although the Board intends to continue to primarily focus on its core activities, being the handling and investigation of complaints, as indicated in my previous report the Board recognises the importance of its other statutory functions in relation to public education, monitoring the standards of the legal profession, advising the legal profession on appropriate standards of conduct and monitoring emerging trends and issues. The additional resource of the Manager Operations will enable the Board to fulfil its other statutory functions with greater ease in the 2016/17 period.

The Board continued to be granted additional funding in order to maintain a contingency fund to insulate the Board's resources from various financial peaks and troughs inherent in the litigation process for those matters before either the Court or Tribunal.

On behalf of the Board I once again extend our gratitude to the Minister for approving all the additional resources for the coming financial year.

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



**Keyran Pitt QC**  
Chairperson, Legal Profession Board of Tasmania

## PART TWO: THE LEGAL PROFESSION BOARD OF TASMANIA

### STATUTORY FUNCTIONS OF THE BOARD

Pursuant to section 591 of the Act, the Board has the following statutory functions:

- to maintain the Register (of legal practitioners);
- to monitor the standard and provision of legal professional services;
- to receive, investigate and, where appropriate, determine complaints made under Chapter 4 and, as necessary, refer complaints to the Tribunal or Supreme Court for hearing and determination;
- to approve terms and conditions of professional indemnity insurance policies provided to law practices;
- to advise the profession on appropriate standards of conduct;
- to monitor and identify trends and issues that emerge within the legal profession;
- to approve courses of continuing legal education;
- to advise the Minister on any matters relating to the Act;
- such other functions as may be imposed by this or any other Act; and
- to conduct education programs relating to client-lawyer relationships for members of the public.

### THE PURPOSE OF THE DISCIPLINARY PROVISIONS

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

- protect consumers of legal services within Tasmania against unsatisfactory professional conduct and professional misconduct of Australian legal practitioners;
- promote and enforce the application of professional standards, competence and honesty within the legal profession in Tasmania; and

- provide an effective and efficient redress mechanism for persons unhappy with the conduct of Australian legal practitioners in Tasmania.

## THE BOARD MEMBERS

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

### Chairperson of the Board:

*Mr Keyran Pitt QC* was appointed as a member of the Board in January 2014. The Board elected Mr Pitt QC as Chairperson.

Formerly Mr Pitt QC has held appointments as Chairman of the Resource Management and Planning Appeal Tribunal; the Planning Appeals Board; the Mental Health Review Tribunal; and the Medical Complaints Tribunal. He was also the Deputy Chairman for the Building Appeals Board and Environmental Protection Appeal Board, and, is an Honorary Fellow of the Royal Planning Institute of Australia.

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

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

### Lay Members:

*Ms Judith Paxton JP*, an inaugural member of the Board, was the Tasmanian Legal Ombudsman from 1994 until 2008, the State Director of the Commonwealth Merit Protection and Review Agency and the Chairperson of a number of tribunals responsible for determining disputes and grievances.

*Mr Peter Dane*, an inaugural member of the Board, has held senior management positions in the telecom and electricity industries since 1983. Mr Dane has a Master of Business Administration from the University of Tasmania.

### Outgoing Legal Members:

*Mr David Bessell*, an inaugural member of the Board, is a senior legal practitioner who retired in 2007 from his position as senior partner in a prominent Hobart legal firm. Mr Bessell resigned as a member of the Board on 24 November 2015.

*Mr John Upcher*, an inaugural member of the Board, is an experienced legal practitioner who was formerly the senior partner of a prominent Hobart legal firm. Mr Upcher resigned as a member of the Board on 31 July 2015.

*Mr Duncan Fairley*, formerly the principal of a prominent North West Coast legal practice, was appointed as Magistrate in early 2016 and resigned from the Board on 27 January 2016.

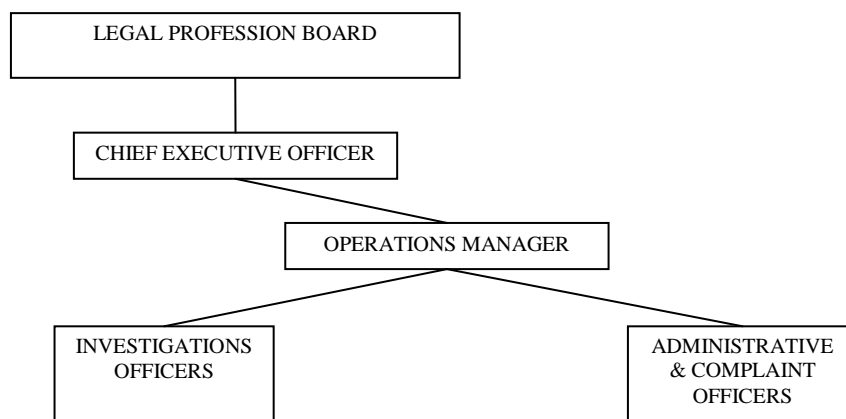
Incoming Legal Members:

*Mr Graeme Jones*, a senior partner of a prominent Launceston law practice, is an experienced legal practitioner having practiced as both a barrister and solicitor for other thirty-five years. Mr Jones was appointed to the Board on 18 August 2015.

*Mr Anthony Mihal*, a director of a generalist law practice in Ulverstone, is an experienced legal practitioner in the area of litigious work including civil, criminal and child protection. Mr Mihal was appointed to the Board on 27 November 2016.

*Mr David Lewis*, a prominent barrister on the North West Coast of Tasmania with in excess of 25 years' experience, was appointed to the Board on 27 June 2016.

## ORGANISATIONAL CHART



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

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

## **THE VISION OF THE BOARD**

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

## **FUNDING OF THE BOARD**

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



## PART THREE: THE YEAR IN REVIEW

### PERFORMANCE OF THE LEGAL PROFESSION BOARD OF TASMANIA

The following statistical information regarding the Board's performance is based on the twelve month period, 1 July 2015 to 30 June 2016.

### COMPLAINT HANDLING

#### COMPLAINT ENQUIRIES:

Table 1: Number of complaint enquiries received from 1 July 2015 to 30 June 2016

Month	Enquiries by phone	Enquiries in person	Enquiries by email	Enquiries by letter	Total Enquiries 2015/16	Total Enquiries 2014/15	Total Enquiries 2013/14
July	11	0	2	1	14	37	38
August	16	1	3	1	21	28	21
September	21	0	2	1	24	21	39
October	17	0	3	1	21	22	23
November	23	2	0	0	25	21	21
December	11	0	6	0	17	12	25
January	13	0	5	1	19	20	22
February	18	2	4	2	26	20	26
March	25	0	2	0	27	26	36
April	17	2	6	1	26	20	30
May	20	0	0	0	20	22	30
June	20	0	0	0	20	26	20
<b>Total Enquiries</b>	<b>212</b>	<b>7</b>	<b>33</b>	<b>8</b>	<b>260</b>	<b>275</b>	<b>331</b>

Dealing with complaint enquiries represents a significant part of the Board's Officers overall workload and accounts for, in large part, the Board's public education function. The table above shows that the Board has dealt with a total of 260 enquiries for the reporting period, representing a small decrease in comparison to last financial year. The number of enquiries has remained, in the main, constant since the Board commenced operations.

The Board records the total time spent per enquiry throughout the period. The time spent dealing with each enquiry for the reporting period was, on average, 15 minutes per enquiry.

The Board recognises the importance of dealing effectively with complaints at the time of the initial enquiry as, on occasions and where appropriate, it provides an opportunity to resolve a problem before it escalates into a formal complaint. Not all enquiries to the Board involve a person who is experiencing difficulties with their legal representative. The Board on occasion receives enquiries which are required to be referred for independent legal advice or other appropriate action.

A total of 28 enquiries in the reporting period resulted in a written complaint. This represents a conversion rate of 11%, and represents a small decrease from the same period last year, which was 14%.

The majority (81%) of all complaint enquiries were dealt with by telephone, although members of the public are always invited to attend the Board's offices to discuss their issues in person should they wish to.

Enquiries made to the Board relating to Family Law; Probate/Estate; and conveyance matters represented 43% of all enquiries received. The most common allegations referred to, on enquiry, relate to overcharging, negligence and communication issues.

## WRITTEN COMPLAINTS

Table 2: Number of written complaints received from 1 July 2015 to 30 June 2016

Month	Complaints Received 2015/16	Complaints Received 2014/15	Complaints Received 2013/14
July	7	7	14
August	4	11	6
September	4	7	12
October	4	6	10
November	5	11	4
December	1	3	7
January	3	4	4
February	3	5	3
March	2	10	10
April	3	7	8
May	7	3	8
June	7	4	9
<b>Total Complaints</b>	<b>50</b>	<b>78</b>	<b>95</b>

A complaint may be made about the conduct of an Australian legal practitioner by any person. For the Board to be able to deal with a complaint, it must be in writing. The Board takes all reasonable steps to ensure that any person wishing to make a written complaint is given the appropriate assistance to do so.

When a complaint is received by the Board, a preliminary assessment is made and often further information is sought from the complainant to specifically identify the conduct that is alleged to have occurred. Once the complaint has been appropriately particularised by the complainant, a 'Notice of Complaint Received' together with a copy of the complaint is sent to the practitioner, accompanied by an invitation to provide comment (submissions) in relation to it. Once received, the practitioner's submissions are provided to the complainant for further comment. All relevant information is collated and reviewed by one of the Board's officers and a report prepared. The report, together with all relevant material, is then considered by the Board. The complaint then either proceeds to the investigation phase, or is summarily dismissed.

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

The Board received 50 complaints in the reporting period, which represented a reduction of 18 complaints or 23%, compared to the previous reporting period. The Board has not altered its procedures or manner in which it deals with complaints or enquiries during the reporting period. It is however known that at least one third of all people contacting the Board on enquiry have addressed, or are likely to address, their respective grievance directly with their legal practitioner or legal firm with whom they have dealt, prior to making a written complaint to the Board. It is accordingly likely that practitioners, and in particular legal firms, have more actively managed their clients' expectations having been informed of their grievances. This may account for the decline in complaints received by the Board in the reporting period. The Board intends to monitor the situation in relation to the decline over the coming reporting period.

**Table 3: Complaints carried forward at 1 July 2015**

Complaints	Carried forward as at 1 July 2015	%
Complaints under investigation	24	36%
Unfinalised complaints pending (not yet under investigation or awaiting hearing) as at 30 June 2014	43	64%
<b>Total Complaints carried forward as at 1 July 2014</b>	<b>67</b>	<b>100%</b>

In addition to the 50 complaints received in the reporting period, the Board's workload involved continuing to deal with a further 67 complaints carried forward from the 2014/15 period, which included; complaints under investigation; complaints which had been referred for hearing to either the Board, Disciplinary Tribunal or Supreme Court; and complaints being dealt with in accordance with the preliminary statutory process prior to an investigation having been commenced.

**Table 4: Principal allegations against legal practitioners**

Principal Allegation	2015/16	2015/16 %	2014/15 Complaints	2013/14 Complaints
<i>Abuse of position as a legal practitioner</i>	0	0%	0	0
<i>Abusive/Rude/Threat</i>	3	6%	2	7
<i>Breach of Act, rules, court order or undertaking</i>	3	6%	3	6
<i>Communication with client - including failure to communicate</i>	0	0%	1	5
<i>Confidentiality breach</i>	0	0%	1	0
<i>Conflict of interest</i>	3	6%	3	6
<i>Costs/Bills/Fees/Overcharging</i>	8	16%	17	10
<i>Court performance</i>	0	0%	1	2
<i>Delay</i>	4	8%	4	8
<i>Dishonest/Misleading (including misleading the Court)</i>	12	24%	15	10
<i>Instructions - failure to act or to comply</i>	3	6%	10	11
<i>Instructions - acting without instructions</i>	0	0%	4	3
<i>Negligence - including poorly handling of case</i>	14	28%	15	27
<i>Trust money - including failure to account</i>	0	0%	2	0
<b>Totals</b>	<b>50</b>	<b>100%</b>	<b>78</b>	<b>95</b>

A complaint may include any number of allegations against a legal practitioner or law firm. If a complainant is not able to clearly describe the specific matters of complaint against a practitioner, the Board is required, under section 427 (5) of the Act, to take all reasonable steps to ensure that they are given the necessary assistance to do so.

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

As can be seen from Table 4, allegations relating to negligence, dishonest/misleading conduct and costs comprised the majority (68%) of all complaint allegations received by the Board in the reporting period.

**Table 5: Area of law to which complaints related**

Area of the Law	2015/16	2014/15 %	2014/15 Complaints	2013/14 Complaints
<i>Administrative</i>	3	6%	1	0
<i>Anti-discrimination</i>	0	0%	0	0
<i>Building</i>	0	0%	4	4
<i>Commercial/Contract</i>	10	20%	15	23
<i>Commonwealth/Constitutional</i>	0	0%	0	3
<i>Conveyancing</i>	3	6%	3	6
<i>Criminal</i>	4	8%	8	4
<i>Debt collection</i>	0	0%	2	0
<i>Family/de facto</i>	14	28%	25	29
<i>Industrial relations</i>	1	2%	0	0
<i>Personal injury</i>	3	6%	4	5
<i>Probate/estate/wills</i>	12	24%	13	19
<i>Workers' compensation</i>	0	0%	2	2
<i>Restraint Orders</i>	0	0%	1	0
<i>Migration</i>	0	0%	0	0
<b>Total</b>	<b>50</b>	<b>100%</b>	<b>78</b>	<b>95</b>

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

The areas of law also highly represented in the reporting period, as with previous periods, were Probate/Estate matters and Commercial/Contract.

**Table 6: Complainants' profile (region & gender)**

PROFILE	2015/16 No. Complainants	%	2014/15 No. Complainants	2013/14 No. Complainants
<i>Male</i>	29	58%	49	51
<i>Female</i>	20	40%	29	41
<i>Complaints made by the Board</i>	1	2%	0	3
<b>Total</b>	<b>50</b>	<b>100%</b>	<b>78</b>	<b>95</b>

COMPLAINTS BY REGION	2015/16 No. Complainants	%	2104/15 No. Complainants	2013/14 No. Complainants
<i>South</i>	27	54%	43	48
<i>North</i>	13	26%	20	24
<i>North West</i>	7	14%	10	10
<i>Interstate/International</i>	3	6%	5	13
<b>Total</b>	<b>50</b>	<b>100%</b>	<b>78</b>	<b>95</b>

Table 6 suggests a consistent regional origin of complaints received by the Board in the reporting period.

The gender profile of complainants indicates a decrease in male complainants in the reporting period.

The Board is able to effectively deal with complaints made to it by people residing outside of Tasmania. In the reporting period, 3 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.

In the reporting period, the Board initiated 1 'own motion' complaint against a practitioner.

## INVESTIGATIONS

Table 7: Investigations commenced and completed from 1 July 2015 to 30 June 2016

Month	Investigations Commenced 2015/16	Investigations Completed 2015/16	Investigations Commenced 2014/15	Investigations Completed 2014/15	Investigations Commenced 2013/14	Investigations Completed 2013/14
July	0	4	0	4	4	3
August	0	0	2	3	4	1
September	0	2	0	1	0	0
October	0	2	3	0	7	5
November	3	4	0	2	2	6
December	0	3	3	2	0	3
January	0	1	0	0	0	0
February	2	3	4	5	8	11
March	3	8	0	4	0	6
April	1	1	1	2	3	3
May	0	0	0	0	0	6
June	1	1	3	1	0	2
<b>Total</b>	<b>10</b>	<b>29</b>	<b>16</b>	<b>24</b>	<b>28</b>	<b>46</b>

A total of 10 investigations were commenced in the reporting period, or just under an average of one investigation commenced each month.

29 investigations were completed within the reporting period, 5 more than for the previous reporting period. The investigation clearance rate for the reporting period was accordingly 290%. The Board has therefore been able to keep pace with complaints progressing to an investigation and clearing the backlog of investigations.

The lower number of complaints proceeding to an investigation compared with previous years is reflective of the Board's commitment and strategy to resolve complaints, in appropriate circumstances, as early in the process as possible.

Table 8: Complexity of investigations commenced

Category of Investigation	Investigation Criteria	Investigations Commenced 2016/16	%	Investigations Commenced 2014/15	Investigations Commenced 2013/14
<i>Simple</i>	Basic investigation, low volume of documentary evidence, no witness or 3rd party involvement	3	30%	2	8
<i>Intermediate</i>	Medium volume of documentary evidence, single witness or 3rd party involvement	6	60%	9	15
<i>Complex</i>	Multiple witnesses, significant volume of evidence	1	10%	3	5
<i>Very Complex</i>	High volume of evidence, multiple witnesses, interaction with commercial entities	0	0%	2	0
<b>Total</b>		10	100%	16	28

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

In the reporting period to 30 June 2016, the Board classified the majority (90%) of all investigations commenced in the period as either being simple or intermediate in nature.



## FINALISATIONS AND OUTCOMES

Table 9: Complaints finalised and method of finalisation from 1 July 2015 to 30 June 2016

Method of Finalisation	Relevant Section of Act	Description	Number Finalised	% finalised compared to total finalisations	Number Finalised 2014/15
<b><u>Finalisations Prior To An Investigation:</u></b>					
<i>Summarily dismissed</i>	s.433 (1) (a)	<i>Complaint lacking in substance, vexatious, misconceived or frivolous</i>	20	26%	14
<i>Summarily dismissed</i>	s.433 (1) (e)	<i>Complaint is not one that the Board has the power to deal with</i>	1	1%	3
<i>Summarily dismissed</i>	s.433 (1) (b)	<i>Complaint made more than 6 years after the conduct is alleged to have occurred</i>	0	0%	0
<i>Summarily dismissed</i>	s.433 (2) (a)	<i>Further information not given or complaint not verified</i>	4	5%	4
<i>Summarily dismissed</i>	s.433 (3)	<i>Complaint requires no further investigation</i>	1	1%	0
<i>Withdrawal</i>	s.434	<i>Complaint withdrawn by complainant prior to an investigation</i>	23	30%	35
<b>Sub Total</b>			<b>49</b>	<b>63%</b>	<b>56</b>
<b><u>Finalisations Following An Investigation:</u></b>					
<i>Dismissed following an investigation</i>	s.451 (a)	<i>No reasonable likelihood that the practitioner will be found guilty</i>	14	18%	18
<i>Dismissed following an investigation</i>	s.451 (b)	<i>No public interest to continue</i>	2	2%	1
<i>Withdrawal</i>	s.434	<i>Complaint withdrawn (after mediation) following an investigation</i>	6	8%	4
<b>Sub Total</b>			<b>22</b>	<b>28%</b>	<b>23</b>

Method of Finalisation	Relevant Section of Act	Description	Number Finalised	% finalised compared to total finalisations	Number Finalised 2014/15
<b><u>Finalisations Following a Hearing/Meeting of the Board:</u></b>					
<i>Practitioner found guilty of unsatisfactory professional conduct</i>	s.456 (7) (a)	<i>Practitioner cautioned or reprimanded</i>	1	1%	2
<i>Practitioner found guilty of unsatisfactory professional conduct</i>	s.456 (7) (ab)	<i>Practitioner required to make an apology or no further action.</i>	0	0%	1
<i>Withdrawal</i>	s.434	<i>Complaint withdrawn</i>	1	1%	1
<i>Practitioner found guilty of unsatisfactory professional conduct</i>	s.454 (2)	<i>Practitioner admonished, fined &amp; required to pay costs</i>	0	0%	3
<b>Sub Total</b>			<b>2</b>	<b>2%</b>	<b>7</b>
<b><u>Finalisations Following a Hearing of the Disciplinary Tribunal or Supreme Court:</u></b>					
<i>Practitioner found guilty of either unsatisfactory professional conduct or professional misconduct</i>	s.471		1	1%	0
<i>Practitioner found guilty of unsatisfactory professional conduct</i>	s.471 (e) s.473 (a) s.479	<i>Practitioner reprimanded</i>	1	1%	2
<i>Application dismissed</i>		<i>Dismissal of complaint</i>	1	1%	0
<i>Early termination of proceedings by consent</i>	s.469		0	0%	2
<i>Practitioner found guilty of professional misconduct</i>	<i>Supreme Court Inherent Jurisdiction</i>	<i>Practitioner removed from Roll</i>	2	2%	1
<b>Sub Total</b>			<b>5</b>	<b>7%</b>	<b>5</b>
<b>TOTAL FINALISATIONS</b>			<b>78</b>	<b>100%</b>	<b>91</b>

**Finalisations:**

Table 9 shows that the Board finalised a total of 78 complaints for the reporting period to 30 June 2016, which was modest decrease from the previous reporting period of 13 complaints or 14%.

The majority (63%) of the Board's finalisations occurred prior to an investigation having commenced and involved complaints which were either summarily dismissed or withdrawn by the complainant following mediatory intervention by the Board.

A total of 22 complaints were finalised by the Board following an investigation, only one less finalisation than from the previous reporting period. Finalisations as a result of mediatory intervention either during or subsequent to an investigation being completed increased by 2 from the previous reporting period. This is reflective of the Board's strategy to resolve matters, in appropriate circumstances, prior to commencing an investigation.

Clearance Rate:

The Board received 50 complaints within the reporting period and finalised a total of 78 complaints to 30 June 2016. The clearance rate achieved during the reporting period was therefore 156%, a marked increase in the clearance rate for the previous reporting period. The Board was accordingly able to eliminate the backlog of complaints in the reporting period.

Outcome of Disciplinary action:

The Board commenced and completed a hearing (either by way of formal hearing or procedure for less serious complaints (section 456 meeting) in relation to 2 complaints within the reporting period. One matter resulted in the Practitioner being found guilty of unsatisfactory professional conduct and one matter was withdrawn, subsequent to mediation between the parties having been undertaken.

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

Complaints Referred	Section of Act	Referred	Referred 2014/15	Referred 2013/14
Board Meeting (s.456 procedure for less serious complaint)	s.450 (b)	1	3	4
Board Hearing	s.450 (a)	1	0	3
Disciplinary Tribunal	s.450 (c) (d)	2	0	3
Supreme Court	s.450 (e)	2	1	0
<b>Total Complaints Referred</b>		<b>6</b>	<b>4</b>	<b>10</b>

At the conclusion of a complaint investigation, the Board may hold a formal hearing (s.453); deal with the complaint in accordance with s.456 (procedure for less serious complaint); make an application to either the Disciplinary Tribunal or Supreme Court for the complaint to be heard and determined; or dismiss the complaint. Table 10 shows that the Board referred, or resolved to refer for hearing, a total of 6 complaints within the reporting period.

Table 11: Number of pending complaints as at 30 June 2016

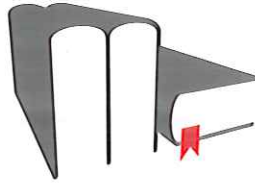
Complaint Source	2015/16	2014/15	2013/14
Unfinalised complaints under investigation as at 30 June 2015	24	28	32
Unfinalised complaints pending (not yet under investigation or awaiting hearing) as at 30 June 2015	43	52	64
<b>Subtotal Pending Complaints as at 30 June 2015</b>	<b>67</b>	<b>80</b>	<b>96</b>
Complaints received 1 July 2015 to 30 June 2016	50	78	95
<b>Subtotal complaints for current reporting period</b>	<b>117</b>	<b>158</b>	<b>191</b>
Finalised complaints 1 July 2015 to 30 June 2016	78	91	111
<b>Balance of complaints on hand as at 30 June 2016</b>	<b>39</b>	<b>67</b>	<b>80</b>

Table 11 above indicates that 39 complaints remain unfinalised as at 30 June 2016 which is a decrease of 42% from the same period last year.

## **PART FOUR: REPORT OF THE DISCIPLINARY TRIBUNAL**

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

---



## MURDOCH CLARKE

25 July 2016

Our Ref  
Your Ref

AJD:SW D0973741

Mr Frank Ederle  
Chief Executive Officer  
Legal Profession Board of Tasmania  
3/147 Macquarie Street  
HOBART TAS 7000

Dear Mr Ederle,

### RE: DISCIPLINARY TRIBUNAL ANNUAL REPORT

Please find **enclosed** the report required by section 617 of the Legal Profession Act in relation to section 464 applications made to the Tribunal in the financial year most recently ended, including advice as to the current status of those matters.

Yours faithfully,

**Ashton Denehey**  
**Disciplinary Tribunal Chairperson**

P: (03) 6235 9364  
E: [ashton.denehey@murdochclarke.com.au](mailto:ashton.denehey@murdochclarke.com.au)

TRUSTED LAWYERS FOR OVER 120 YEARS

**LEGAL PROFESSION ACT 2007**

**– SECTION 617 REPORT FOR 2015/16 FINANCIAL YEAR**

In respect of the financial year ended 30 June 2016, two applications were made to the Disciplinary Tribunal under section 464 of the Legal Profession Act.

**(a) Michael Anthony Trezise**

The application was dated 10 November 2015 and was resolved by consent with orders that the Respondent:

- was reprimanded;
- pay a fine of \$5,000.00 within 30 days of order;
- pay the Applicant's costs in the sum of \$5,000.00 within 30 days of the date of the order.

The order was dated 14 December 2015;

**(b) William Morrisby Griffiths**

The application was dated 27 January 2016. It was heard on 22 June 2016. Upon the conclusion of the evidence and submissions, the Tribunal reserved its decision. Its decision remains reserved though it should be handed down in the short term.

Dated the 25<sup>th</sup> day of July 2016.



.....  
Ashton Denehey  
Disciplinary Tribunal Chairperson

## **PART FIVE: REPORT OF THE PRESCRIBED AUTHORITY**

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

---



Our ref:L4.2:LOR/TL

27 July 2016

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

Dear Mr Pitt

### **Report of the Prescribed Authority 2015/2016**

The Law Society of Tasmania being the prescribed authority for the purposes of the *Legal Profession Act 2007* presents this report to the Legal Profession Board on its operations for the financial year 2015/2016. The Society is the prescribed authority for the purposes of the Act. This report relates to the Society's activities as prescribed authority only. It does not deal with any of its other functions or activities.

#### **Overview**

The major areas of operation relate to the regulation of practising certificates and the regulation of trust accounts. The Society also has oversight of incorporated legal practices and the power to make rules about legal practice other than rules for practitioners practising solely as barristers.

In common with many Australian and overseas jurisdictions the legal profession is governed by a co-regulatory model. The Legal Profession Board of Tasmania is the body responsible for receiving, investigating and determining complaints against practitioners and a number of associated functions.

A co-regulatory model relies upon regulators maintaining an enhanced level of communication and co-operation. The Society acknowledges the positive relationship between it and the Board which has benefited both organisations in the carrying out of their regulatory functions.

#### **Operation of Trust Accounts**

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

The Society expends not inconsiderable resources in undertaking its statutory duties as the regulator of trust accounts. A trust account administrator is employed two days per week under the supervision of the Executive Director.

Her role is to manage the administration of trust accounting reporting requirements including checking and recording quarterly returns with regards to the designated deposit account, the review and analysis of all external examination reports and reviewing other documents lodged with the Society such as the notifications of irregularities, and the opening or closing of trust accounts. In addition, the Society's authorised trust account examiner is retained to provide advice as and when needed to law practices or prospective law practices. Such advice may include advice of a technical nature or providing information as to the appropriate practice management/trust accounting system for a particular firm.

Trust account examinations relate to a calendar year. The following information therefore relates to the 2015 calendar year;

- Number of firms with trust accounts – 116
- Number of transactions – 93,066
- Total amount of trust receipts – in excess of \$6.8 billion
- Total amount held on trust at 31 December 2015 - \$100 million
- Total amount held on investment at 31 December 2015 - \$70.5 million

#### **Appointment of Investigator**

One investigator was appointed to a sole practitioner practice on 17 October 2015 pursuant to section 260 of the Act. That appointment followed concerns raised by the Board relating to the law practice's compliance with obligations relating to the receipt of trust monies. The investigation led to undertakings been given by the law practice to the Society relating to its terms of retainer and financial reporting to clients.

#### **Appointment of Manager**

Acting pursuant to a delegation from the Board the Society appointed a manager to the law practice of Glade-Wright & Mahindroo on 18 August 2015. That appointment continues. However it is likely that the practice will be wound up in the very near future.

#### **Practising Certificates**

With limited exceptions a practising certificate is a requirement to engage in legal practice. It is an offence to engage in legal practice in Tasmania unless the person holds a current local practising certificate or a current interstate practising certificate.

As the prescribed authority the Society's major obligations are as follows:

- The grant and renewal of practising certificates
- Imposing of practising certificate conditions that are reasonable and relevant
- Amendment, suspension and cancellation of practising certificates

The following types and numbers of practising certificates were issued under the Act during the period 1 July 2015 to 30 June 2016:

- Principal –202
- Employee – 309
- Barrister – 60
- Corporate – 39
- Locum –4
- Community legal centre – 43
- Volunteer - 1

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.

Each type of practising certificate has a number of practising certificate conditions attached to it as a matter of course. In addition to those core conditions other conditions may be and are imposed depending on the practitioner's circumstances.

Examples include:

- The imposition of pupillage conditions for new barristers
- The obligation to appoint a mentor, to meet with that mentor and for that mentor to report to the Society in the case of practitioners operating as a sole practitioner for the first time.
- The imposition of additional continuing professional development obligation.

On the 10<sup>th</sup> of June 2016 the Society resolved to suspend the practising certificate of a Hobart based barrister. It gave notice also of its intention to cancel the practising certificate. The certificate in question expired on 30 June 2016 and the practitioner has not sought to renew it.

It is a pleasure to be given the opportunity to provide this report. If any questions or issues are raised please do not hesitate to contact the Society.

Yours sincerely



**LUKE RHEINBERGER**  
**EXECUTIVE DIRECTOR**

c.c. Attorney-General for Tasmania

## **PART SIX: INDEPENDENT AUDIT REPORT AND FINANCIAL STATEMENTS AS AT 30 JUNE 2016**

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

## **Independent Auditor's Report**

**To Members of the Tasmanian Parliament**

**Legal Profession Board of Tasmania**

**Financial Report for the Year Ended 30 June 2016**

### **Report on the Financial Report**

I have audited the accompanying financial report of the Legal Profession Board of Tasmania (the Board), which comprises the statement of financial position as at 30 June 2016 and the statements of comprehensive income, changes in equity and cash flows for the year ended on that date, a summary of significant accounting policies, other explanatory notes and the statement of certification by the Members of the Board.

### **Auditor's Opinion**

In my opinion the Board's financial report:

- (a) presents fairly, in all material respects, its financial position as at 30 June 2016, and its financial performance, cash flows and changes in equity for the year then ended
- (b) is in accordance with the *Legal Profession Act 2007*, *Financial Management and Audit Act 1990* and Australian Accounting Standards.

### *The Responsibility of the Members of Board for the Financial Report*

The Members of the Board are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards, Section 599 of the *Legal Profession Act 2007* and the *Financial Management and Audit Act 1990*. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

### *Auditor's Responsibility*

My responsibility is to express an opinion on the financial report based upon my audit. My audit was conducted in accordance with Australian Auditing Standards. These Auditing Standards require that I

...1 of 2

comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance as to whether the financial report is free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on my judgement, including the assessment of risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, I considered internal control relevant to the Board's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate to the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Board's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Members, as well as evaluating the overall presentation of the financial report.

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

### **Independence**

In conducting this audit, I have complied with the independence requirements of Australian Auditing Standards and other relevant ethical requirements.

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.

### **Tasmanian Audit Office**



Jara K Dean

**Assistant Auditor-General Financial Audit  
Delegate of the Auditor-General**

Hobart

19 August 2016

...2 of 2

# Legal Profession Board of Tasmania

## Financial Statements 2015-16

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## Statement by Chairman and Chief Executive Officer

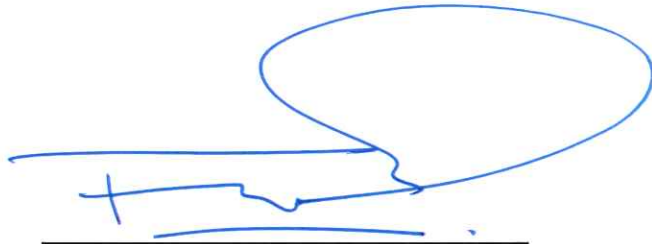
The accompanying Financial Statements of the Legal Profession Board of Tasmania are in agreement with the relevant accounts and records and have been prepared in compliance with Treasurer's Instructions issued under the provision of the *Financial Management and Audit Act 1990* and Section 599 of the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

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

Date this 10<sup>th</sup> day of August 2016



Keyran Pitt QC  
CHAIRPERSON



Frank Ederle  
CHIEF EXECUTIVE OFFICER

## Statement of Comprehensive Income for the year ended 30 June 2016

	Notes	2016 \$'000	2015 \$'000
<b>Revenue and other income from transactions</b>			
Revenue from Solicitor's Guarantee Fund	1.1	1 129	875
Other revenue	1.2	101	119
<b>Total revenue and other income from transactions</b>		<b>1 230</b>	<b>994</b>
<b>Expenses from transactions</b>			
Employee benefits	2.1	527	616
Supplies and consumables	2.2	275	359
Other expenses	2.3	241	20
<b>Total expenses from transactions</b>		<b>1 043</b>	<b>995</b>
<b>Net result from transactions</b>		<b>187</b>	<b>(1)</b>
<b>Comprehensive result</b>		<b>187</b>	<b>(1)</b>

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

## Statement of Financial Position as at 30 June 2016

	Notes	2016 \$'000	2015 \$'000
<b>Assets</b>			
<i>Financial Assets</i>			
Cash and cash equivalents	6.1	471	298
Receivables	3.1	12	17
<b>Total assets</b>		<b>483</b>	<b>315</b>
<b>Liabilities</b>			
Payables	4.1	14	17
Employee benefits	4.2	143	159
<b>Total liabilities</b>		<b>157</b>	<b>176</b>
<b>Net assets</b>		<b>326</b>	<b>139</b>
<b>Equity</b>			
Accumulated funds		326	139
<b>Total equity</b>		<b>326</b>	<b>139</b>

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

## Statement of Cash Flows for the year ended 30 June 2016

	Notes	2016 \$'000	2015 \$'000
		Inflows (Outflows)	Inflows (Outflows)
<b>Cash flows from operating activities</b>			
<b>Cash inflows</b>			
Solicitor's Guarantee Fund Receipts		1 129	875
GST Receipts		37	34
Other cash receipts		110	109
<b>Total cash inflows</b>		<b>1 276</b>	<b>1 018</b>
<b>Cash outflows</b>			
Employee benefits		(544)	(598)
GST payments		(41)	(34)
Supplies and consumables		(276)	(354)
Other expenses		(242)	(20)
<b>Total cash outflows</b>		<b>(1 103)</b>	<b>(1 006)</b>
<b>Net cash generated from (used in) operating activities</b>	6.2	<b>173</b>	<b>12</b>
<b>Net increase (decrease) in cash and cash equivalents held</b>		<b>173</b>	<b>12</b>
<b>Cash and deposits at the beginning of the reporting period</b>		<b>298</b>	<b>286</b>
<b>Cash and deposits at the end of the reporting period</b>	6.1	<b>471</b>	<b>298</b>

This Statement of Cash Flows should be read in conjunction with the accompanying notes.

## Statement of Changes in Equity for the year ended 30 June 2016

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

	Accumulated surplus / deficit \$'000	Total equity \$'000
Balance as at 1 July 2014	140	140
Total comprehensive result	(1)	(1)
<b>Total</b>	<b>(1)</b>	<b>(1)</b>
<b>Balance as at 30 June 2015</b>	<b>139</b>	<b>139</b>

This Statement of Changes in Equity should be read in conjunction with the accompanying notes.

## Notes to and forming part of the Financial Statements for the year ended 30 June 2016

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## Note 1 Income from Transactions

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

### 1.1 Solicitor's Guarantee Fund

Funding from the Solicitor's Guarantee Fund is recognised in accordance with AASB 1004 *Contributions* whereby 'non-reciprocal' contributions are recognised as revenue when the funds are received or receivable.

	2016 \$'000	2015 \$'000
Solicitor's Guarantee Fund Revenue	1 129	875
<b>Total revenue from Solicitor's Guarantee Fund</b>	<b>1 129</b>	<b>875</b>

### 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.

	2016 \$'000	2015 \$'000
Interest Revenue	11	10
Other Revenue	90	109
<b>Total</b>	<b>101</b>	<b>119</b>

## Note 2 Expenses from Transactions

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

### 2.1 Employee Benefits

Employee benefits include, where applicable, entitlements to wages and salaries, annual leave, sick leave, long service leave, superannuation and any other post-employment benefits.

#### (a) Employee expenses

	2016 \$'000	2015 \$'000
Wages and salaries (Staff)	394	432
Wages and salaries (Board members)	71	100
Superannuation – defined contribution scheme	30	43
Superannuation – defined benefit scheme	19	23
Other employee expenses	13	18
<b>Total</b>	<b>527</b>	<b>616</b>

As the Board has staff on defined benefits superannuation schemes, superannuation expenses relating to those defined benefits schemes relate to payments into the Consolidated Fund. The amount of the payment is based on an employer contribution rate determined by the Treasurer, on the advice of the State Actuary. The current employer contribution is 12.75 per cent (2015: 12.75 per cent) of salary.

Superannuation expenses relating to defined contribution schemes are paid directly to the relevant superannuation funds at a rate of 9.5 per cent (2015: 9.5 per cent) of salary.

**(b) Remuneration of Key Management Personnel**

2016	Short-term benefits		Long-term benefits			Total
	Salary	Other Benefits	Super-annuation	Long Service Leave	Termination Benefits	
	\$'000	\$'000	\$'000	\$'000	\$'000	
<b>Key management personnel</b>						
Frank Ederlie, Executive Officer	125	26	20	5	-	176
Keyran Pitt QC, Chairman	23	-	2	-	-	25
Judith Paxton, Member	16	-	2	-	-	18
Peter Dane, Member	6	-	1	-	-	7
John Upcher, Member	5	-	1	-	-	6
David Bessell, Member	8	-	1	-	-	9
Graeme Jones, Member	14	2	1	-	-	17
	<b>197</b>	<b>28</b>	<b>28</b>	<b>5</b>	<b>-</b>	<b>256</b>

2015	Short-term benefits		Long-term benefits			Total
	Salary	Other Benefits	Super-annuation	Long Service Leave	Termination Benefits	
	\$'000	\$'000	\$'000	\$'000	\$'000	
<b>Key management personnel</b>						
Frank Ederlie, Executive Officer	149	6	19	9	-	183
Keyran Pitt QC, Chairman	22	-	2	-	-	24
Judith Paxton, Member	18	-	2	-	-	20
Peter Dane, Member	15	-	1	-	-	16
John Upcher, Member	10	-	1	-	-	11
David Bessell, Member	15	-	1	-	-	16
Duncan Fairly, Member	14	-	1	-	-	15
	<b>243</b>	<b>6</b>	<b>27</b>	<b>9</b>	<b>-</b>	<b>285</b>

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 2015-16 for key personnel is set by the *State Service Act 2000*. Remuneration and other terms of employment are specified in employment contracts. Remuneration includes salary, motor vehicle and other non-monetary benefits. Long-term employee expenses include long service leave, superannuation obligations and termination payments. Short-term benefits include motor vehicle and car parking fringe benefits in addition to annual leave and 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 the termination payments received by any key management personnel may not necessarily correspond with the leave liability associated to that individual.

**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.



## 2.2 Supplies and Consumables

Other expenses from ordinary activities, supplies and consumables are recognised when it is probable that the consumption or loss of future economic benefits resulting in a reduction of assets or an increase in liabilities has occurred and can be reliably measured.

	2016 \$'000	2015 \$'000
Audit fees	6	10
Operating leases	81	85
Consultants	24	150
Property expenses	58	34
Communications	9	9
Information technology	47	46
Travel and transport	8	9
Plant and Equipment	5	5
Other supplies and consumables	37	11
<b>Total</b>	<b>275</b>	<b>359</b>

The external audit fee for 2015-16 is \$6,310 (\$6,310 for 2014-15).

## 2.3 Other Expenses

Other expenses from ordinary activities, supplies and consumables are recognised when it is probable that the consumption or loss of future economic benefits resulting in a reduction of assets or an increase in liabilities has occurred and can be reliably measured.

	2016 \$'000	2015 \$'000
Legal Costs	210	-
Other Expenses	31	20
<b>Total</b>	<b>241</b>	<b>20</b>

## 2.4 Impairment – Financial Assets

Financial assets are assessed at each reporting date to determine whether there is any objective evidence that there are any financial assets that are impaired. A financial asset is considered to be impaired if objective evidence indicates that one or more events have had a negative effect on the estimated future cash flows of that asset.

An impairment loss, in respect of a financial asset measured at amortised cost, is calculated as the difference between its carrying amount, and the present value of the estimated future cash flows discounted at the original effective interest rate.

All impairment losses are recognised in the Statement of Comprehensive Income.

An impairment loss is reversed if the reversal can be related objectively to an event occurring after the impairment loss was recognised. For financial assets measured at amortised cost, the reversal is recognised in profit or loss.

## 2.5 Impairment – Non-financial Assets

All non-financial assets are assessed to determine whether any impairment exists. Impairment exists when the recoverable amount of an asset is less than its carrying amount. Recoverable amount is the higher of fair value less costs to sell and value in use. The Board's assets are not used for the purpose of generating cash flows, therefore value in use is based on depreciated replacement cost where the asset would be replaced if deprived of it.

All impairment losses are recognised in Statement of Comprehensive Income. Impairment losses recognised in prior periods are assessed at each reporting date for any indications that the loss has decreased or no longer exists. An impairment loss is reversed if there has been a change in the estimates used to determine the recoverable amount. An impairment loss is reversed only to the extent that the asset's carrying amount does not exceed the carrying amount that would have been determined, net of depreciation or amortisation, if no impairment loss had been recognised.

## Note 3 Assets

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

### 3.1 Receivables

Receivables are recognised at amortised cost, less any impairment losses, however, due to the short settlement period, receivables are not discounted back to their present value.

	2016 \$'000	2015 \$'000
GST Receivables	10	7
Recoupment of costs	2	10
<b>Total</b>	<b>12</b>	<b>17</b>
Settled within 12 months	12	17
<b>Total</b>	<b>12</b>	<b>17</b>

### 3.2 Office Improvements, Plant and Equipment

#### (i) Valuation basis

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

Cost includes expenditure that is directly attributable to the acquisition of the asset.

When parts of an item of office improvements, plant and equipment have different useful lives, they are accounted for as separate items (major components) of office improvements, plant and equipment.

All the Office's Office Improvements, Plant and Equipment have been fully written off as at 30 June 2016.

#### (ii) Subsequent costs

The cost of replacing part of an item of office improvements, plant and equipment is recognised in the carrying amount of the item if it is probable that the future economic benefits embodied within the part will flow to the Board and its costs can be measured reliably. The carrying amount of the replaced part is derecognised. The costs of day-to-day servicing of office improvements, plant and equipment are recognised in profit or loss as incurred.

#### (iii) Asset recognition threshold

The asset capitalisation threshold adopted by the Board is \$4,000. Assets valued at less than \$4,000 are charged to the Statement of Comprehensive Income in the year of purchase (other than where they form part of a group of similar items which are material in total).

## Note 4 Liabilities

Liabilities are recognised in the Statement of Financial Position when it is probable that an outflow of resources embodying economic benefits will result from the settlement of a present obligation and the amount at which the settlement will take place can be measured reliably.

### 4.1 Payables

Payables, including goods received and services incurred but not yet invoiced, are recognised at amortised cost, which due to the short settlement period, equates to face value, when the Board becomes obliged to make future payments as a result of a purchase of assets or services.

	2016 \$'000	2015 \$'000
Accrued expenses	14	17
<b>Total</b>	<b>14</b>	<b>17</b>
Settled within 12 months	14	17
<b>Total</b>	<b>14</b>	<b>17</b>

Settlement is usually made within 30 days.

### 4.2 Employee Benefits

#### *Key estimate and judgement*

Liabilities for wages and salaries and annual leave are recognised when an employee becomes entitled to receive a benefit. Those liabilities expected to be realised within 12 months are measured as the amount expected to be paid. Employee benefits are measured as the present value of the benefit at 30 June, where the impact of discounting is material, and at the amount expected to be paid if discounting is not material. The Board assumes that all staff annual leave balances less than 20 days will be settled within 12 months, and therefore valued at nominal value, and balances in excess of 20 days will be settled in greater than 12 months and therefore calculated at present value.

A liability for long service leave is recognised, and is measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date. The Board makes a number of assumptions regarding the probability that staff who have accrued long service leave, but are ineligible to take it will remain with the Board long enough to take it. For those staff eligible to take their long service leave, the Board assumes that they will utilise it on average, evenly over the following ten years. All long service leave that will be settled within 12 months is calculated at nominal value and all long service leave that will be settled in greater than 12 months is calculated at present value.

	2016 \$'000	2015 \$'000
Accrued salaries	3	17
Annual leave	42	38
Long service leave	98	104
<b>Total</b>	<b>143</b>	<b>159</b>
Settled within 12 months	34	46
Settled in more than 12 months	109	113
<b>Total</b>	<b>143</b>	<b>159</b>

### 4.3 Superannuation

The Board does not recognise a liability for the accruing superannuation benefits of Board employees. This liability is held centrally and is recognised within the Finance-General Division of the Department of Treasury and Finance.

## Note 5 Commitments and Contingencies

### 5.1 Schedule of Commitments

	2016	2015
	\$'000	\$'000
<b>By type</b>		
<i>Lease Commitments</i>		
Operating leases	173	275
<i>Total lease commitments</i>	<u>173</u>	<u>275</u>
<b>By maturity</b>		
<i>Operating lease commitments</i>		
One year or less	84	83
From one to five years	89	192
<i>Total operating lease commitments</i>	<u>173</u>	<u>275</u>

The Board has entered into a number of operating lease agreements for property, plant and equipment, where the lessors effectively retain all the risks and benefits incidental to ownership of the items leased. Equal instalments of lease payments are charged to the Statement of Comprehensive Income over the lease term, as this is representative of the pattern of benefits to be derived from the leased property.

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

### 5.2 Contingent Assets and Liabilities

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

#### (a) Quantifiable contingencies

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

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

	2016	2015
	\$'000	\$'000
<b>Quantifiable contingent liabilities</b>		
<i>Contingent claims</i>		
Contingent legal claims	-	29
<b>Total quantifiable contingent liabilities</b>	<u>-</u>	<u>29</u>

At 30 June 2016 the Board had no legal claims against it.

## Note 6 Cash Flow Reconciliation

### 6.1 Cash and Cash Equivalents

Cash means notes, coins, any deposits held at call with a bank or financial institution. Deposits are recognised at amortised cost, being their face value.

	2016	2015
	\$'000	\$'000
Operating Account	471	298
<b>Total cash and cash equivalents</b>	<b>471</b>	<b>298</b>

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

	2016	2015
	\$'000	\$'000
Net result	187	(1)
(Increase) / Decrease in Receivables	5	(10)
Increase / (Decrease) in Employee benefits	(16)	17
Increase / (Decrease) in Payables	(3)	6
<b>Net cash generated from operating activities</b>	<b>173</b>	<b>12</b>

## Note 7 Financial Instruments

### 7.1 Risk Exposures

#### (a) Risk Management Policies

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

- liquidity risk; and
- market risk.

The Chairman has overall responsibility for the establishment and oversight of the Board's risk management framework. Risk management policies are established to identify and analyse risks faced by the Board, to set appropriate risk limits and controls, and to monitor risks and adherence to limits. The Board's funding is legislated and therefore the Board does not have any material exposure to credit risk. The Board currently has no material exposure to market risks.

#### (b) Liquidity Risk

Liquidity risk is the risk that the Board will not be able to meet its financial obligations as they fall due. The Board's approach to managing liquidity is to ensure that it will always have sufficient liquidity to meet its liabilities when they fall due.

Financial Instrument	Accounting and strategic policies (including recognition criteria and measurement basis)	Nature of underlying instrument (including significant terms and conditions affecting the amount. Timing and certainty of cash flows)
<b>Financial Liabilities</b>		
Payables	Payables are recognised at amortised cost, which due to the short settlement period, equates to face value, when the Board becomes obliged to make future payments as a result of a purchase of assets or services.	Payables, including goods received and services incurred but not yet invoiced arise when the Board becomes obliged to make future payments as a result of a purchase of assets or services. The Board's terms of trade are 30 days.

Monitoring of expenditure against budget is undertaken by the Board on an ongoing basis.

The following tables detail the undiscounted cash flows payable by the Board by remaining contractual maturity for its financial liabilities. It should be noted that as these are undiscounted, totals may not reconcile to the carrying amounts presented in the Statement of Financial Position:

**2016**

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

**2015**

	Maturity analysis for financial liabilities		
	1 Year	Undiscounted Total	Carrying Amount
<b>Financial liabilities</b>			
Payables	17	17	17
<b>Total</b>	<b>17</b>	<b>17</b>	<b>17</b>

**(c) Market Risk**

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

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

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

	2016 \$'000	2015 \$'000
<b>Variable rate instruments</b>		
<i>Financial assets</i>		
Cash and cash equivalents	471	298
<b>Total</b>	<b>471</b>	<b>298</b>

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

	Statement of		Equity	
	Comprehensive Income			
	100 basis points increase \$'000	100 basis points decrease \$'000	100 basis points increase \$'000	100 basis points decrease \$'000
<b>30 June 2016</b>				
Cash in Special Deposits and Trust Fund	5	(5)	5	(5)
<b>Net sensitivity</b>	<b>5</b>	<b>(5)</b>	<b>5</b>	<b>(5)</b>
<b>30 June 2015</b>				
Cash in Special Deposits and Trust Fund	3	(3)	3	(3)
<b>Net sensitivity</b>	<b>3</b>	<b>(3)</b>	<b>3</b>	<b>(3)</b>

## 7.2 Categories of Financial Assets and Liabilities

	2016 \$'000	2015 \$'000
<b>Financial assets</b>		
Cash and cash equivalents	471	298
Receivables	12	17
<b>Total</b>	<b>483</b>	<b>315</b>
<b>Financial Liabilities</b>		
Financial liabilities measured at amortised cost	12	17
<b>Total</b>	<b>12</b>	<b>17</b>

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

	Carrying Amount 2016 \$'000	Net Fair Value 2016 \$'000	Carrying Amount 2015 \$'000	Net Fair Value 2015 \$'000
<b>Financial assets</b>				
Cash and cash equivalents	471	471	298	298
Receivables	12	12	17	17
<b>Total financial assets</b>	<b>483</b>	<b>483</b>	<b>315</b>	<b>315</b>
<b>Financial liabilities</b>				
Payables	14	14	17	17
<b>Total financial liabilities</b>	<b>14</b>	<b>14</b>	<b>17</b>	<b>17</b>

The Board does not have any financial assets or financial liabilities carried at fair value through the profit and loss or any available for sale financial assets.

### *Financial Assets*

The net fair values of Cash and cash equivalents and Receivables approximate their carrying amounts as this is the amount the Board expects to be able to settle on these items.

### *Financial Liabilities*

The net fair values for Payables and Other accrued expenses approximate their carrying amounts as this is the amount the Board expects to be able to settle on these items.

## **Note 8 Events Occurring After Balance Date**

There have been no events subsequent to balance date which would have a material effect on the Board's Financial Statements as at 30 June 2016.

## **Note 9 Significant Accounting Policies**

### **9.1 Objectives and Funding**

The Legal Profession Board of Tasmania (the Board) is an independent statutory body whose purpose is to:

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

*The Legal Profession Act 2007* (the Act) received Royal Assent on 15 August 2007 and the Board commenced operations on 31 December 2008. The Board consists of six Board Members appointed by the Governor of Tasmania for a term of five years. Pursuant to section 589 of the Act, the Board is established as a body corporate with perpetual succession. The functions of the Board were in part previously performed by the Law Society of Tasmania and the Legal Ombudsman.

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

### **9.2 Basis of Accounting**

The Financial Statements are a general purpose financial report and have been prepared in accordance with the Australian Accounting Standards (AAS) and Australian Accounting Interpretations issued by the Australian Accounting Standards Board (AASB).

While the Board is not bound by the *Financial Management and Audit Act 1990*, it has elected to prepare these financial statements in accordance with the Treasurer's Instructions issued under the provisions of the *Financial Management and Audit Act 1990*.

The financial statements were signed by the Chairman and the Chief Executive Officer on 10 August 2016.

Compliance with the AAS may not result in compliance with International Financial Reporting Standards (IFRS), as the AAS include requirements and options available to not-for-profit organisations that are inconsistent with IFRS. The Board is considered to be not-for-profit and has adopted some accounting policies under the AAS that do not comply with IFRS.

The Financial Statements have been prepared on an accrual basis and, except where stated, are in accordance with the historical cost convention.

### **9.3 Functional and Presentation Currency**

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



## 9.4 Changes in Accounting Policies

### (a) Impact of new and revised Accounting Standards

In the current year, the Board has adopted all of the new and revised Standards and Interpretations issued by the Australian Accounting Standards Board that are relevant to its operations and effective for the current annual reporting period. These include:

- 2013-9 Amendments to Australian Accounting Standards – Conceptual Framework, Materiality and Financial Instruments [Operative dates: Part A Conceptual Framework – 20 December 2013; Part B Materiality – 1 January 2014; Part C Financial Instruments – 1 January 2015] - The objective of this Standard is to make amendments to the Standards and Interpretations listed in the Appendix:
  - (a) as a consequence of the issue of Accounting Framework AASB CF 2013-1 *Amendments to the Australian Conceptual Framework*, and editorial corrections, as set out in Part A of this Standard;
  - (b) to delete references to AASB 1031 *Materiality* in other Australian Accounting Standards, and to make editorial corrections, as set out in Part B of this Standard; and
  - (c) as a consequence of the issuance of IFRS 9 *Financial Instruments – Hedge Accounting* and amendments to IFRS 9, IFRS 7 and IAS 39 by the IASB in November 2013, as set out in Part C of this Standard.

There is no material financial impact.

- 2015-1 *Amendments to Australian Accounting Standards – Annual Improvements to Australian Accounting Standards 2012-2014 Cycle* [AASB 1, AASB 2, AASB 3, AASB 5, AASB 7, AASB 11, AASB 110, AASB 119, AASB 121, AASB 133, AASB 134, AASB 137 & AASB 140] – The objective of this Standard is to make amendment to Australian Accounting Standards that arise from the issuance of International Financial Reporting Standard *Annual Improvements to IFRSs 2012-2014 Cycle* by the IASB. This Standard applies to annual reporting periods beginning on or after 1 January 2016. There is no material financial impact.
- AASB 2015 -2 *Amendments to Australian Accounting Standards – Disclosure Initiative: Amendments to AASB 101* [AASB 7, AASB 101, AASB 134 & AASB 1049] – The objective of this Standard is to amend AASB 101 to provide clarification regarding the disclosure requirements in AASB 101. This Standard applies to annual reporting periods beginning on or after 1 January 2016. This has resulted in some changes in the presentation of these financial statements.
- AASB 2015-3 *Amendments to Australian Accounting Standards arising from the Withdrawal of AASB 1031 Materiality* – The objective of this Standard is to effect the withdrawal of AASB 1031 *Materiality* and to delete references to AASB 1031 in the Australian Accounting Standards. This Standard is applicable to annual reporting periods beginning on or after 1 July 2015. There is no material financial impact.

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

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

- 2010- 7, 2014- 7 and 2015-7 Amendments to Australian Accounting Standards arising from AASB 9 – The objective of these Standards is to make amendments to various standards as a consequence of the issuance of AASB 9 *Financial Instruments* in December 2010. There will be no material financial impact.
- 2015-6 *Amendments to Australian Accounting Standards – Extending Related Party Disclosures to Not-for-Profit Public Sector Entities* – The objective of this Standard is to make amendments to AASB 124 *Related Party Disclosures* to extend the scope of that Standard to include not-for-profit public sector entities. This Standard applies to annual reporting periods beginning on or after 1 July 2016. The impact is increased disclosure in relation to related parties.
- 2016-2 *Amendments to Australian Accounting Standards – Disclosure Initiative: Amendments to AASB 107* – The objective of this Standard is to amend AASB 107 *Statement of Cash Flows* to require entities preparing statements in accordance with Tier 1 reporting requirements to provide disclosures that enable users of financial statements to evaluate changes in liabilities arising from financing activities, including both changes arising from cash flows and non-cash changes. This Standard applies to annual periods beginning on or after 1 January 2017. The impact is increased disclosure in relation to cash flows and non-cash changes.

- AABS 16 *Leases* – The objective of this Standard is to introduce a single lessee accounting model and require a lessee to recognise assets and liabilities for all leases with a term of more than 12 months, unless the underlying asset is of low value. This Standard applies to annual reporting periods beginning on or after 1 January 2019. The impact is enhanced disclosure in relation to leases. The potential financial impact of the Standard has not yet been determined.

#### **9.5 Rounding**

All amounts in the Financial Statements have been rounded to the nearest thousand dollars, unless otherwise stated. Where the result of expressing amounts to the nearest thousand dollars would result in an amount of zero, the financial statement will contain a note expressing the amount to the nearest whole dollar.

#### **9.6 Taxation**

The Board is exempt from all forms of taxation except Fringe Benefits Tax and GST. All taxation issues are managed by the Department of Justice on the Board's behalf.

#### **9.7 Goods and Services Tax**

Revenue, expenses and assets are recognised net of the amount of GST, except where the GST incurred is not recoverable from the Australian Taxation Office. Receivables and payables are stated inclusive of GST. The net amount recoverable, or payable, to the ATO is recognised as an asset or liability within the Statement of Financial Position.

In the Statement of Cash Flows, the GST component of cash flows arising from operating, investing or financing activities which is recoverable from, or payable to, the Australian Taxation Office is, in accordance with the Australian Accounting Standards, classified as operating cash flows.