

OF WESTERN AUSTRALIA



ANNUAL REPORT 2019-2020

Legal Practice Board of Western Australia

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STATEMENT OF COMPLIANCE

FOR THE YEAR ENDED 30 JUNE 2020

The Hon. John R Quigley LLB JP MLA Attorney General and Minister for Commerce

In accordance with Section 551 of the *Legal Profession Act 2008*, we hereby submit for your information and presentation to Parliament the Annual Report for the Legal Practice Board of Western Australia for the financial year ended 30 June 2020.

The Annual Report has been prepared in accordance with the provisions of the *Financial Management Act 2006*.

John Fiocco Acting Chair

Legal Practice Board WA

Libby Fulham

Executive Director

Legal Practice Board WA

11 December 2020

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Introduction

This year again has seen the continued implementation of changes to the operations and functions of the Legal Practice Board (**Board**).

The changes that occurred in the reporting period, and continue to be managed, include the following:

- The government's commitment to introducing into Western Australia the uniform legal profession legislation currently operational in NSW and Victoria. The Legal Profession Uniform Law Application Bill (Application Bill) to establish the bodies to perform the duties and functions under the Legal Profession Uniform Law (Uniform Law) was introduced into parliament on 18 March 2020, and is currently in the Legislative Council. It is anticipated that the Application Bill will be approved by parliament with a commencement date of 1 July 2021.
- The conclusion of the fourth year since the introduction of a condition on practising certificates requiring the successful completion of a practice management course before practitioners can practise as a Principal;
- The completion of the third year of the consolidation of the separate premises of the Board office and the office of the LPCC;
- The development of online platforms for the management of Admissions and CPD, and a case management system;
- Becoming a respondent to the Government Officers' Salaries, Allowances and Conditions Award 1989; and
- The reaction to COVID-19.

I have been impressed by the work of the staff of the Board. In many cases the staff deal with difficult and complex issues but they invariably deal with them in a professional, timely and appropriate manner.

Practising Certificate Application Fees

From 1 July 2016 the Board has been responsible for meeting all of its accommodation and associated costs, as well as all of its usual operational costs. Despite these significant cost increases, the Board decided not to increase the fee accompanying practising certificate applications, and that fee has been maintained at \$1,250 per annum.

However, in April 2020 with the impact of COVID-19 on the legal profession unknown and impossible to model on a financial basis, the Board predicted that it would cause disruption to the delivery of legal services and the capacity of legal practitioners to meet some compliance requirements. In response to COVID-19, and to assist the profession to meet requirements in relation to renewing practising certificates from 1 July 2020, the profession was permitted to pay the prescribed fee to accompany the renewal application in instalments, with full payment by 12 December 2020.

It is pleasing to see the positive uptake of the instalment option, with the majority of practising certificate renewals being issued well in advance of the final instalment date.

Whilst the maintenance of the Law Library at the Supreme Court is no longer the responsibility of the Board, the need to make a statutory financial contribution on behalf of the profession to the maintenance of the new integrated law library at the David Malcolm

Justice Centre remains an obligation of the Board.

The introduction of the Uniform Law will see an additional contribution by members of the profession to cover the costs of the Legal Services Council, which oversees the implementation and operation of the Uniform Law. The cost is likely to be in the vicinity of \$30 per practitioner, commencing 1 July 2021.

The Board will carefully monitor its required expenditure to ensure the maintenance of the high level of regulatory oversight that is rightly expected by the public taking into consideration the increased financial burden of both accommodation funding and normal operational cost increases that are experienced each year.

The Board will continue in its endeavours to keep the costs of legal regulation as low as possible whilst maintaining the highest possible standards.

Accommodation Funding and Leasing

Since 24 July 2017 the offices of the Board and the LPCC have been consolidated in new premises on Level 6, 111 St Georges Terrace, Perth. All Board and LPCC meetings have taken place at these premises. I believe the co-location of the Board and LPCC has meant enhanced complementary systems and performance of most activities where the two bodies are required to work together.

COVID-19 resulted in the Board's office being closed to visitors and closed altogether between 6 April 2020 and 2 June 2020. During this time all meetings were held via telephone and video conference. Even with the return to the office and face-to-face meetings telephone and video conference options continue and it is pleasing that this method of flexibility has been maintained.

Legislative Reform

National Uniform Law

The Uniform Law was introduced in Victoria and New South Wales on 1 July 2015. The intention of the Uniform Law is to provide a structure for uniform regulatory laws in participating jurisdictions.

On 18 March 2020 the Application Bill was introduced in the WA parliament. It passed the Legislative Assembly and after consideration by the Committee for Uniform Law and Statutes Review a report was tabled in the Legislative Council on 15 September 2020. It is anticipated that the Application Act will be passed by parliament prior to the end of 2020 with a commencement date of 1 July 2021.

From that date the Legal Services Council, which oversees the implementation and operation of the Uniform Law, will be expanded to seven and include at least one member from Western Australia.

The three major bodies under the Uniform Law scheme are the Standing Committee, the Legal Services Council, and the Legal Services Commissioner.

The role and responsibilities of the Standing Committee are to develop and ensure consistent policy for the regulation of the legal profession and to perform the functions allocated to it under the Uniform Law.

The Legal Services Council makes Uniform Rules and monitors their implementation to ensure consistency across participating States.

The Legal Services Commissioner is responsible for the operation of the Legal Services Commission. The Commissioner has the objectives of promoting compliance with the

requirements of the Uniform Law and the Uniform Rules, ensuring the consistent and effective implementation of the Uniform Law and the Uniform Rules, and raising awareness of the Uniform Law scheme.

The funding of the Uniform Law scheme is subject to the control of the Standing Committee and must be unanimously approved by the Standing Committee. The obligation of parties to the Uniform Law scheme to make a funding contribution is in proportion to the total number of legal practitioners within the participating jurisdiction.

At the end of June 2020 the Board had issued 6,488 practising certificates, and held records of 567 WA government lawyers who are taken to be local legal practitioners.

There will be a cost per practitioner per annum payable to the Legal Services Council, which as already stated is expected to be no more than \$30 per practitioner.

Under the Uniform Law WA government lawyers will hold practising certificates and the Board will be responsible for exemptions to professional indemnity insurance.

The Board will be the designated local regulatory authority and will delegate to the LPCC, as a committee of the Board, functions under the Uniform Law pursuant to section 406 of the Uniform Law.

Practice Management Course Condition

As noted in past reports, a high proportion of conduct breaches on the part of legal practitioners that are brought to the attention of the Board arise from poor practice management skills and a lack of understanding and capability on the part of practitioners in how to properly manage a legal practice. The identified issues involve various matters including failure to communicate effectively with clients, failure to meet statutory obligations (both legal and business), failure to properly operate trust accounts, and failure to appropriately observe rules relating to the protection of the public and the maintenance of the reputation of the profession.

The Board requested its Professional Development Committee to address these matters which led to the development of a curriculum for a practice management course and the introduction and imposition of a practice management condition on practising certificates. That condition was first introduced for practising certificates in the 2016/2017 practising year and requires practitioners to successfully complete the practice management course before removal of the condition and becoming entitled to practise as a Principal.

The Report from the Professional Development Committee provides more detail on the application and administration of the practice management course condition.

Government Officers' Salaries, Allowances and Conditions Award 1989

On 21 December 2018 the Board was named a respondent to the *Government Officers'* Salaries, Allowances and Conditions Award 1989 (GOSACA), the main differences being a change in long service leave provisions and annual leave loading. The Report from the Management Committee provides more detail on the changes made under the GOSACA.

COVID-19

As I have already mentioned, the impact on the profession of COVID-19 during the reporting period and following has not yet been fully realised. However, the Board put in a number of measures to assist the profession to comply with regulatory requirements.

In addition to making allowances for the prescribed fee to accompany the renewal application, the Board also made allowances with CPD compliance, variations to the PMC

Condition, and allowing extra time to submit annual external examiner reports.

In relation to CPD, the requirement to complete at least 6 points of the 10 required through participating in interactive activities was relaxed. This allowed practitioners to comply with CPD requirements by viewing CPD activities without the need for those activities to be 'live' or require interactive participation. In addition, the Board decided not to carry out its annual CPD audit. The resources usually spent on the audit have gone into development of an online CPD management system. This is an exciting development phase for the Board and will enable the Board and the profession to easily measure CPD compliance and provide valuable information to assist the profession in participating in meaningful continuous legal education.

In relation to the PMC condition the Board permitted extensions to the variation of the condition to allow extra time to enrol in and complete an approved PMC condition.

In relation to external examiner reports, extra time was allowed for the reports to be submitted. The Board's Trust Account Inspectors actively worked with the external examiners to ensure electronic audits took place and final reports were submitted in a timely manner where possible. The delays in receiving the reports has had some impact, however the reports are now nearing finalisation.

Online Platforms

It has been identified that the Board needs a more efficient means of managing matters (suitability and disciplinary investigations, file management, case management, and compliance management), including the statistical data associated with matters, the progress of matters and other general information which is relevant to investigating matters.

As already mentioned one part of the Boards progress in this regard is an online CPD management system. The Board is using its existing database to build a 'responsive' site to manage CPD. The system will allow providers of CPD to upload into the Board's database records of all CPD activities delivered and the record of attendance by WA practitioners. Practitioners will be able to view their centralised CPD record by logging into their records in the database. The system will assist the Board to monitor CPD compliance and identify activities or practitioners for audit purposes. This is a significant step in WA and will serve as a benchmark tool for strengthening collaborative approaches on the quality and suitability of continuous legal education and managing CPD compliance.

Another initiative is the Admissions Online project that will allow applicants for admission to make their applications completely online. The Admissions applications are lengthy and require a number of attachments. This system will streamline the application process and reduce manual handling of hard copy applications.

A third project underway is a case management system that will support internal workflows and processing of forms, manage and assist with assessments and auditing, manage approvals, escalation and committee outcomes, automate correspondence, reminders and actions; and provide statistical dashboards and automated regular reporting.

Appointment as Parliamentary Inspector

Following my appointment as Parliamentary Inspector of the Corruption and Crime Commission, which is due to commence on 23 November 2020, I will stand down as Chair and from the Board's committees with effect from 13 November 2020. John Fiocco will be Acting Chair for the remainder of my term, which expires on 9 April 2021.

I have enjoyed my tenure as Chair and have appreciated the opportunity to contribute to the effective functioning of the profession in that time. I will certainly miss not being

centrally involved in the Board's important regulatory and educative functions in the future.

Business of the Board

The majority of the Board's daily activities are delegated to its operational committees and executive officers and, in my capacity as Chair, I am a member of each of the delegated committees (Management, Professional Affairs, Professional Development, Admissions and Registration) and I also sit on the LPCC.

The full Board met formally on three occasions in the reporting year and conducted 7 electronic meetings. Among other things it passed resolutions regarding:

- The Legal Profession Uniform Law Application Bill.
- The appointment of an Acting Law Complaints Officer and the finalisation of the substantive appointment of a Law Complaints Officer.
- Appointment of returning officers for the Board membership elections.
- Confirmation of membership of elected members to the Board.
- Confirmation or election of the appointment of members to the Board's delegated committees and to the LPCC.
- Confirmation or election of the appointment of Convenors and Deputy Convenors for each of the Board's delegated committees.
- Election of the Chair and Deputy Chair.
- Appointment of the Deputy Chair of the LPCC.
- Appointment of the Board's nominated member of the Theodore & Isabella Wearne Charitable Trust Incorporated.

Membership of the Board

Membership of the Board comprises ex-officio the Attorney General (WA) and Solicitor General (WA), 12 elected members, plus those Queen's and Senior Counsel who elect to nominate for membership. There are also two community representatives who serve on the LPCC at the nomination of the Attorney General.

At the end of the year under review the Board had a total of 54 members which is indicative of the obligation and responsibility many senior members of the profession accept in order to maintain a high level of professional standards and to ensure the ongoing protection of the public. Since July 2019 5 new Senior Counsel have nominated for membership of the Board.

The Board greatly values the pro bono contribution given by its members and the vast knowledge, experience and expertise they bring to its considerations. However, due to the very high calibre of its members, the Board invariably loses valued members when they are appointed to the bench, retire or are not re-elected.

During the year under review:

- Her Honour Judge Mara Barone SC resigned from the Board following her appointment to the District Court. Congratulations are extended to Judge Barone SC.
- George Tannin SC retired and his term ended on 11 November 2019.
- Kim Wilson SC resigned and his term ended on 6 April 2020.
- Patricia Femia was not re-elected and her term ended on 8 April 2020 (she has since been re-appointed to the Board to fill a casual vacancy).

Membership of the Board as at 30 June 2020 is as follows:

Attorney-General	Solicitor-General	Chair	Deputy Chair
The Hon. Mr JR Quigley MLC	Mr Joshua A Thomson SC	Mr MH Zilko SC	Mr JGM Fiocco

Queens Counsel	Senior Counsel	Elected Members		
in alphabetical order (not in order of seniority):				
Hon J Gilmour QC	Ms C Barbagallo SC	Ms A Ciffolilli		
Mr RK O'Connor QC	Mr M Berry SC	Ms ML Coulson		
Mr S Owen-Conway QC	Mr JB Blackburn SC	Ms NB Dimmock		
Mr TF Percy QC	Ms LE Christian SC	Mr JGM Fiocco		
Mr CL Zelestis QC	Mr GD Cobby SC	Ms RT Heath		
	Mr MD Cuerden SC	Dr JJ Hockley		
	Mr SM Davies SC	Ms AM Liscia		
	Mr B Dharmananda SC	Mr GN Mack		
	Mr SK Dharmananda SC	Ms SM Schlink		
	The Hon Mr PMC Dowding SC	Ms KA Shepherd		
	Ms KJ Farley SC	Mr JG Syminton		
	Mr MJ Feutrill SC	Mr RG Wilson		
	Ms AL Forrester SC			
	Mr SD Freitag SC			
	Mr J Garas SC			
	Mr JB Hedges SC			
	Mr RS Hooper SC			
	Mr MD Howard SC			
	Mr HH Jackson SC			
	Mr T Lampropoulos SC			
	Mr JRB Ley SC			
	Mr JD MacLaurin SC			
	Mr GMG McIntyre SC			
	Mr AJ Musikanth SC			
	Mr KM Pettit SC			
	Mr MT Ritter SC			
	Mr CP Shanahan SC			
	Mr MN Solomon SC			
	Ms CJ Thatcher SC			
	Mr James A Thomson SC			
	Mr Joshua A Thomson SC			
	Mr S Vandongen SC			
	Mr JC Whalley SC			
	Mr SJ Wright SC			
	Mr PD Yovich SC			
	Mr MH Zilko SC			

Acknowledgements

I would like to extend a special vote of thanks to John Fiocco who has been Deputy Chair of the Board since April 2018 and who continues to be the Convenor of the Professional Affairs Committee. John's support and dedicated contribution to the Board's activities is greatly appreciated. As already mentioned, John will serve as the Acting Chair until the end of my current period of occupancy which expires on 9 April 2021.

Special thanks are also extended to Anna Liscia (Convenor of the Management Committee), John Ley SC (Chair of the LPCC), Kim Wilson SC (Deputy Chair of the LPCC to 6 April 2020) and Brahma Dharmananda SC (Deputy Chair of the LPCC from 9 April 2020), Sabina Schlink (Convenor of the Admissions & Registration Committee) and John Syminton (Convenor of the Professional Development Committee) for their leadership and guidance of these committees. Thanks also to the Deputy Convenors for their support and to all members of the Board who selflessly give their time throughout the year.

Thank you also to the Board staff across all divisions, particularly our very hard-working Executive Director, Libby Fulham, for their dedicated work without which the Board and its committees could not operate as effectively and efficiently as they do.

Matthew Zilko SC

Chair

Legal Practice Board

December 2020

REPORT FROM THE EXECUTIVE DIRECTOR

Position of Executive Director

It has now been three years since the co-location of the Legal Practice Board (**Board**) and the Legal Profession Complaints Committee (**LPCC**) and I have entered my fourth year as the Executive Director.

The business of the Board continues through the steady flow of admissions and the very busy peak periods between March and June with regard to the scrutiny of external examiners reports, the end of the CPD year and the renewal of practising certificates. This has all continued under the cloud of COVID-19 and all that has transpired because of the pandemic.

During the reporting period I continued to provide support to the Board's Professional Affairs Committee, which was a core function of my position at the Board as Deputy Executive Director, but that has largely been taken over by the Board's new Deputy Executive Director, Denis Barich. I continue to have responsibility for the administration of the Board and the Board's Management Committee and Professional Development Committee.

Denis Barich's appointment as Deputy Executive Director followed a period in which he was the Acting Deputy Executive Director during the reporting period. During this time Denis continued to provide much needed legal and executive support to the operations of the Board. Denis has provided, and continues to provide, remarkable support by stepping up into his role and working closely with me to achieve expected outcomes.

Deb MacDonald, the Admissions & Registration Coordinator, continues to have responsibility for the Admissions & Registration Committee. Deb's dedication and outstanding ability in admissions has also provided considerable support.

In February 2020 Russell Daily commenced as the Law Complaints Officer. Russell has met the challenges in relation to having responsibility for the administration of the Legal Profession Complaints Committee, and has too provided incredible support.

I have providence that the key leadership group, which includes Denis Barich, Russell Daily, Deb MacDonald, the Corporate Support Officer Deb Shahar, and the IT and Information Manager Analisa Zainal, assist and support me in all aspects of delivering the expected outcomes of the Board's operations.

It is also abundantly clear that the Board staff retain the trust and support of the Board members and they have assisted me in meeting all the challenges arising during the reporting period.

Role of Executive Director

The role of the Executive Director is to be responsible for the day to day operations of the Board, and to ensure that:

- The Board's functions are performed, and its decisions and policies are implemented promptly and efficiently;
- The Board's human resources are supported, supervised and managed in accordance with best practice; and
- The Board's financial resources are protected and managed in accordance with effective financial controls.

The regular statutory operations of the Board include:

- Reservation of legal work (prohibition on unqualified legal practice);
- Admission of local, interstate and foreign lawyers;
- Issuing and renewal of practising certificates;
- Monitoring of continuing professional development (CPD) obligations;
- Assessment of applicants for Quality Assured CPD provision;
- Co-ordination of inter-jurisdictional regulatory matters;
- Monitoring of legal practice structures, including incorporated legal practices and multi-disciplinary partnerships;
- Monitoring of trust accounts;
- The conduct of the complaints and disciplinary process through the Legal Profession Complaints Committee; and
- Compliance with relevant public service, government and statutory obligations.

As has been set out in past reports, I would again like to note that whilst the Executive Director holds overarching responsibility for the delivery of the Board's obligations and statutory services, and operations of the Board, these can only be delivered through operational and staffing structures that facilitate those services. In this regard I once again acknowledge that my work colleagues across the entire office, are of the highest calibre, thus making delivery of my responsibilities both manageable and enjoyable.

The Board staff across all divisions, members of the legal profession in Western Australia, and the government itself, are in the fortunate circumstance of having the most senior and skilled legal practitioners as members of the Board and its committees – a resource so valuable that it cannot be quantified.

In addition to the regular management of the human, physical and financial resources of the Board, during the reporting year I oversaw the administration relating to the following matters:

- The extended introduction of the Legal Profession Uniform Law Scheme (Uniform Law) anticipated to be from 1 July 2021. I continue to work closely with the government by providing consultation on the Legal Profession Uniform Law Application Bill 2020 that was introduced to parliament on 18 March 2020, and more recently on the development of local regulation. This has included work to manage the anticipated changes under the Uniform Law, and providing education material and seminars to the profession.
- The completion of the fourth year of a condition on practising certificates requiring the successful completion of a practice management course before practitioners can practice as a Principal of a law practice.
- Obtaining additional resources to assist with the number of applications by providers and consumers of continuing professional development activities.
- Enhancing the Board's physical and technological resources.
- Working with the Trust Account Inspectors to conduct the trust account work to meet strategic targets.
- Implementing and managing the significant financial impacts from being named as a respondent to the Government Officers Salaries, Allowances and Conditions Award 1989 (GOSACA). Namely, making increased long service leave provisions, annual

leave loading provisions, and designing and implementing the necessary system changes to the Board's Accounts, Payroll and Human Resource software.

- Managing the Board's employment terms and conditions, under the current legislation, the GOSACA, and within the Public Sector.
- Managing the impact of COVID-19 on all staff and operations.
- Implementing appropriate responses and resources around matters of sexual harassment and the continuing rise of mental health issues in the profession.

Many of these matters are covered in more detail in the reports of the Chair, the Convenor of the Management Committee, the Professional Development Committee, Information Technology, and Trust Accounts, and I will not therefore duplicate all that detail.

Staffing

The staffing levels remain relatively consistent across the Board and the LPCC. There has been a reduction in salary costs due to a number of vacancies.

As anticipated the introduction of the Uniform Law has required that we build in resources to design, plan and implement the necessary changes.

A new strategic direction is being set that will assist with the transition into the Uniform Law. More information on our strategic direction is set out below under the heading 'The Future'.

COVID-19

I don't think anyone could have predicted that a global pandemic would impact us so suddenly and furiously as COVID-19 has done, so far.

When the pandemic reached WA I formed and led a Crisis Response Team (made up of myself, Russell Daily, Denis Barich, Deb MacDonald, Deb Shahar, and Analisa Zainal), which quickly implemented the necessary alterations to our operations and policies, and adhered closely to the government's health advice. To ensure the health and safety of the staff the decision was made in late March 2020 to close the office altogether and put in place work-from-home arrangements for all staff.

It is with great pride that I can say our entire workforce was moved from the office to remote working within a week following the decision to close the office. It was particularly helpful to have our own information technology team that facilitated most of the remote working arrangements. That team worked around the clock to provide equipment and ongoing online support, and I am sincerely thankful to each member of that team for their hard work during a very difficult period.

It is important to recognise that the pandemic has had an impact on the WA legal profession, and various measures were put in place to assist practitioners in meeting their compliance requirements. However, it is equally important to note that the Board and Legal Profession Complaints Committee continued to discharge their responsibilities throughout the year despite the various external disruptions, and I recognise that even in a crisis the regulation of the profession is as important as ever and does not cease for disaster or disease.

The attitudes and dedication displayed by the staff also during this time is to be applauded. The staff demonstrated complete support during the year towards getting the job done and carrying it out with a 'can do' attitude. I recognise that feelings of insecurity and uncertainty come to the surface when faced with difficult and challenging

experiences. So dealing with a global pandemic and the imminent introduction of a new legislative framework has the potential to double those feelings and the ongoing support of the health and well-being of the staff will be carefully managed on an ongoing basis.

Sexual Harassment

During the year the spotlight was placed on sexual harassment following the highly publicised events in relation to the conduct of The Hon. Dyson Heydon.

The studies all say the same thing – sexual harassment is rife in society and the work place, and in particular in hierarchical structures with power imbalances. The legal profession typically structures itself in a hierarchy that does not only create power imbalances, but also encourages and maintains bad behaviour that is often left unchecked.

Attitudes towards harassment in the profession are a significant thing to change. As a regulatory body all too often the part we play starts too late and finishes too early, and generally without satisfaction.

It may be obvious to say that sexual harassment by a legal practitioner is a breach of that practitioner's professional obligations and may amount to findings including that the practitioner is not fit and proper to hold a practising certificate, and has engaged in professional misconduct or unsatisfactory professional conduct.

However, complaints of this kind are not received, or are ones that we cannot follow through. That may be for a number of reasons, including:

- 1. It is embedded in other complaints.
- 2. The complainant fears retribution or persecution, becoming a victim all over again, other consequences like defamation action, and there being no satisfactory outcome if the complaint is not upheld.
- 3. The complainant is embarrassed and will ultimately be disadvantaged.
- 4. The evidentiary burden is too high.
- 5. There is a non-disclosure agreement following a workplace investigation.
- 6. The high risk of reputational damage.

Complaints are typically handled on an individual basis. In other words the alleged conduct is considered on a case-by-case basis and is all too often inconclusive, or the complaint is made anonymously and not-attributable so further evidence cannot be obtained. This system relies on notification and punishment of past conduct. Universal change in this area won't come from treating the conduct of the individual, it will only come from systemic change in attitudes towards equality.

Focus has now been turned to the Board being part of the solution to take the onus away from the individual complainant (having to complain about past conduct) and encouraging the profession to take ownership and become part of a progressive outcome. The Board has started this proactive journey by:

- 1. Calling out sexual harassment as a systemic problem in our profession, not an individual's problem (that includes the perpetrator, the victim, or the bystander).
- 2. Improving awareness of sexual harassment what it is, how it can be identified, and the action to take when it is identified.
- 3. Promoting the utmost ethical and professional responsibilities of members of the profession.

- 4. Providing resources to practitioners to understand the issues surrounding sexual harassment and other inequality behaviours.
- 5. Promoting best practice policy and procedure to support the prevention, identification, reporting, and resolution of sexual harassment complaints.
- 6. Promoting cultural excellence in stamping out sexual harassment in our profession. Calling perpetrators out goes a long way to ensuring that as a profession we are united in upholding our professional obligations.
- 7. Promoting our credibility as a regulator so the profession is confident in our capability to equip them with an appropriate response to this issue and with the means to bring about effective change.
- 8. Working with other regulators in this jurisdiction and nationally to challenge accepted bad behaviours in the legal profession.

When complaints are received they are investigated not just in relation to the practitioner's conduct, but to the management systems in the law practice itself. This is something in which the Uniform Law will assist by extending our reach in that regard to all law practices and to issue management system directives – that not only require remedial action but include regular review and educative steps to reinforce a positive culture.

A dedicated email address has been established and promoted so harassment reports can be made, anonymously or otherwise, and showing we are 'open for business'. Staff are being trained to conduct investigations into this conduct, and to be active in the promotion of cultural change. Further, the Board has been proactive in promoting and incentivising CPD events specifically targeted at identifying and addressing sexual harassment in the profession.

I have been front and centre to represent the Board in seminars, conferences, and sitting on committees facilitated by the Law Council of Australia, the Piddington Society, the Law Society of WA, and the Professional Standards Authority. It is important that the profession commits to changing the attitudes towards women in the work place and society and altering structures that act as barriers towards gender equality and support of women in the profession having successful and fulfilling careers.

The Future

The Crisis Response Team has also doubled as the Board's Senior Leadership Group, and during 2020 we met regularly, focussing mainly on setting a revised Strategic Direction. Primarily the reason was to make it clear who and what the Board is, how it carries out its role and why it does what it does.

Restating that the Board's purpose is to protect the public and advance the administration of justice by regulating the competency, capability and attitudes of the legal profession in WA and promoting the integrity of the Board and its committees.

The aims under this direction are to:

- Have an engaged, active, competent and ethical legal profession.
- Be a trusted, relevant, innovative, effective and expert public body.
- Operate with an efficient and effective administration.

Underpinning these aims are our values, and being transparent in relation to our approach and governance models. I am looking forward to embracing a fresh outlook on achieving excellence as a public body.

I don't lose sight that the introduction of the Uniform Law will also bring about changes in process and engagement with the profession. The Board has spent a considerable amount of time planning for the new legislative framework and communicating with the profession in that regard. This is expected to continue well into the next reporting period and beyond.

Vote of Thanks

I would like to extend my most sincere thanks for the support and commitment provided to me from Matt Zilko SC, Chair, John Fiocco, Deputy Chair and Convenor of the Board's Professional Affairs Committee, Anna Liscia, the Convenor of the Management Committee, John Syminton, Convenor of the Professional Development Committee, and Denis Barich, my Deputy Executive Director. Their trust, assistance and support has been extremely valuable and greatly appreciated.

Additionally, a sincere thank you for the most valuable leadership during the year under review by the Convenors and Deputy Convenors of each of the Board's delegated committees, and from the Chair and Deputy Chair of the LPCC.

The voluntary contribution to the Board and the LPCC from the most knowledgeable and senior members of the Western Australian legal community often goes unrecognised. Their pro bono service provides significant benefit to not only the Board, but to the government, the legal profession at large and, most importantly, to the broader Western Australian community. I thank all Board members for that contribution and dedication.

Thank you also to the leaders of each of the Board's divisions – Russell Daily with the Legal Profession Complaints Committee, Deb MacDonald in Admissions, Denis Barich in Professional Affairs, Deb Shahar in Corporate Support, Analisa Zainal and Jodie Bowen in Information and Technology, Anna Young in Trust Account Inspectors, Lisa Franca in Practising Certificate Administration, and Kylie Hall in CPD – for working with me towards the delivery of the best service possible to the Board, the profession and the public.

Of course, sincere thanks are due to all the excellent staff of the Board. Across all divisions of the Board we do our utmost to deliver services as a unified team and I appreciate the efforts that all staff members make in that regard

Libby Fulham

Executive Director
Legal Practice Board

December 2020

PROFILE OF THE CURRENT WA LEGAL PROFESSION

Renewal of a Local Practising Certificate

The timing of the renewal of a local practising certificate is set out under section 44 of the *Legal Profession Act 2008* (**Act**) and rule 5 of the *Legal Profession Rules 2009* (**Rules**).

A practitioner holding a local practising certificate must apply for the renewal of the local practising certificate during the standard renewal period, or the late fee period, as prescribed by the Rules.

The Rules prescribe that the standard renewal period is 1 May to 31 May, each year, and the late fee period is 1 June to 30 June, each year. An application received during the late fee period is subject to a 25% penalty surcharge [item 2 of Schedule 1 – Fees of the Rules]. An application for the renewal of a local practising certificate made during the standard renewal period or the late fee period will be renewed from 1 July.

Pursuant to section 44(4) of the Act, the Board may reject an application for the renewal of a local practising certificate made during the late fee period, and must reject an application for renewal made outside of the renewal periods [i.e. after 30 June].

However, pursuant to section 44(5) of the Act the Board may accept an application made outside of the late fee period if it is made within 6 months after the end of the late fee period, and the Board is satisfied that the delay was caused by reasons beyond the control of the applicant or other special circumstances warranting acceptance of the application.

During the reporting period, the Board received a total of eighteen (18) applications for the renewal of a local practising certificate after 1 July 2019. All eighteen (18) applications were considered and accepted. Information on late applications under the Professional Affairs Committee report can be found at page 38.

On 30 April 2020, the online renewal form for an application for a local practising certificate effective 1 July 2020, was made available through the Board's website. Table 1 below sets out the number of renewal and grant applications received during the standard and late fee renewal periods.

Table 1

Renewal applications received during 2019/2020 for the 2020/2021 practising certificate	Online application	Paper applications	Total applications	Non- renewal notices
Standard renewal period	5777	43	5820	87
Late fee period	250	18	268	18
Totals	6027	61	6088	105

96.1% of all renewal applications received by the Board were received during the standard renewal period, representing an increase by 2.6% compared to last year. However, the total number of renewal applications received by the Board during the renewal periods increased by 1.64%.

The number of practising certificates issued between 1 July 2019 and 30 June 2020 was six thousand, four hundred and eighty eight (6488), which represents a 1.4%

increase in the number of local practising certificates issued in the previous period [see Graph 1].

Composition of WA Local Legal Practitioners	Resident Females	Non- Resident Females	Resident Males	Non- Resident Males	Totals
Barristers	62	2	203	0	267
Commonwealth Government	59	0	31	1	91
Consultants	6	0	19	2	27
Director	230	0	516	3	749
Employees	1784	29	1153	13	2979
Equity Partner	39	2	192	10	243
Fixed Profit-share Partner	27	1	23	4	55
Inhouse	426	30	326	24	806
Lay Associate	0	0	0	0	0
Locum	0	0	0	0	0
Legal Practitioner Partner	17	2	75	5	99
Not practising (certificated)	354	15	157	10	536
Salaried Partner	23	2	41	8	74
Sole Practitioners	142	4	277	5	428
Judiciary^	3	0	4	0	7
Deceased^	0	0	1	0	1
Struck Off^	0	0	0	0	0
Suspended [^]	0	0	1	0	1
State Government*	41	1	29	1	72
Volunteer/Pro Bono	16	0	12	0	28
Practising Certificates Cancelled	17	1	7	0	25
Practising Certificates ISSUED	3246	89	3067	86	6488
S.36 Practitioners					
State Solicitor's Office**	106	0	52	2	160
Director of Public Prosecutions (State)**	64	1	62	1	128
Other Departments**	165	4	91	1	261
S.39(3) Practitioners ***	0	2	16	0	18
TOTAL PRACTITIONERS	3564	95	3281	90	7030

[^] held a practising certificate during 2019/2020 however by 30 June 2020, were appointed judiciary/deceased/struck off/suspended.

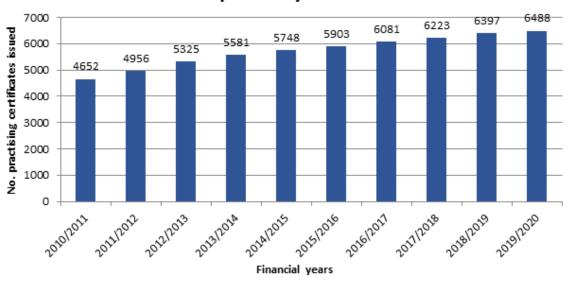
^{*} State Government employees who held a local practising certificate during 2019/2020

^{**} State Government employees taken to be certificated pursuant to Section 36 of the Legal Profession Act 2008

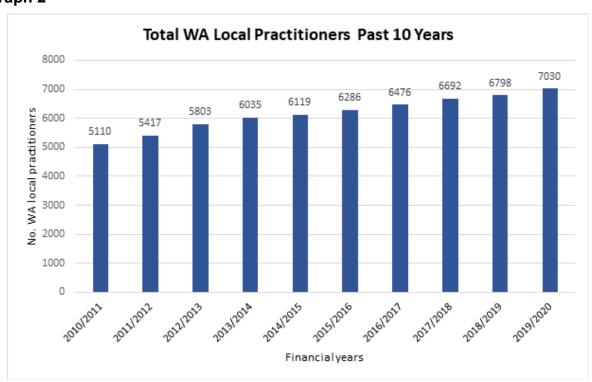
^{***} Practitioners whose certificate remains in force pursuant to Section 39(3) of the Legal Profession Act 2008

Graph 1

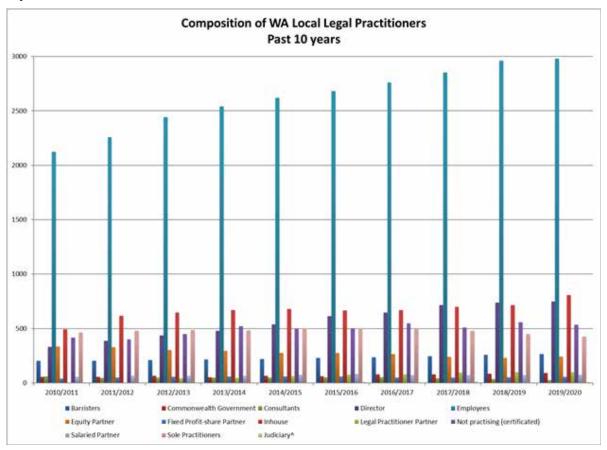
Number of practising certificates issued in the past 10 years



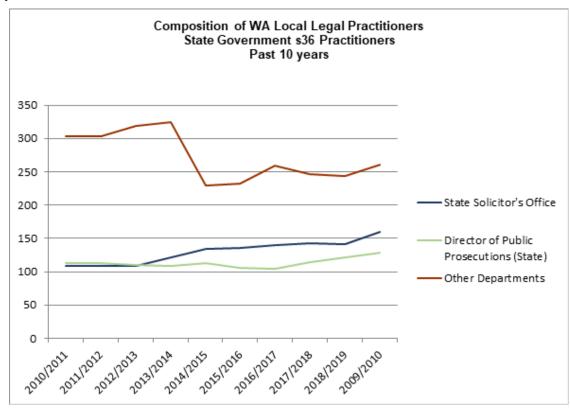
Graph 2



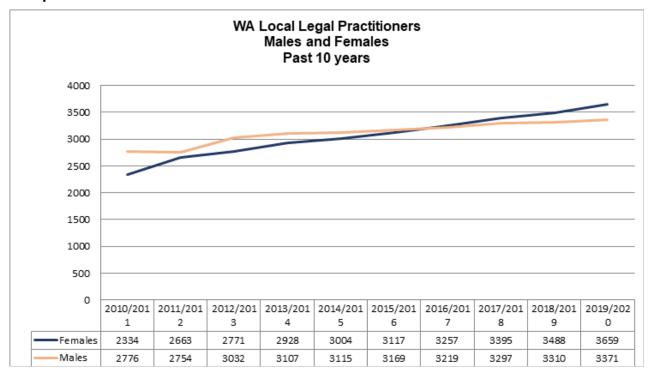
Graph 3



Graph 4



Graph 5



ORGANISATIONAL STRUCTURE

Office of the Board

The Office of the Board provides administrative and executive support to the Legal Practice Board (**Board**) and it's Committees as well as undertaking other core regulatory functions of the Board as provided for in the *Legal Profession Act 2008* (**Act**). The Office of the Board also ensures the Board complies with considerable additional legislation applicable to the Board as an organisation and a public regulatory authority.

Accordingly, key responsibilities of the Office of the Board include, but are not limited to:

- executive and legal support of the Board and Committees;
- maintenance of the practitioner register (a record of all practitioners admitted to practice in Western Australia) plus various other records pertaining to legal practitioners in this State;
- maintenance of a disciplinary register;
- processing of admission and registration applications;
- issue and renewal of annual practising certificates and the administration of other practitioner compliance matters;
- management of continuing professional development requirements;
- management of practice management requirements;
- regulation and investigation of trust accounts;
- conducting the Board's annual election; and
- management of the Board's human, technological, financial and physical resources.

Legal Profession Complaints Committee

The Legal Profession Complaints Committee (**LPCC**) is responsible for supervising the conduct of legal practitioners and the practice of law. Pursuant to the Act, the LPCC has investigative and conciliation powers, and also initiates disciplinary proceedings.

The LPCC is comprises of members of the Board and 2 community representatives. Pursuant to section 571 of the Act, the LPCC provides to the Attorney General a separate annual report in relation to its activities.

Staff

As at 30 June 2020, the following numbers of staff were in full-time, part-time or contract employment with the Board:

Divisions	No of Staff
Office of the Board	25
LPCC	23
Trust Account Inspector	2
Chairperson	1

The FTE count as at 30 June 2020 is 43 FTE's (excluding Chairperson).

Difference between the salary costs from 30 June 2019 as compared to 30 June 2020.

Division	June 2020	June 2019 (New figures)	June 2019 (Reported)
Office of the Board including Chairman	\$2 048 682.28	\$2 001 076.63	\$2 076 528.44
LPCC	\$2 527 128.81	\$2 623 668.27	\$2,568,931.84
Trust Account Inspector	\$ 369 130.81	\$ 506 287.79	\$ 453,694.01
TOTAL:	\$4 944 941.90	\$5 131 032.69	\$5,099,154.29

Difference June 2019 vs June 2020

\$-154 212.39

Difference June 2019 New Figures vs June 2020

\$-186 090.76

Legal Practice Board Organisational Chart - Supervisory Roles



The Role of the Management Committee

The Management Committee exercises powers delegated to it by the Board in relation to the management of the Board's human, physical and financial resources.

Committee Process

The Management Committee usually meets every second month and receives and considers information and reports from the Executive Director, the Deputy Executive Director and the Corporate Support Officer in regard to resourcing and financial issues.

When the need arises to address a pressing issue, either a special meeting is called, or a resolution is determined by electronic quorum. The Management Committee's primary focus is on the strategic direction of the Board, resource and financial management issues and the implementation, corporate governance of, and maintenance of appropriate policies, systems and processes.

The Management Committee met formally on 5 occasions during the reporting year and held 3 electronic meetings.

Convenor:

Ms AM Liscia

Deputy Convenor:

Mr JG Syminton

Members:

Mr MH Zilko SC
Mr SK Dharmananda SC
Mr MD Howard SC
Mr JRB Ley SC
Mr J Garas SC*
Dr JJ Hockley
Ms SM Schlink
Mr JGM Fiocco
Ms A Ciffolli
Mr GN Mack

* Part year

Funding of the Board

The Board is self-funded through fees paid by the profession by way of the annual practising certificate fees and those seeking admission as legal practitioners, as well as fees generated by the assessment and approval of continuing professional development providers and individual CPD events.

Since 1 July 2016 no Government funding has been provided to the Board, and it is wholly responsible for meeting all of its accommodation and associated costs, as well as its normal operational expenses.

Practising Certificate Fees

The Management Committee has not recommended a change to the fee required to accompany a practising certificate application since 1 July 2015. The current fee is \$1,250 per annum.

In April 2020 the Management Committee closely considered the impact of COVID-19 on the legal profession and the forecast disruption it would cause to the delivery of legal services (including the viability of some law practices) and the capacity of legal practitioners to meet some compliance requirements.

In these extraordinary circumstances and to ensure that the profession met requirements in relation to renewing practising certificates the Management Committee resolved to allow practitioners to pay the prescribed fees by instalments of 50% by

30 June 2020 with the remainder being payable by 12 December 2020. Of the 6,278 practising certificate applications received there remains only 792 applications owing a partial payment to the Board. It has been pleasing to see not only the uptake of the partial payment option, but the positive result it has had on the renewal of practising certificates for the 2020/2021 period.

The Management Committee is closely monitoring the Board's expenditure to ensure the current high standards of regulatory oversight that is rightly expected by the public and the profession is maintained, whilst endeavouring to keep the costs of legal regulation as low as possible.

It is also of note that the Western Australia is set to adopt the *Legal Profession Uniform Law* (**Uniform Law Scheme**) from 1 July 2021.

When joining the Uniform Law Scheme, each participating jurisdiction agrees to pay a fee to assist in funding the oversight body, known as the Legal Services Council. Those fees are subject to the control of a Standing Committee, comprised of members from each jurisdiction that is a participant of the Uniform Law Scheme, currently NSW and Victoria, with WA to join in 2021.

The obligation of parties to the Uniform Law Scheme to make a financial contribution is in proportion to the total number of legal practitioners within the participating jurisdiction.

Western Australia has approximately 6,488 certificated legal practitioners and approximately 567 government lawyers, who are taken to be local legal practitioners.

There will be a cost per practitioner per annum payable to the Legal Services Council, which is likely to be in the vicinity of \$30 per practitioner, commencing 1 July 2021. The Board will need to consider how to fund that cost and it may be necessary to increase practising certificate fees to be able to do so.

This is a matter that the Management Committee will be reviewing and considering in early 2021.

The Law Library

Since 2016, the Law Library has been owned and operated by the Department of Justice, with members of the profession having a right to use the Library.

The Board remains required by legislation to pay a yearly amount of \$600,000 to assist with the running costs of the Law Library. This amount can be reviewed by the Department at any time in consultation with the Board, however it is anticipated the sum will not vary into the 2021/2022 period.

Human Resources

The Management Committee determines policy in relation to the appointment and management of Board staff, including those working with the Legal Profession Complaints Committee.

During the reporting period, the Board undertook the task of recruiting a Law Complaints Officer. The successful candidate, Russell Daily, took up the position in February 2020.

On 21 December 2018 the Board was named as a respondent to the *Government Officers' Salaries*, *Allowances and Conditions Award* 1989 (**GOSACA**).

There are 3 significant financial impacts to the Board as a result of being named a respondent to the GOSACA.

First, the Board has increased its long service leave provision to 13 weeks for

employees with 7 years' service (with no pro rata entitlement). To comply with the increased long service leave accrual rate the Board has increased by a figure between \$800,000 to \$1,000.000 its financial provision to meet long service leave obligations.

Secondly, the Board has made a \$70,000 financial provision for annual leave loading, calculated at 17.5% per annum per employee.

Thirdly, to accommodate the additional GOSACA provisions, the Board's payroll system required specific reconfiguration. The payroll system provider, Technology One, was required to design and implement the necessary system changes, at an estimated cost of \$10,000.

It is anticipated that the Civil Service Association will seek the inclusion of the Board as a respondent to Public Service and Government Officers General Agreement (**General Agreement**).

The Board has objected by pointing out that inclusion in the General Agreement will have an adverse effect on salary scales and the terms and conditions of employment for its legal staff and make staff recruitment problematic. The Board is awaiting advice as to how this issue is to be managed.

The reporting year saw a very slight increase in the number of staff from 42 to 43 full time equivalents across both the Board and the Legal Practitioners Complaints Committee.

The overall cost for staff decreased by \$186,091, with the decrease being due to vacancies in positions for various periods of time.

Physical Resources

The Management Committee has responsibility for the physical resources of the Board, such as accommodation, information technology, etc.

The Management Committee committed resources towards the development and implementation of online platforms for suitability and disciplinary investigations for both the Professional Affairs Committee and the Legal Profession Complaints Committee, including all aspects of matter management and statistical reporting of data.

In addition, the Board is developing and implementing online resources for the management of CPD system and for Admission applications.

The Management Committee continues to work towards the reduction of a paper based administration, moving towards a 'paper-lite' environment.

COVID-19

In addition to allowing for the payment of practising certificate renewal fees in instalments, the Board has adopted other measures in light of the impact of COVID-19 on the Board and the profession, referred to in the Chairperson's report.

It is noted that from April 2020 to June 2020 the Board's office closed its doors, with all staff transitioned into working remotely. The transition to remote working arrangements involved a significant undertaking by the staff to provide the necessary resources to its staff to enable the continuation of a productive and effective working environment, whilst still being available to the profession and the public.

Uniform Law

As mentioned above, the imminent introduction of the Uniform Law Scheme will require the Management Committee to consider resourcing issues to enable the Board to meet its obligations under the new law. At a very basic level, changes will be required to update forms and documents to reflect the new legislative provisions, as well as the introduction of new policies and procedures.

This will require a review of not only resources (human and physical) but also the Board's financial needs.

Strategic Direction

There has been an enthusiastic approach to modifying the Board's strategic direction to work towards operating as an effective, efficient, and innovative leader in the regulation of legal services in Western Australia.

The Board is constantly considering the approach taken to regulatory matters, its values, and the effectiveness of its governance models and will continue to do so in the coming years.

Acknowledgements

I would like to acknowledge the support and assistance of my Deputy Convenor, John Syminton, and the dedication of my fellow committee members for their conscientious preparation for and consideration of the many complex issues dealt with during the reporting period.

Thanks are extended to all of the Board's employees for their efforts during the year, and to the Executive Director, Ms Libby Fulham, and Corporate Support Officer, Ms Deb Shahar, for their implementation of the Management Committee's policies and directives and the provision of support to the Management Committee.

Anna Liscia

Convenor

Management Committee

ADMISSIONS AND REGISTRATION COMMITTEE

Pursuant to the instrument of delegation from the Full Board, the Admissions and Registration Committee (**Admissions Committee**) is responsible for the majority of the functions and powers of the *Legal Profession Act 2008* (**Act**) that regulate:

- the admission of lawyers;
- the registration and practice of foreign lawyers;
- the grant of practising certificates and imposition of conditions, when an applicant has not previously held a local practising certificate, or has not held an Australian practising certificate in the past 5 years; and
- supervised legal practice.

Some of the functions and powers related to the above matters have been delegated by the Full Board to the Executive Director and/or Deputy Executive Director of the Board. Under those policies, and in the year ended 30 June 2020, the Executive Director or Deputy Executive Director:

- Gave approval for 14 assessed overseas applicants to complete their academic study at Australian law schools outside of Western Australia;
- Approved the suitability of 57 applicants for admission who disclosed matters that were minor in nature; and
- Approved 82 applications that complied with the Board's policies relevant to supervised legal practice, including part-time arrangements and remote supervision arrangements

Convenor:

Ms Ms Sabina Schlink

Deputy Convenor:

Mr MH Zilko SC (Chairperson of the Board)

New members:

Ms Laura Christian SC appointed to the ARC on 9 April 2020

Ongoing members:

Mr John Fiocco
Mr Simon Freitag SC
Mr Michael Feutrill SC
The Hon John Gilmour QC
Ms Rebecca Heath
Mr John Hedges SC
Dr John Hockley
Mr John Ley SC
Ms Anna Liscia
Mr James Thomson SC
Mr Sam Vandongen SC
Mr Rob Wilson

One of the biggest challenges faced by the Admissions Committee during the first half of 2020 was dealing with the effects of the COVID-19 pandemic. In the face of these challenges the Admissions Committee was proactive in:

- inviting and approving submissions from the universities and practical legal training (PLT) providers to allow temporary changes to the delivery and assessment of approved courses;
- varying documentation and timeframe requirements for applicants to accommodate anticipated postal and other delays, whilst ensuring the authenticity of documents; and
- approving temporary variations to the Board's Supervised Legal Practice Guidelines
 to accommodate the disruption due to COVID-19, particularly with regard to changes
 in hours and working from home.

The other responsibilities of the Admissions Committee and the work of the Admissions Committee during the 2019/2020 year are outlined below.

Approving and reviewing the following policies under which the Executive Director or Deputy Executive Director can exercise powers and duties under the Board's instrument of delegation:

- to consider applications for admission and issue compliance certificates;
- to consider the suitability of a person to be admitted to practice; and
- to approve supervised legal practice arrangements, including part-time arrangements, remote supervision arrangements, and reductions in the required period in circumstances where a practitioner has more than 2 years recent experience overseas in a common law jurisdiction.

During the year, in consultation with other Board committees, the Admissions Committee considered and approved a revised version of the *Consideration of Suitability Matters Policy and Procedure* that sets out the circumstances under which the Executive Director or Deputy Executive Director can exercise powers and duties relevant to the consideration of suitability of a person to hold a practising certificate.

Approving and reviewing the forms related to the functions and powers under the Act that fall within its delegated responsibility.

Planning commenced to develop an online admission application in the year ended 30 June 2019 and has continued into the current year.

During the current year a process map was produced and quotes for the project were obtained.

The Committee also approved revised versions of the following forms and guidelines:

- Notice of Application for Admission;
- Admission Application Notes; and
- Guidelines Early Commencement of PLT Guidelines.

Approving and reviewing the academic qualifications and practical legal training (PLT) required for admission.

Currently approved academic qualifications are offered by:

- The University of Western Australia;
- Murdoch University;
- The University of Notre Dame;
- Edith Cowan University; and
- Curtin University.

The following providers offer approved PLT courses for admission:

- The College of Law Western Australia;
- The Leo Cussen Centre for Law Western Australia;
- The Piddington Society Inc; and
- Curtin University.

Materials for the 5 year review of the law degree courses offered by The University of Notre Dame were received in April 2019. The law courses were reaccredited effective May 2020.

Materials for the 5 year review of the law degree courses offered by Edith Cowan University were received in August 2019. The review was ongoing as at 30 June 2020.

The Admissions Committee considered several proposals from PLT providers relating to:

- Increases in fees;
- Face to face attendance requirements;
- Course delivery and assessments;
- · Changes to the format and delivery of completion certificates and transcripts;
- · Changes to work experience requirements; and
- New electives to be offered as part of existing courses.

Consideration of Academic and PLT Qualifications Held by Individuals and the Assessment of Overseas Qualified Applicants for Admission.

The Admissions Committee considered:

- 10 stale Australian law degrees. The Committee approved 7 local law degrees and 2 interstate law degrees, all completed less than 10 years ago. Additional study was imposed in relation to 1 local law degree.
- 4 requests from Universities for confirmation that the completed law degree would meet admission requirements, if credit was given towards Priestley 11 units for study completed at other Australian law schools.
- A law degree completed in Queensland where the law school had incorrectly given credit for a Priestley 11 subject. Additional academic study was required to be completed prior to admission.

In addition to the applications for assessment of qualified applicants that are included in the statistics in this report, the Admissions Committee:

- approved 4 requests for a 12 month extension to commence study;
- approved 8 requests for an extension to complete study and apply for admission;
 and
- considered 11 requests for reviews of assessments.

Applications for approval to commence PLT prior to completion of an approved academic qualification.

Under the Law Admissions Consultative Committee recommendations and in other Australian jurisdictions, early commencement of PLT will be approved if the law student has completed all 11 required academic subjects and has only one or two elective units to complete. The Committee will also consider approving the commencement of PLT after all of the assessments for the degree have been completed, but before results are available.

The Admissions Committee:

- approved 25 applications;
- retrospectively approved 1 application; and
- refused 1 application.

English language proficiency.

Applicants for admission who have not completed their primary and secondary education and their legal qualification in a "recognised country" must achieve minimum

scores in the IELTS Academic test or TOEFL iBT test, although the Board retains a general discretion to exempt where there is merit to do so.

During the year the Admission Committee:

- approved 21 applications for an exemption from English language testing; and
- refused 15 applications.

The Committee was concerned at the variations in the results of successive IELTS testing of some applicants, and the difficulties that many applicants experience in achieving the required minimum scores in the Writing component of the tests.

Representatives of one of the companies responsible for delivering IELTS testing in WA attended a meeting with Ms Liscia, the Admissions Coordinator and the Admissions Officer in October 2019. Whilst the meeting was helpful, the representatives did not follow through on their promise to give written feedback in relation to the Committee's concerns..

Consideration of Applications for Admission, Including Suitability to be Admitted

The Board was taken to have refused to issue a compliance certificate in two applications that had not progressed due to inaction on the part of the applicant.

The Admissions Committee considered the suitability of a further 58 applicants for admission.

Of those 58 applicants, considered by the Admissions Committee, 10 applicants were required to meet with 2 members of the Admissions Committee and the remaining applications were decided on the information provided in the papers.

Matters disclosed included:

- Academic Misconduct 6 applicants
- Centrelink Overpayments 5 applicants
- Spent Convictions 1 applicants
- Health/Capacity matters 1 applicant
- Traffic offences (including exceeding blood alcohol level) 21 applicants
- Board enquiries about use of titles 1 applicant.
- Residential tenancy infringement 1 applicant
- Disclosures of more than one type of matter (various combinations of the above categories of matters and/or conviction for theft, arson or trespassing, ATO debts and failure to lodge returns, drug and alcohol issues, VRO, family court matters) – 22 applicants.

Refusals to Issue a Compliance Certificate

The Admissions Committee did not refuse to issue a compliance certificate to any applicants in the year ended 30 June 2020.

Re-Admission Applications

No applications for re-admission were received in the year ended 30 June 2020.

Applications for Review of Decisions of the Admissions Committee

It was noted in last year's annual report that, in June 2019, the Tribunal upheld the

decision of the Admissions Committee to refuse to give a compliance certificate to an applicant for re-admission. The applicant had been struck off in April 2013 for professional misconduct, including misleading the Magistrates' Court during proceedings and persistent discourteous and offensive behaviour. The Board incurred legal costs of approximately \$90,000 in the Tribunal matter.

The applicant appealed the Tribunal's decision in the Court of Appeal of the Supreme Court of Western Australia (**SCWA**) in July 2019. The Board's answer to the applicant's case was filed on 29 April 2020. The matter was ongoing as at 30 June 2020.

It was noted in last year's annual report that, in January 2019, an applicant for admission sought leave to appeal a decision of the Tribunal in the SCWA Court of Appeal. The appeal related to a December 2018 decision made by the Tribunal to uphold a decision of the Admissions Committee made in February 2017, to refuse to give a compliance certificate to an applicant who, amongst other things, had been disbarred in the United States in 1991. The Board incurred legal costs of more than \$90,000 in the case before the Tribunal.

The applicant completed filing his case in the SCWA Court of Appeal in August 2019 and the Board filed its case in October 2019. As an aside, in November 2019, the applicant was found guilty in the Perth Magistrates' Court of engaging in unqualified legal practice.

In January 2020 the Board was informed that the applicant had left the country and was subsequently advised that he may not return until June 2020.

As at 30 June 2020, the hearing was listed to be heard on 10 August 2020.

In the 2019/2020 year, the Board incurred legal costs of \$33,102.26 in the SCWA Court of Appeal matter, in addition to \$1,601.88 incurred in the previous year.

Applications for an early declaration of suitability to be admitted.

Two (2) prospective admission applicants were given early declarations of suitability in the year under review. The disclosures were:

- academic misconduct, 2 minor traffic offences, and a parking infringement;
 and
- failure to meet probation in prior employment due to various aspects including improper use of a database; and minor traffic offences.

Refusal to Give an Early Declaration of Suitability to be Re-admitted

In July 2019, a prospective applicant for re-admission applied for an early declaration of suitability to be re-admitted. The applicant had been struck off in 2014 for misleading conduct. The Committee refused to give the declaration sought in November 2019.

In January 2020, the prospective applicant lodged a second application. The application had not been decided as at 30 June 2020.

Matters Related to the Grant Of Practising Certificates and Compliance With Conditions

The Admissions Committee considers applications for the initial grant of a practising certificate in circumstances where an applicant has disclosed a suitability matter or show cause event in the application. The Admissions Committee also considers applications for the grant of a practising certificate from applicants who have not held an Australian practising certificate for 5 years or more.

- 25 applications were approved.
- No applications were refused.

The Admissions Committee also monitors compliance with conditions that it has previously imposed on the grant of a practising certificate.

- 1 variation of a condition was approved.
- 3 revocations of conditions were approved.
- 1 practitioner was requested to defer his application for revocation of a condition until the Legal Practitioners Complaints Committee (LPCC) had concluded its investigations into concerns raised by a Justice of the Supreme Court about the practitioner's competency. The practitioner agreed. The LPCC investigations were ongoing as at 30 June 2020.

Matters Related to Restricted Legal Practice/Supervised Legal Practice

The Admissions Committee develops policy and considers submissions relevant to restricted practice and supervised legal practice.

47 submissions related to supervision arrangements were considered. They included:

- whether employment could be counted towards the required experience;
- approvals of part-time arrangements;
- remote supervision arrangements;
- whether the supervision was adequate;
- whether a restricted practitioner had refused to comply with the directions of the supervisor; and
- whether the required period had been completed.

Two notices of refusal to amend a practising certificate were issued, because the Admissions Committee was not satisfied that the required experience had been completed.

12 applications made under s 50(7) of the Act for a reduction in, or exemption from, the required period of supervised legal practice, were also considered.

Law Admissions Consultative Committee (LACC)

The LACC is a consultative committee that provides recommendations to Australian admitting authorities and admissions boards, with the aim of achieving uniformity of admission requirements in Australia.

The long-standing Chair of the LACC, Professor Sandy Clark, who also sat on the Victorian Legal Admissions Board for many years, retired from the LACC during the year, and was succeeded by The Hon. Justice Emmett who also chairs the NSW Legal Profession Admissions Board and the Legal Services Council Admissions Committee under the Uniform Law.

Ms Anna Liscia sat on the LACC as the representative of the Chief Justice of Western Australia for 15 years. The LACC met at least three (3) times per year. Ms Liscia attended the October 2019 LACC meeting in Melbourne. The February and June 2020 meetings were held on-line due to COVID-19.

In December 2019, the Chief Justice appointed The Hon. Justice Le Miere as his representative on the LACC. In recognition of the experience and wisdom acquired

by Ms Liscia in her more than 15 years as his former representative on the LACC, the Chief Justice agreed with the Chair of the LACC, that Ms Liscia would continue to participate in the work of the LACC while Western Australia transitions to the Uniform Law Scheme.

On behalf of the Admissions Committee, I would like to extend our sincere thanks to Ms Liscia for her dedication and commitment to the LACC over many years. It has been invaluable to have a member of the Admissions Committee sitting on the LACC. Her knowledge of admission requirements across the Australian jurisdictions, and the jurisdictional barriers to uniformity, has greatly assisted the Admissions Committee.

During the year the LACC primarily consulted with the jurisdictions about:

- · Admission requirements for foreign lawyers; and
- The possible re-drafting of the academic requirements for admission;

Legal Services Council Admissions Committee – Uniform Law in NSW and Victoria

In December 2019, the Attorney General nominated The Hon. Justice Le Miere to be an observer on the LSC Admissions Committee, in anticipation of Western Australia joining the Uniform Law Scheme. The Admissions Committee consequently invited The Hon. Justice Le Miere to be an observer on the Admissions Committee, an invitation that he has accepted.

During the year, the LSC Admissions Committee requested the Admissions Committee to comment on proposed amendments to the Uniform Admission Rules relating to:

- the accreditation and reaccreditation of law and PLT courses;
- the assessment of the qualifications of foreign lawyers; and
- the use and meaning of the phrase "good fame and character".

University of Western Australia Advisory Board for the Faculty of Law

Mr Zilko SC, as Chair of the Board, has sat on the University of Western Australia Advisory Board for the Faculty of Law since late 2018.

Administrators of Australasian Law Admitting Authorities (AALAA)

The AALAA meets annually, on the day preceding the annual Conference of Regulatory Officers (**CORO**). The CORO is attended by a number of Board staff and addresses all aspects of the regulation of the legal profession. The AALAA meets to discuss matters of mutual interest, and to exchange information about admission policies and practices in the various Australian jurisdictions, and in New Zealand.

The Admissions and Registration Coordinator and the Admissions Officer attended the twentieth meeting of AALAA in Victoria on 14 October 2020, and the Board's Executive Director attended for part of the morning session.

As Convenor of the Admissions Committee I wish to extend my genuine thanks to all of the members of the Admissions Committee for their attendance and contributions at meetings. I particularly thank those members who have been willing to meet with applicants for admission, draft reasons for decisions, instruct counsel, and review course materials. Their respective contributions have been invaluable.

As usual, I also extend my sincere thanks to the Board staff for their dedication and support to the Admissions Committee.

I would also extend my thanks to the members of the legal profession who have

provided support to the Admissions Committee over the past year.

Statistics for the period 1 July 2019 to 30 June 2020

Assessment of Foreign Qualifications

The number of applications for assessments of foreign qualifications received remained remarkably consistent. There were 86 assessments made in the year under review, 87 in the 2018/2019 year and 86 in the 2017/2018 year. Of the 86 foreign qualified applicants assessed in 2019/2020, 56 were previously admitted overseas and 30 were overseas law graduates.

Assessmo		
Qualified	Admitted	No.
Australia	Malaysia	1
Africa – Kenya	Africa - Kenya	2
Africa – Kenya	Not admitted	1
Africa - Nigeria	Africa - Nigeria	1
Africa – Zimbabwe	Africa – Zimbabwe	1
Africa – Ghana	Africa – Ghana	1
Brazil	Brazil	2
China	China	1
England & Wales	Not admitted	16
England & Wales	England & Wales	11
England & Wales	Malaysia	2
England & Wales	UK/Malaysia	1
England & Wales	Singapore	1
England & Wales	Hong Kong	2
Hong Kong	Hong Kong	4
India	India	6
India	Not admitted	1
Ireland	Not admitted	1
Italy	Italy	1
Jordan	Jordan	1
Korea	Not admitted	1
Lebanon	Not admitted	1
Maldives	Maldives	1
Poland	Not admitted	1
Scotland	Not admitted	3
Serbia	Not admitted	1
South Africa	Not admitted	1
South Africa	South Africa	12
South Africa	South Africa/UK	1
Sri Lanka	Sri Lanka	1
Sri Lanka	Sri Lanka/UK	1
United States	Not admitted	1
United States	United States	2
Venezuela	Not admitted	1
Vietnam	Not admitted	1
Total assessments	•	86

Admissions Including Mutual Recognition		
Admitted pursuant to s26 of the Legal Profession Act 2008	385	
Admitted pursuant to the Mutual Recognition (WA) Act 2010		
Admitted pursuant to the Trans-Tasman Mutual Recognition (WA) Act 1997	2	
Total Admissions	391	

There were 385 lawyers admitted pursuant to the Act in the current year, 57 less than in the previous year.

However, the Supreme Court postponed the admission of at least 38 applicants who had been scheduled for admission in April, May and June due to COVID-19. Only a few urgent admissions were accommodated during that period. It is also likely that the plans of some prospective applicants to complete their admission applications in the first half of 2020 were delayed due to unforeseen consequences of the COVID-19 pandemic. It is therefore likely that those application numbers will be reflected in inflated admission numbers for the 2020/2021 year.

Of the 385 lawyers admitted this year, 127 were male and 258 were female, and they were qualified as follows:

Academic Qualifications:		
University of Western Australia	99	
Murdoch University	105	
University of Notre Dame	69	
Edith Cowan University		
Curtin University		
Corresponding Australian Law Schools		
Overseas qualified		
Total Admitted:	385	

^{**}Of the 15 overseas qualified persons admitted, 10 had previously been admitted overseas:

Hong Kong	1
The Philippines	2
South Africa	2
Sri Lanka	1
Singapore/UK/United States	1
England and Wales	2
United States of America	1
Total Previous Admitted Overseas	10

Practical legal training:	
WA College of Law	306
WA Leo Cussen PLT	18
Curtin University GDLP	3
Piddington PLT Course	22
Corresponding: - ANU	20
Corresponding: - Other	5
PLT as assessed by the Board (overseas)	11
Total Admitted	385

Registered Foreign Lawyers

As at 30 June 2019 there were 5 registered foreign lawyers.

During the year there were 6 new registrations.

One of those registered foreign lawyers, entitled to practice in the US, was registered in December 2019 and was admitted and granted a local practising certificate in June 2020. His registration automatically ceased.

As at 30 June 2020, there were 10 registered foreign lawyers

Germany	1
England and Wales & Scotland	2
England and Wales & France	1
England and Wales	
Poland	
United States of America	

SABINA SCHLINK

Convenor

PROFESSIONAL AFFAIRS COMMITTEE

The Professional Affairs Committee (**PAC**) convened on 18 occasions between 1 July 2019 and 30 June 2020. This included eleven (11) scheduled meetings and the PAC passing electronic resolutions without meeting on seven (7) occasions.

The PAC exercises delegated decision-making power in relation to:

- the grant and renewal of local practising certificates, subject to conditions in certain circumstances:
- regulation of interstate practitioners practising in Western Australia;
- regulation of local practising certificates, including:
 - monitoring of compliance with conditions imposed on practising certificates; including the variation and revocation of conditions.
 - the amendment, suspension or cancellation of local practising certificates.
- the regulation of business structures operating legal practices, including incorporated legal practices and the legal practitioner directors who control and manage these legal practices;
- the regulation of the administration and management of trust accounts;
- external intervention in respect of law practices; and
- the reservation of legal work and related matters, including the prosecution of persons engaging in unqualified practice and approval of lay associates.

Prior to November 2013 the PAC was also responsible, on behalf of the Legal Practice Board (**Board**), for monitoring compliance with Continuous Professional Development (**CPD**) requirements. At its meeting held on 27 November 2013 the full Board approved the establishment of a Professional Development Committee (**PDC**). The PDC has been established to exercise delegated powers of the Board in the area of professional development (including professional education and CPD). The PAC retains delegated power in relation to compliance with professional development, but it will not be exercising that delegated power unless it is in relation to conditions imposed by the PAC and where there are other matters before the PAC that require it to exercise that delegated power. Further information on the PDC is set out in this section of the report under the headings "Conditions on Practising Certificates" and "Compliance with Continuous Professional Development Requirements", and at page 58 of the overall report.

Convenor:

Mr JGM Fiocco

Deputy Convenor:

Mr MH Zilko SC

Members:

The Hon. J Gilmour QC
Mr GMG McIntyre SC
Mr GTW Tannin SC**
Mr RS Hooper SC
Mr MN Solomon SC
Mr MD Cuerden SC
Ms AL Forrester SC
Mr AJ Musikanth SC
Ms NB Dimmock
Mr GN Mack
Ms A Ciffolilli*
Ms KA Shepherd
Ms ML Coulson*

- * Part year
- ** leave of absence from January 2019. Resigned November 2019

Practising Certificates - Suitability Matters

With respect to its delegated power to issue annual local practising certificates the PAC:

- must not grant a local practising certificate unless it is satisfied that the applicant is a
 "fit and proper person" to hold the certificate [s 45(4)(b) of the Legal Profession Act
 2008 (Act)].
- must not renew a local practising certificate if it is satisfied that the applicant is not a "fit and proper person" to continue to hold the certificate [s 45(5)(b) of the Act].

The term 'fit and proper person' is not defined in the Act. However the Act sets out various matters that may be taken into account when considering whether a person is a fit and proper person to hold a local practising certificate, including:

Suitability Matters (s 8 of the Act)

Whether a person:

- (a) is currently of good fame and character;
- (b) is or has been an insolvent under administration;
- (c) has been convicted of an offence in Australia or a foreign country;
- (d) has engaged in unauthorised legal practice in Australia or in a foreign country;
- (f) is currently subject to an unresolved complaint or an investigation, charge or order under the Act, any of its predecessor(s) or a corresponding law;
- (g) is the subject of current disciplinary action, or has been the subject of disciplinary action involving a finding of guilt, in another profession or occupation in Australia or a foreign country;
- (h) has had their name removed from a roll of practitioners in Australia (and their name has not since been restored to that roll) or in a foreign country;
- (i) has had their right to engage in legal practice suspended or cancelled in Australia or in a foreign country;
- (j) has contravened, in Australia or a foreign country, a law about trust money or trust accounts;
- (k) has had a supervisor, manager or receiver appointed to their law practice under the Act, any of its predecessor(s) or a corresponding Australian law;
- (I) is or has been disqualified from being involved in a law practice under the Act, any of its predecessor(s) or corresponding Australian law;
- (m) is currently unable to carry out the inherent requirements of practice as an Australian legal practitioner.

Other matters (s 38(2) of the Act)

Include whether a person:

- (a) has obtained an Australian practising certificate because of incorrect or misleading information;
- (b) has contravened a condition of an Australian practising certificate held by them:
- (c) has contravened the Act, any of its predecessor(s) or a corresponding Australian law;

- (d) has contravened an order of the Legal Profession Complaints Committee or the State Administrative Tribunal or Supreme Court (Full Bench) or relevant appellate body exercising jurisdiction under the Act or any of its predecessors or an order of a corresponding disciplinary body, tribunal or court;
- (e) (i) has failed to pay a required contribution or levy to the Guarantee Fund; or
 - (ii) has contravened a requirement imposed under this Act about professional indemnity insurance; or
 - (iii) has failed to pay other costs, expenses or fines for which the person is liable under this Act or any of its predecessors;

and

(f) any other matters relating to the person the Board considers are appropriate.

With respect to each application for a practising certificate where a relevant "suitability matter" arises, the application is considered and determined on a case-by-case basis by the PAC, as to whether the applicant is a "fit and proper person" to hold a local practising certificate.

Where a "suitability matter" in relation to a particular practitioner comes to the attention of the PAC, during the currency of that practitioner's local practising certificate, the PAC will consider whether to cancel or suspend the certificate, whether to impose conditions on the certificate or whether to take no action.

During the 2019-2020 year, three hundred and fifty six (356) separate "suitability matters" were considered by the PAC or by the Executive Director, or Deputy Executive Director, under delegation of power. This is a decrease from the 439 suitability matters considered in the previous reporting period.

Conditions on Practising Certificates

In some circumstances, the PAC may resolve that a practitioner should be granted or retain a local practising certificate only if certain conditions are attached to the certificate. These conditions can be concerned with matters such as restricting the holder to particular conditions concerning employment or supervision, restrictions on dealing with trust money, a requirement to undergo medical treatment, or a requirement to obtain a mentor.

Where appropriate, the PAC maintains a monitoring role as to the continuing necessity, appropriateness and sufficiency of the conditions imposed to meet public interest objectives.

Between 1 July 2019 and 30 June 2020, conditions were imposed on practising certificates on twenty five (25) occasions, and conditions were removed from practising certificates on six (6) occasions (these figures do not include the 'Barrister only' or 'Volunteer or pro bono only' conditions). These figures indicate no significant difference in the numbers from the previous reporting period. There was a slight decrease in the number of practitioners being the subject of an unresolved complaint at the Legal Profession Complaints Committee (LPCC) or another jurisdiction (from 126 to 104), no discernible difference in the number of practitioners disclosing traffic offences (including drink driving offences), and no difference in the number of practitioners being convicted of an offence or charged with a serious offence. There has been a decrease

in convictions from the use of illicit substances, resulting in conditions being imposed on a practising certificate.

During the reporting period there was a significant decrease (from 7 to 1) in the number of practitioners required to report on the maintenance of their trust account or to not operate or otherwise be involved in a trust account.

During the reporting period, five (5) practitioners sought to exclude their particulars from the public register. All were successful on the grounds their applications demonstrated special circumstances, being the practitioners were running a law practice from a residence, appeared in matters where the parties either demonstrated a threat to personal safety or had provided threats to personal safety, and there was no reason not to consider the request.

'Barrister only' Condition

Since 1 July 2012 the Board has made available a 'Barrister only' condition for imposition on a barrister's local practising certificate issued.

The wording of the 'Barrister only' condition states:

The holder requests and agrees pursuant to section 47(3)(i) of the Act that the following conditions be imposed upon this practising certificate, namely:

- 1. The holder will while engaging in legal practice work solely as an independent barrister, which comprises:
 - (a) appearing as an advocate;
 - (b) preparing to appear as an advocate;
 - (c) negotiating for a client with an opponent to compromise a case;
 - (d) representing a client in a mediation or arbitration or other method of alternative dispute resolution;
 - (e) giving legal advice;
 - (f) preparing or advising on documents to be used by a client or by others in relation to the client's case or other affairs;
 - (g) carrying out work properly incidental to the kinds of work referred to in (a)-(f); and
 - (h) such other work as is from time to time commonly carried out by barristers.
- 2. The holder must, while engaging in legal practice be a sole practitioner, and must not:
 - (a) practise in partnership with any person;
 - (b) practise as the employer of any legal practitioner who acts as a legal practitioner in the course of that employment;
 - (c) practise as the employee of any person;
 - (d) be a legal practitioner director of an incorporated legal practice; or
 - (e) be a member of a multi-disciplinary partnership.

The condition is set out in its entirety in an Annexure attached to a barrister's local practising certificate. The following is displayed on the face of the certificate:

'Barrister only' condition - see details in Annexure A

Once imposed, the condition remains on a barrister's local practising certificate until the Board removes the condition after accepting the barrister's application to the Board for its removal.

Barristers with the 'Barrister only' condition imposed on their local practising certificate must still comply with professional indemnity insurance and continuing professional development requirements.

The 'Barrister only' condition can only be imposed by the Board on a barrister's local practising certificate with the agreement of the holder, pursuant to s 47(3)(i) of the Act. The arrangement is voluntary. However a legal practitioner who does not agree to the 'Barrister only' condition will not be entitled to use the name, title or description of "barrister" (see: item 7 in reg 5(2) of the Legal Profession Regulations 2009).

The PAC is responsible for considering requests for the imposition and removal of the 'Barrister only' condition on local practising certificates. During the 2019-2020 year, the Board received ten (10) requests to impose the condition. The Board's Executive Director, or Deputy Executive Director, imposed all the conditions under delegated authority. There were four (4) applications to have the 'Barrister only' condition removed during the year (with 2 being reinstated following a change in employment arrangements).

'Volunteer or pro bono only' Condition

The Board has since 1 July 2012 made available for a nil fee 'Volunteer or pro bono only' condition for imposition on a local practising certificate.

The wording of the 'Volunteer or pro bono only' condition states:

This practising certificate is issued free of fees on condition that the holder is only engaged in the provision of legal services on a not-for-profit basis and does not charge any person nor seek to recover a fee from any person, save that the holder may:

- receive remuneration via a costs order in a matter if the holder has accepted a referral to act in that matter under Order 4.14 of the Federal Court of Australia Rules 2011 or under Order 12 of the Federal Circuit Court of Australia Rules 2001;
- 2 recover from a person any out of pocket disbursements reasonably paid by the holder on behalf of a person.

The condition is set out in its entirety in an Annexure attached to a practitioner's local practising certificate. The following is displayed on the face of the certificate:

Volunteer or pro bono only condition - see details in Annexure A

Once imposed, the condition remains on the practitioner's local practising certificate until the Board removes the condition after accepting the practitioner's application to the Board for its removal.

Practitioners with the 'Volunteer or pro bono only' condition imposed on their certificate must still comply with professional indemnity insurance and continuing professional development requirements.

The 'Volunteer or pro bono only' condition can only be imposed on a practitioner's local practising certificate with the agreement of the holder, pursuant to s 47(3)(i) of the Act. The PAC, the Board's Executive Director, or Deputy Executive Director, exercise delegated power in considering requests for the imposition and removal of the 'Volunteer or pro bono only' condition on local practising certificates.

Since 1 July 2019, the Board has imposed the 'Volunteer or pro bono only' condition on forty (40) local practising certificates with no requests being refused. This represents a significant increase in the number of 'Volunteer or pro bono only' conditions imposed (from 27 to 40). There have been thirteen (13) applications to have the 'Volunteer or pro bono only' condition removed (an increase from the last reporting period, being 2), which were accepted by the Board's Executive Director, or Deputy Executive Director, under delegated authority. This represents a significant increase in the number of 'Volunteer or pro bono only' conditions removed (from 2 to 13).

However the Admissions and Registration Committee (**ARC**) will also impose the 'Volunteer or pro bono only' condition on practising certificates if the practitioner has not previously held a local practising certificate or has not held a practising certificate in the previous 5 years.

Further information on the ARC can be found in the overall report at page 28.

Disclosure of suitability matters

The Board has approved disclosure guidelines, available on the Board's website, for the purpose of:

- Informing applicants and practitioners that the Board places a duty and onus on each applicant and practitioner to disclose any matter that could influence the Board's decision whether the person is "currently of good fame and character" and a "fit and proper person"; and
- Informing applicants and practitioners that failure to do so, if subsequently
 discovered, can have serious consequences for an applicant or practitioner as they
 might be suspended or struck off the roll of practitioners, or have an application for
 the grant or renewal of a local practising certificate refused, if they have not made
 full disclosure; and
- Providing guidance to the PAC on its considerations of whether the person is "currently of good fame and character" and a "fit and proper person", and PAC's management of process in that regard.

Spent Convictions

The PAC has previously raised concerns that a person was not required to disclose a spent conviction in order to assist the Board assessing whether the person is a *"fit and proper person"* to hold a local practising certificate.

Amendments to the *Spent Conviction Act 1988* provide that the Board and LPCC are excepted from the provisions of section 22 and Part 3 Division 4 in respect of all spent convictions. This means that Australian lawyers and applicants for the grant or renewal of a local practising certificate are required to disclose a spent conviction to the Board and that the conviction may be taken into account in considering whether the applicant is a *"fit and proper person"*. Additionally, if practitioners are handed a spent conviction during the practising certificate year they are required to disclose this to the Board under the applicable provisions of sections, 8, 51, 61 or 62 of the Act.

The above disclosure requirement extends to persons applying to become an Australian-registered foreign lawyer and Australian-registered foreign lawyers (see sections 8, 179 and 180 of the Act).

Matters Considered in Relation to Practising Certificates

The following table sets out the matters considered by the Board during the reporting

period and the outcome of that consideration, including the consideration of suitability matters, and the imposition and removal of conditions on local practising certificates. The table also includes the *'Barrister only'* and *'Volunteer or pro bono only'* conditions imposed on local practising certificates during the reporting period.

Matter	Outcome	No
Pending disciplinary matter before the LPCC / interstate disciplinary tribunal	Local practising certificate issued notwithstanding the pending complaint and reservation of the Board's rights (90). Application for renewal deferred pending further information (13). Complaint in another Australian jurisdiction, practising certificate issued, keep the Board informed of any material change (1)	104 (including 0 who had failed to disclose the pending complaint)
Traffic offences, including drink driving	With details provided, no further action and local practising certificate issued (19). Local practising certificate issued subject to concern raised and request to change behaviour (1)	20
Convicted of a tax offence	Local practising certificate issued pending outcome of proceedings (1) Local practising certificate issued subject to existing conditions requiring practitioner to provide the Board with periodic reports of compliance with BAS obligations (1) Local practising certificate issued subject to existing conditions requiring practitioner to provide the Board with periodic reports of compliance with BAS obligations, reminded of obligation to provide candid response to Board requests, conduct referred to the LPCC, practising certificate suspended, and reinstated with conditions (1)	3
Charged or convicted of an offence	Historic conviction (2), previously disclosed (1), no further action and practising certificate issued (3) Convicted – explanation provided, local practising certificate issued (2)	5

Matter	Outcome	No
Charged with a serious offence	Conditions imposed by consent and undertaking provided to be supervised, practitioner required to keep Board informed of progress of charges, reservation of rights to consider if fit and proper (1) Practising certificate issued with conditions (1) Local practising certificate already issued, conditions imposed for random urinalysis, practitioner required to keep Board informed of progress of charges (1) Renewal application deferred pending outcome of charges. Agreed to imposition of conditions that practitioner provide periodic reports from psychiatrist (1) Charges discontinues, no further action (1) Renewal application deferred pending outcome of charges (4) Charges yet to be established. Local practising certificate issued on condition practitioner notifies Board of progress of charges (2) Charged with tax offence. Explanation provided, practising certificate issued (1)	12
Name removed from foreign roll, eligible to be reinstated on payment of fee.	Local practising certificate issued. Explanation provided and noted, no action taken.	3

Matter	Outcome	No
Contravened a condition on a practising certificate	Breach of the CPD condition, practising certificate issued with additional CPD conditions imposed and managed (7) Breach of CPD condition, and additional CPD condition (2), referred to another delegate of the Board (4). Breach of PMC condition referred to another delegate of the Board (1). Alleged breach of CPD condition, explanation provide, no further action (5) Historic breach of condition, no further action (1).	18
Contravened a law about trust money or trust accounts	Trust account defalcation. Supervisor of Trust Money appointed. Practising certificate issued pending outcome of complaint (2) Breach of trust account requirements. Explanation provided, pending outcome of investigation practising certificate issued with reservation of rights to consider if fit and proper (1) Minor trust account breaches. Rectification action and explanation, no further action (6) Local practising certificate issued imposed with conditions to provide periodic trust account record reports (1) Civil proceedings that could have led to trust account irregularities settled on confidential basis. No further action taken (1)	11
Health condition	Local practising certificate application refused to consider until further information provided (1) Local practising certificate issued subject to the conditions requiring periodic reporting from treating or approved practitioner (including 1 with conditions carried over from previous year, and 1 with periodic urinalysis and a mentor) (5)	6

Matter	Outcome	No
Is or has become bankrupt	Local practising certificate issued subject to the following conditions: • Practise only as employed solicitor. • Practitioner not to operate or be involved in a trust account. • Requirement to provide periodic reports from trustee on compliance with bankruptcy requirements	3
Failed to lodge tax returns	Submissions on why the practitioner remains a fit and proper person, fine paid, no further action and practising certificate issued.	1
Served with a Creditors Petition	Explanation provided, petition dismissed, and practising certificate issued.	1
Insolvent law practice	Ceased trading, conditions imposed, local practising certificate issued.	2
Employee of law practice with appointment of a Manager	Former employee of law practice under Management. Explanation provided. Local practising certificate issued.	2
Failure to comply with professional indemnity insurance requirements	Waiting for insurance rebate, explanation provided and no further action. Practising certificate issued (1) Failed to provide evidence of insurance. Practising certificate expired, no right to engage in legal practice (1) Failed to provide evidence of insurance for second place of practice. Referred to LPCC. Explanation provided, no further action, practising certificate issued (1)	3
Failure to respond to Board's requests	Referred to LPCC (1) Referred to LPCC, suspended practising certificate (later reinstated), renewal deferred and practising certificate issued with conditions (1) Refused to consider application for practising certificate (1) Refused to renew practising certificate (2)	5

Matter	Outcome	No
Contravened the Act	Alleged breach of Legal Profession Conduct Rules 2010, referred to LPCC (1)	49
	Failure to obtain approval to be employed as a lay associate of a law practice. With explanation no further action taken (including 1 foreshadowing breach of lay associate approval) (24)	
	Failure to give notice of commencement of an incorporated legal practice (1 where the incorporated legal practice wrote to all affected clients, 1 where there was substantive compliance, 1 where no action was taken on the breach) (3)	
	Failure to give notice of an incorporated legal practice ceasing (including 1 that remains unresolved) (5)	
	Failure by interstate practitioner to notify commencement of practice in WA (16)	
Failure to comply with order of a court or tribunal	Ongoing investigation into whether fit and proper	1
Engaged in legal practice unlawfully	Breach of ss 12(2) and 13(1). Conduct referred to LPCC, with no further action taken. Offences can be reported to appropriate prosecuting authority by complainant (1)	4
	Breach of s 13(1) explanation provided and no further action (1)	
	Potential breach of s 12(2), explanation provided and no further action (1)	
	Breach of s 12(2) and explanation provided. Practising certificate issued with conditions (1)	
Capacity to continue practising	Matter referred from Supreme Court, practitioner ceased practising	1
Applicant subject to imposed mentoring conditions	Local practising certificate issued subject to conditions that the practitioner meets with an approved mentor who provides periodic reports to the Board. (including 1 agreeing not to engage in legal practice without giving 42 days' notice, practising certificate not renewed) (3).	3

Matter	Outcome	No
Audit of a law practice	Audit of law practice by the LPCC for failure to notify the Board of trust account irregularities. The matter has been deferred (1).	1
Applicant subject to orders of the State Administrative Tribunal imposing conditions on practice	Imposition of condition, including 1 carried over from previous year (3)	3
Subject to orders of the State Administrative Tribunal or the Supreme Court	Noted that practitioner found guilty of professional misconduct, public reprimand, fine and costs (1) Noted that practitioner found guilty of professional misconduct, suspended, reprimanded, fine and costs. Refused to renew practising certificate, can apply following period of suspension (1) Historic orders. No further action (1) Noted that practitioner found guilty of professional misconduct. Undertaking not to take specific instructions, fine and costs (1)	4
<i>'Barrister only'</i> condition	<i>'Barrister only'</i> condition imposed at the request of the practitioner on the practitioner's practising certificate (10) <i>'Barrister only'</i> condition removed at the request of the practitioner, from the practitioner's practising certificate (4)	10
'Volunteer or pro bono only' condition	'Volunteer or pro bono only' condition imposed at the request of the practitioner on the practitioner's practising certificate (40) 'Volunteer or pro bono only' condition removed at the request of the practitioner, from the practitioner's practising certificate (13)	40

Matter	Outcome	No
Miscellaneous matters	Disclosures made in error (33)	42
matters	Breached internal compliance, explanation provided, no further action (1)	
	Historic complaint of unqualified legal practice in another jurisdiction, no further action (1)	
	Civil proceedings, explanation provided and no further action (1)	
	Allegations of criminal conduct in family court proceedings, no further action (1)	
	Traffic offences in another jurisdiction, judicial comments on conduct, reservation of rights to consider fitness to practice (1)	
	Assisting in workplace investigation, no further action (1)	
	Alleged minor misconduct investigation, not made out, no further action (2)	
	Alleged professional misconduct during mediation, no further action (1)	
Total		356

Failure to Apply for Renewal of a Practising Certificate Within the Renewal Period of 1 May 2019 to 30 June 2019

Section 44 of the Act provides that a person who holds a current local practising certificate must make an application to renew that certificate before it expires.

Section 44(4) provides that the Board may exercise its discretion to accept an application for renewal of a certificate lodged after the expiry of that certificate and treat it as if it were received prior to the expiry of the original certificate. That discretion is limited to the Board being satisfied that the delay was caused by:

- 1. reasons beyond the control of the applicant; or
- 2. other special circumstances warranting acceptance of the application. The Board's Executive Director and Deputy Executive Director have been delegated power to accept applications for renewal made after 1 July.

During 2019-2020, the Board was referred twenty (20) applications to renew practising certificates lodged with the Board after 30 June 2019. Eighteen (18) applications were considered and accepted, one was accepted after further information was provided, and one (1) was withdrawn.

These figures indicate a continuing decrease in late applications from the previous reporting periods, decreasing from ninety seven (97) to twenty three (23) in the last reporting period and now to twenty (20). Increased education and awareness has continued to be provided to the profession to minimise any late renewals. The Board's measures to ensure the profession is aware of the requirement to lodge an application to renew a local practising certificate in the prescribed period appear to be having a positive effect.

Refund of Fees

Rule 2 of the *Legal Profession Rules 2009* (**Rules**) provides that the fee payable for an application for the grant or renewal of a practising certificate is the relevant fee payable in Schedule 1 of the Rules.

Rule 55 provides that if the Board determines that, in a particular case, it is not practicable for a person to comply with any of the Rules or that there are other special circumstances, the Board may excuse a person from complying with that rule to the extent and subject to any conditions determined by the Board.

The Executive Director and Deputy Executive Director have the delegated power to excuse a person from complying with the Rules, if the non-compliance is of a trivial or technical nature, and subject to any conditions determined by the Board, pursuant to rule 55 of the Rules. The PAC has delegated power to excuse a person from complying with the Rules, subject to any conditions determined by the Board, pursuant to rule 55 of the Rules.

During 2019-2020, the Board considered seventy nine (79) applications for the refund of the fee payable for an application for the grant or renewal of a local practising certificate. Sixty (60) applications were accepted and the applicants excused from complying with the Rules.

Of the 60 applications that were accepted, twelve (12) were approved for a refund of the late fee payable, seventeen (17) were approved for the refund of the fee after the application was withdrawn, thirty three (33) were approved for the refund of the fee payable after overpaying the prescribed fee, none were approved in circumstances where the Board refused to accept the late application as a renewal application and instead considered it as the grant of a practising certificate as the prescribed fee had not been paid on that occasion. Nineteen (19) applications were refused and the applicants were required to comply with the Rules.

These figures indicate a significant increase from the previous reporting period in relation to those refunds being considered, increasing from thirty five (35) to seventy nine (79), however this figure remains less than in the 2017-2018 reporting period (in which 107 applications for a refund were received). The Board will increase measures to ensure the profession is aware of the requirement to lodge an application to renew a local practising certificate in the prescribed period. The Board is also updating its policy on the refund of fees accompanying an application for a local practising certificate.

In addition, forty six (46) applications were considered to waive the requirement to pay the prescribed fee under the Rules in circumstances where the application was seeking the imposition of the 'Volunteer or pro bono only' condition to be imposed on a practising certificate. All applications were accepted and the prescribed fee not paid. The workload for the Board in this regard has not increased in the reporting period, but is expected to increase in the next reporting period.

Lay Associate applications

Section 15(2)(a) of the Act provides that a law practice must not have a lay associate whom any principal or other legal practitioner associate of the practice knows to be an Australian lawyer unless the lay associate is approved by the Board under s 15(3).

Section 15(3) provides that the Board may, on application by a law practice or the lay associate, approve a lay associate.

The Executive Director, or Deputy Executive Director, has the delegated power to approve a prospective lay associate application, except in cases where the approval would be outside a policy approved by the Board. In those instances and where the Executive Director does not approve the application, the application is considered by the PAC.

In June 2015 the Board delegated to the Executive Director and Deputy Executive Director the power to consider a breach of s 15(2) of the Act and decide to take no action if satisfied that the breach was inadvertent and if there have been no breaches of the Act by the law practice or the lay associate.

During the 2019-2020 year, the Board considered one hundred and thirty six (136) applications for prospective approval, approving one hundred and eleven (111), one (1) approval being made by the PAC, and no refusals being made by the PAC. The PAC also considered one matter where the lay associate was foreshadowing activities that would breach the conditions of the lay associate's approval. Twenty four (24) applications were considered where the associate had commenced working for the law practice prior to obtaining approval from the Board. The PAC considers that it does not have the power under the Act to give retrospective approval. In each of those twenty four (24) cases, the Board considered an explanation from either or both of the law practice and the lay associate, and resolved not to take the apparent breach of s 15 of the Act any further.

These figures indicate a slight reduction in the number of lay associate matters compared to the previous reporting period (from 198 to 136). The prevalence of lay associates is to be monitored as it is expected to increase with an increase in Australian lawyers seeking work in a law practice without holding a practising certificate.

A policy for the approval of lay associates has been implemented by the Board. The workload for the Board in this regard is not expected to increase in the next reporting period.

Business Structures – Incorporated Legal Practices and Multi Disciplinary Practices

During 2019-2020, the Board was notified of the commencement of eighty two (82) Incorporated Legal Practices (**ILPs**) and the Board was notified that sixteen (16) ILPs ceased practice. This brings the total number of ILPs in Western Australia to eight hundred and forty (840). The Board was not notified of the commencement of any new Multi Disciplinary Practices (**MDPs**) and no MDPs ceased practice. This means the total number of MDPs in Western Australia remains at twelve (12).

During the 2019-2020 year, the PAC considered three (3) instances of the failure of an ILP to give the Board the required notice of its intention to commence practice before commencing to provide legal services in possible contravention of s 102 of the Act. A corporation that contravenes s 102 is not entitled to recover any amount for any legal services provided during the period of time it was in default and is also liable to be fined.

Of the three (3) matters considered the PAC considered that one (1) of the ILPs may have breached their obligations under s 102 of the Act. That one (1) ILP was required to write to each affected client to inform those clients of the position and advise them of their right to request a refund of fees pursuant to s 102 of the Act, and then to advise the Board in writing that this had been done, and no further action was taken in relation to the remaining two (2) matters.

The PAC also considered five (5) instances of an ILP's failure to give the Board the required notice of its ceasing to provide legal services in possible contravention of s 104 of the Act. A corporation that contravenes s 104 is liable to a fine. In all cases, the PAC noted explanations from the corporations as to the circumstances of their apparent breach of the Act.

The PAC also continues its consideration of three (3) instances of an ILP becoming insolvent. One (1) instance has been ongoing since 2015. In this instance, the liquidator refused to accept liability for the storage of the files of the law practice. The PAC considered the former principal practitioners of the law practice to be responsible for the client files of the law practice in their capacity as a practitioner with designated responsibility for the carriage of the client matter. This matter remains unresolved, however the practitioners have accepted their responsibility as the practitioner with designated responsibility and the practicalities of carrying out that responsibility is ongoing. That responsibility remains unquantifiable as the Board has been unable to access the files in question.

In the other two (2) instances, conditions were imposed on the practitioner's practising certificate requiring that they only engage in legal practice as an employed solicitor. There has been no issue regarding liability for the storage of the files of the practice.

There have been no further ILPs go into liquidation during the reporting period.

The PAC accepts undertakings provided advising of the law practice's methods of ensuring the public and clients are aware a director or partner of a law practice is not an Australian legal practitioner holding an unrestricted practising certificate.

During the 2019-2020 year, the PAC considered no instances of a legal practitioner in an existing MDP failing to give the Board the required notice of intention to commence practice before commencing to provide legal services in possible contravention of s 133 of the Act. A legal practitioner who contravenes s 133 is liable to be fined. If this should occur, the Board usually notes the explanation from the MDP and the legal practitioner as to the circumstances of the apparent breach of the Act.

The number of ILPs is increasing and it is expected that there will be a steady increase in the number of matters where the law practice has failed to give the Board the required notice of its commencement or ceasing to provide legal services in Western Australia. The Board has included a question in the application form for a practising certificate relating to ILPs to assist in early identification of non-complying ILPs and this appears to have had a positive effect on the decreased number of ILPs failing to give notice. There may be increased work load in relation to managing insolvent ILPs.

Trust Account Investigations

The PAC has responsibility for ensuring that practitioners are complying with the requirements prescribed for the administration and management of trust accounts.

Section 237 of the Act requires a law practice to have an external examination of its trust records each financial year.

Section 239 of the Act requires a law practice to have a final external examination of its trust records within 60 days of closing a trust account.

In June 2015 the Board delegated to the Executive Director and Deputy Executive Director the power to consider a breach of sections 237 and 239 the Act and decide to take no action if satisfied that the law practice has not held or received trust money exceeding \$1,000 during the relevant period, and if there are no other matters of concern in relation to the law practice or the principal(s) of the law practice. Where the Executive Director or Deputy Executive Director does not consider the breach, the breach is considered by the PAC.

During the 2019-2020 period, sixteen (16) matters were considered where the law practice sought the Board to exercise its discretion to grant an exemption in relation to an omission to have an external examination in the current financial year. On all occasions the Board exercised its discretion to not take any action in relation to omissions to have an external examination or final external examination.

The Board considered the designation of an external examiner on seven (7) occasions:

- On six (6) occasions granting status as a designated accountant qualified to be an external examiner; and
- On one (1) occasion the Board considered, in the circumstances, that the applicant was not eligible to be appointed as an external examiner in Western Australia.

The Board considered ten (10) matters where the practitioner contravened a law about trust money or a trust account.

- On two (2) occasions the PAC considered that an associate of the law practice had
 misappropriated funds from the trust account. One matter has been ongoing. The
 principal practitioner's conduct has been referred to the LPCC and a Supervisor of
 Trust Money has been appointed in both instances. While the matters remain under
 investigation the Board has reserved its rights to consider whether the principal
 practitioners remain fit and proper to hold a practising certificate.
- On one (1) occasion the PAC has deferred consideration pending the outcome of an investigation by the LPCC. The Board has reserved its rights to consider whether the practitioner remains a fit and proper to hold a practising certificate.
- On one (1) occasion the practitioner is subject to conditions to provide periodic reports to the Board demonstrating compliance with trust account obligations.
- On six (6) occasions the trust account breaches were minor and upon action being taken to rectify the errors no further action was taken.

Information on Trust Account Investigations can be found in this report at Page 69.

External Intervention

Part 14 of the Act empowers the Board (or, in this instance its delegate the PAC), when it becomes aware of specific circumstances, to appoint a supervisor of trust money of a law practice, to appoint a Manager for a law practice or to apply to the State Administrative Tribunal for an order appointing a receiver for a law practice. In making its determination, the PAC considers, amongst other things, the interests of the clients of the practice in relation to trust money or trust property.

The table below shows the number of external interventions undertaken in 2019-2020.

Part of Act	Type of External Intervention	Opening Balance	Commenced	Closed	Closing Balance
Part 14 – Division 3	Supervisor of trust money	1	7	5	3
Part 14 – Division 4	Manager	20	6	14	12
Part 14 – Division 5	Receiver	0	0	0	0

On one occasion an application to set aside the Board's decision to appoint a Manager was lodged in the State Administrative Tribunal. The application was later withdrawn.

When appropriate, the PAC also provided informal assistance to practitioners to help them manage or wind up their practices without the need for formal intervention.

The number of external intervention matters has decreased from the last reporting period.

As referred to under 'Business Structures', the Board has appointed joint and several managers to an insolvent ILP in liquidation. The liquidators denied liability for the cost of storage of client files and disclaimed the storage facility contracts.

Unqualified Legal Practice

The PAC is responsible for investigating complaints regarding, and if required, instituting proceedings against, unqualified persons who perform legal work for reward or who hold themselves out as legal practitioners.

It is an ongoing concern to the PAC that the community is exposed to the risks of unqualified people offering so called *'legal services'*. A member of the public utilising those services can have no confidence that the person providing the services has any minimum level of legal training or competence or the protection of professional indemnity insurance.

Unqualified people are not subject to the statutory, professional, and ethical obligations that are imposed upon legal practitioners for the purpose of safeguarding the interests of clients, and who have dealings with other legal practitioners, and the administration of justice.

If a member of the public is dissatisfied with the legal services provided by an unqualified person or that person's conduct towards them, there is no recourse to the LPCC nor, in the case of loss or damage being suffered, is there recourse to the mandatory statutory professional indemnity scheme.

During 2019-2020, the Board was notified, or became aware, of twenty seven (27) new matters regarding possible unqualified legal practice or representing an entitlement to engage in legal practice when not entitled to do so.

This is to be contrasted with the fifty three (53) new matters during the previous reporting period. The instances of unqualified legal practice decreased in the last reporting period.

The Board is developing guidelines with regard to the prosecution of unqualified legal practice that will assist in the investigation and consideration of these matters.

Of the new matters considered,

- Three (3) matters involved an Australian lawyer. Of those matters:
 - One (1) matter involved an Australian lawyer engaging in legal practice by remaining an executor of an estate. The conduct was referred to the LPCC. The matter was resolved after an explanation of the conduct in question. It remained open to the complainant to refer the matter to the WA police.
 - One (1) matter involved an interstate lawyer. The matter was resolved after an explanation of the conduct in question.
 - One (1) matter involved the possible unqualified legal practice by a corporation providing legal services in the area of wills and estates. The matter was resolved after an explanation and undertaking were provided, and rectification of the practice structure.
- Seventeen (17) matters were resolved after the unqualified persons provided explanations for the conduct complained of. Of those matters:
 - Two (2) matters involved the misuse of titles in breach of s 14 of the Act. The
 matters were resolved after the practitioners rectified titles and provided an
 explanation.
 - One (1) matter involved a law graduate making legal assertions in relation to a contractual dispute. After an explanation was provided the Board took no further action.
 - Nine (9) matters involved law graduates using a name, title or description they
 were not entitled to use. The matters were all resolved by the law graduate
 providing an explanation.
 - One (1) matter involved a lay person using a name, title or description they
 were not entitled to use. The matter was resolved when an explanation was
 provided.
 - One (1) matter involved a lay person engaging in legal practice and holding out a defence under s 12(4) of the Act. The matter was resolved when an explanation was provided.
 - One (1) matter involved a lay person assisting a family friend in relation to a Workcover claim. The matter involved alleged conduct of a legal practitioner, which was referred to the LPCC. The matter against the lay person was taken no further after an explanation was provided.
 - One (1) matter involved a lay person advertising services on an online services platform. The matter was resolved when an explanation was provided.
 - One (1) matter involved a lay person providing advice on a District Court matter and allegedly providing other legal services. The matter was resolved when an explanation was provided.
- Six (6) matters were referred to counsel for advice. Of those matters:
 - Two (2) matters involved a lay person acting for a client in a property transaction, referred to counsel for advice on prospects of prosecution, and a prosecution was commenced in both matters with a conviction recorded in one matter, and the other matter adjourned for final hearing.
 - One (1) matter involved a social media platform advertising legal services, referred to counsel for advice on prospects of prosecution, and a prosecution

was commenced with a conviction recorded. The matter is currently the subject of an appeal.

- One (1) matter involved a website making representations the person was entitled to engage in legal practice, referred to counsel for advice on prospects of prosecution, and a prosecution was commenced with a spent conviction recorded.
- One (1) matter involved a director of an incorporated legal practice engaging in legal practice, referred to counsel for advice on prospects of prosecution, and a prosecution was commenced. The accused passed away before the prosecution was concluded and the matter has been discontinued.
- One (1) matter involved a lay person providing family law advice through a
 dispute resolution business, referred to counsel for advice on prospects of
 prosecution, and a prosecution was commenced in the reporting period and
 was ongoing. The matter later resulted in a conviction.

One (1) matter has been carried over from the previous reporting period where the convicted offender lodged an appeal which was dismissed; lodged an appeal to the Court of Appeal, which was partially allowed; lodged an application for special leave to the High Court of Australia, which was dismissed, and a minor case claim in relation to costs which was heard and dismissed.

The PAC does not believe the public interest always requires it to bring prosecution proceedings, even when it is satisfied there are reasonable prospects of success. The PAC recognises that there are, in some instances, other more cost-effective ways to protect the interests of the public and the reputation of the profession as opposed to prosecution through the court system and in those cases appropriately exercises its discretion accordingly.

John Fiocco

Convenor

November 2020

PROFESSIONAL DEVELOPMENT COMMITTEE

The Role of the Professional Development Committee

The Professional Development Committee (**PDC**) exercises powers delegated to it by the Legal Practice Board (Board) in relation to continuing professional development and legal education. The role of the PDC is to determine and review policy in regard to continuing legal education including continuing professional development and postadmission education. The PDC monitors compliance with continuing professional development obligations and imposes conditions on practising certificates where required in regard to continuing legal education compliance matters. The PDC also monitors the practice management course condition imposed on practising certificates, and course providers.

Committee Process

The PDC convened for nine (9) scheduled meetings between 1 July 2019 and 30 June 2020.

Convenor:

Mr John Syminton

Deputy Convenor:

Ms Rebecca Heath

Members:

Ms Patricia Femia* Ms Carmel Barbagallo SC* Ms Mara Barone SC* **Mr Gary Cobby SC** Mr Martin Cuerden SC Ms Karen Farley SC Mr Michael Feutrill SC **Mr Gary Mack** Mr Stephen Wright SC Mr Matthew Zilko SC

*Part vear

Practice Management Scheme

In 2014-2015 the Board directed the introduction of a mandatory Practice Management Course (PMC) for all practitioners wishing to practise in the capacity of a principal of a law practice as defined in section 6(3) of the Legal Profession Act 2008.

It was decided that the PMC would be introduced through the imposition of a condition on the local practising certificate of all practitioners who were not practising as a principal of a law practice as at the date of introduction of the scheme, that being 1 July 2016 (PMC Condition). The enabling legislation for the imposition of the PMC Condition was commenced on 1 July 2016 through amendments to the *Legal* Profession Rules 2009 (Rules).

The PMC Condition requires the successful completion of the PMC before the practitioner can practise as a principal of a law practice. Practitioners may seek a revocation or variation of the condition by application, and must give notice to the Board, in the required form, of their intention to commence practising as a principal of a law firm.

Currently, the College of Law is the only approved external provider of a PMC in Western Australia. The PDC has approved the application of one law practice for their internal partnership training as an approved PMC.

The College of Law commenced its first PMC on 18 July 2016, and delivers the course on average 6 times per year. The PMC is delivered by College of Law through 30 hours of online course material comprising reading material and practical online exercises and questions, to be completed prior to attendance; and a 3 day face-to-face workshop with interactive problem-based sessions.

The College of Law has also advised that they intend running a separate stream of the PMC for principals from large firms.

In 2020, due to COVID-19 and the associated protective measures, the College of Law advised the Board that it was developing alternative arrangements for the delivery of the PMC via strategies that do not involve the attendance of people in groups at a single location.

Practitioners may seek a revocation or variation of the PMC Condition by application to the Board, and must give notice to the Board, in the approved form, of their intention to commence practise as a principal of a law firm. This includes Barristers, however Barristers may seek to vary the PMC Condition to make its effect nugatory while the practitioner practises as a Barrister, has the 'Barrister only' condition imposed on the practitioner's local practising certificate, and has completed, or has undertaken to complete, a suitable course for practise as a Barrister that is approved by the WA Bar Association, or equivalent, within a specified period of time, or if the practitioner has the demonstrated skills or experience to practise as a Barrister.

In light of COVID-19 and the associated protective measures, the Board issued a notice advising the profession that, upon request, the Board would further vary the PMC condition for any practitioner who was unable to comply with the requirements due to factors relating to COVID-19.

Decisions Regarding PMC Matters

The PDC and the Board's Executive Director, or Deputy Executive Director, exercise delegated power in considering applications for variation and revocation of the PMC Condition. During the reporting period one hundred and ninety nine (199) applications for the variation or revocation of the PMC Condition were considered, including ninety three (93) applications made by practitioners who successfully completed an approved PMC in the reporting period. This represents a slight reduction in the overall applications, from two hundred and forty eight (248) in the last reporting period to one hundred and ninety nine (199).

Application type	Decisions by PDC	Decisions by ED/DED
Approved amendment of the variation of the PMC Condition for Barristers subject to completing an approved Bar Readers Course within two years.	0	3
Approved a further variation to the PMC Condition imposed.	1	0
Approved a variation of the PMC Condition for Barrister.	0	13
Approved a variation of the PMC Condition.	0	59
Approved a variation of the PMC Condition. Overseas Principal.	3	0
Approved a variation of the PMC Condition. Practising as a principal on a Volunteer or pro bono only basis.	2	0
Approved extension to the length of variation to the PMC Condition.	0	15
Total of variations approved	6	90
Approved revocation of the PMC Condition.	0	0
Approved revocation of the PMC Condition incorrectly imposed on a local practising certificate.	0	0
Approved revocation of the PMC Condition on the basis that the practitioner had demonstrated the requisite skills or experience to practise as a principal.	3	4
Approved revocation of the PMC Condition on the basis that the practitioner had completed an approved practice management course.	0	92
Approved revocation of the PMC Condition on the basis that the practitioner had completed an interstate approved practice management course.	0	1
Approved revocation of the variation on the PMC condition. PMC condition to remain.	0	0
Approved revocation of the variation on the PMC condition, no longer practising as a principal. PMC condition to remain.	0	0
Approved revocation of the variation on the PMC condition.	0	0
Total revocations approved	3	97

Application type	Decisions by PDC	Decisions by ED/DED
Refused application for the revocation of the PMC Condition after the practitioner successfully completed an approved PMC, as the practitioner expressed no intention of practising as a principal of a law practice.	0	0
Refused application for the revocation of the PMC Condition, instead approving imposition of a variation to the PMC Condition.	0	0
Refused application for the revocation of the PMC Condition, instead approving imposition of a variation to the PMC Condition and referred to PDC.	0	3
Refused application for the revocation of the PMC Condition	0	0
Total applications for revocations refused	0	3
TOTAL DECISIONS	9	190
	1	99

Any breach of the PMC Condition or undertaking is considered on a case-by-case basis.

Continuing Professional Development (CPD) Scheme

The PDC continued to monitor the mandatory CPD scheme requiring practitioners to complete at least 10 CPD points across 4 competency areas between 1 April and 31 March each year (**CPD Condition**).

Competency Areas

Rule 13F(2) of the Rules provides that:

"The maximum number of CPD points that can be earned from attending a conference, course or other event comprising one or more interactive activities is 6."

In light of impact of COVID-19 and the associated protective measures, for the CPD period 1 April 2019 to 31 March 2020 only, the Board permitted practitioners to complete more than 4 of their required 10 CPD points through non-interactive activities.

It is of note that it is acceptable for approved CPD QA providers to hold live webinars as interactive activities in lieu of in-person events, provided they can produce evidence that the event was interactive and records demonstrating proof of attendance.

Variations to the CPD Condition

A practitioner can seek a variation to the CPD Condition on a case-by-case basis. The circumstances in which the Board may consider a practitioner's application for a variation to the CPD condition include:

- parenting leave;
- completing equivalent CPD activities while practising in another jurisdiction;

- absence from legal practice due to illness or other circumstances;
- a practitioner engaged in legal practice for a period exceeding 40 years; and
- other circumstances.

CPD Variations for Financial Year 1 July 2019 - 30 June 2020

During the reporting period, the Board processed variations to the CPD condition, as set out in Table 1 below.

The number of applications for a variation of the CPD condition has increased from two hundred and twenty nine (229) in the last reporting period to two hundred and seventy three (273) received within the current reporting period with two hundred and seven (204) assessed, and three (3) withdrawn, before 1 July 2020.

This represents a 19% increase in the number of variation of the CPD condition applications received.

The increase is small in comparison to the 160% increase in the last reporting period. The previous increase was attributed to the requirement for practitioners on parenting leave to submit variation applications, and the focus on ensuring overseas practitioners comply with CPD requirements by submitting a variation application on the basis of completing equivalent CPD hours in a foreign jurisdiction. As anticipated, the increase in the current reporting period is much smaller, though it is consistently increasing.

Table 1

CPD Variation	Total received in 19/20	Approved in 19/20	Not approved / Withdrawn in 19/20	Outstanding as at 1 July 2020	Received 18/19, processed 19/20
Parenting Leave	110	99	3	8	9
Overseas	151	96	0	55	47
Illness or other circumstances	6	5	0	1	0
Exceeding 40 years in legal practice	2	2	0	0	1
Other circumstances	4	2	0	2	4
TOTAL	273	204	3	66	61

CPD Audit for CPD Year 1 April 2019 – 31 March 2020

In accordance with rule 13B(3) of the Rules, the Board conducts an annual audit by requiring practitioners to provide documents or information regarding compliance with the CPD condition (**CPD Audit**).

In light of the significant pressures placed the profession due to COVID-19 and the

associated issues, in particular isolation and remote working arrangements, the Board made the decision that the routine annual CPD Audit would not be conducted for the CPD period from 1 April 2019 to 31 March 2020.

The resources set aside for the CPD Audit were redirected to developing an electronic and online CPD platform the purpose of which is to enable CPD providers and practitioners to upload to the Board's electronic database confirmation of completion of approved CPD activities, apply for approval of activities, and apply for accreditation as a CPD provider. Once developed, compliance with CPD requirements can be assessed automatically and auditing will be directed at those practitioners who have not demonstrated compliance.

Practising Certificate Renewals and CPD Compliance

Of the practising certificate renewal applications received for the year commencing 1 July 2019, one hundred and forty four (144) practitioners declared that they had not complied with the CPD Condition. This is an increase from the previous reporting period in which one hundred and fifteen (115) practitioners indicated that they had not complied with the CPD Condition and one hundred and two (102) in the 2017/2018 reporting period. The outcomes of these disclosures are set out below in Table 2.

Two new categories have been included within Table 2, being 'Complied once application by non-QA Approved Provider was submitted and approved' and 'Practitioner withdrew renewal application prior to Additional CPD Condition being imposed'. Statistics within these categories were not reported on for the previous annual reports.

There has been an increase in overseas legal practitioners declaring they have not met CPD compliance. This can be attributed to the focus on ensuring overseas practitioners comply with CPD requirements.

Table 2

Declaration of non-compliance with the CPD condition on local practising certificates	2017/2018	2018/2019	2019/2020
Practising overseas and the Board approved an application for a variation of the CPD condition.	33	38	59
Cited illness and the Board approved an application for a variation to the CPD condition.	2	4	2
Cited other reasons and the Board approved an application for a variation to the CPD condition.	8	5	5
Admitted post 1 April 2019 or had not held a practising certificate for the CPD period.	6	6	0
Practitioner is no longer practising.	1	0	1
Answered "no" by mistake and on review was found to have complied with the CPD condition.	1	4	10
Answered No at Renewal and declared that they had not met their CPD compliance. Additional CPD condition imposed on their practising certificate requiring them to complete the outstanding CPD points in specific competency areas, and providing periodic reports of their successful completion of CPD points to the Board.	47	41	52
Complied once application for Single CPD Activities was submitted and approved.	4	5	0
Complied once application by non-QA Approved Provider was submitted and approved.	-	-	2
Practitioner was awaiting a response from the Board regarding the outcome of their Audit.	0	1	0
Practitioner awaiting response from the Board regarding previous Additional CPD Condition compliance outcome.	0	3	6
Ongoing communication between Practitioner and the Board.	0	6	1
Referred to Professional Affairs Committee.	0	1	0
Referred to Professional Development Committee.	0	1	5
Practitioner withdrew renewal application prior to Additional CPD Condition being imposed	-	-	1
Total	102	115	144

Conditions Imposed for Non-Compliance of CPD Condition

The PDC, the Board's Executive Director, or Deputy Executive Director, exercise delegated power to impose conditions on a practitioner's practising certificate where it is decided that it is appropriate to do so.

An additional CPD condition was imposed on ninety six (96) local practising certificates in the 2019/2020 reporting period, requiring those practitioners to complete additional CPD points, in specific competency areas, as rectification of the breach, and providing to the Board periodic reports of their successful completion of CPD points. Compared to the previous reporting period which had seventy (70) imposed conditions, this is an increase of 37%.

Approval of QA Providers and Activities

Within the reporting period, the Board received seventy one (71) Form 1 Applications for Approval as a QA Provider of CPD. This is a decrease from the one hundred and thirty five (135) received in the previous reporting period. Please refer to Table 4 below for a breakdown of the different provider category applications received. Within the reporting period, the Board assessed sixty five (65) of the applications received.

Table 3

Additional CPD Condition	2017/2018	2018/2019	2019/2020
Additional CPD Condition imposed	56	68* adjusted to 70	96
Compliance with Additional CPD Condition imposed	53	36	41
Breach of Additional CPD Condition	4	32 (13 processed within first 4 days of July)* adjusted to 34	55
Compliant - Breach of Additional CPD Condition in previous financial year	Not previously reported	4	30
Non-Compliant - Breach of Additional CPD Condition in previous financial year	Not previously reported	0	4

^{*} This was reported incorrectly in the previous annual report.

The Board received one hundred and five (105) requests from organisations to approve CPD activities delivered on a single activity basis.

Ninety six (96) were assessed by the Executive Director, or Deputy Executive Director, in the reporting period with the remaining twenty three (23) assessed after 1 July 2019. None of these applications required referral to the PDC.

For a further breakdown in application categories, refer to Table 5 below.

The Board received one hundred and twenty four (124) requests from practitioners to approve attendance at CPD activities that were not approved through the relevant

Table 4

QA Provider applications	Total received in 19/20	Approved in 19/20	Not approved in 19/20	Outstanding as at 1 July 2020	Received 18/19, processed 19/20
Commercial Provider	1	1	0	0	2
Legal Education Provider	5	5	0	0	1
Community Group or small non- commercial member organization	2	2	0	0	1 (+1 withdrawn)
Community Legal Centre	0	0	0	0	0
Discussion Group	1	1	0	0	1 (+1 not approved)
Law Practice category	40	36	1 withdrawn	3	5
Additional activities within Law Practice category	22	19	0	3	4
TOTAL	71	64	1 withdrawn	6	16

organisations as single activities or delivered by a QA Provider. Please refer to Table 6 below. Last reporting period the Board received two hundred and two (202) requests.

Table 5

Non-QA Approved Provider applications	Total received in 2019/20	Approved in 2019/20	Not approved in 2019/20	Outstanding as at 1 July 2020	Rec. 18/19, processed 19/20
1-2 hour activity	82	77	0	5	19
Half day activity	8	5	0	3	0
Activity longer than half day	15	13	1 (withdrawn)	1	4
TOTAL	105	95	1	9	23

One hundred and two (102) were assessed by the Executive Director, or Deputy Executive Director, in the reporting period with the remaining twenty two (22) assessed after 1 July 2020. These applications are usually from practitioners attending specialist, national or international events that relate to their field of practice, which do not attract sufficient attendance from local practitioners to warrant providers applying for approval in Western Australia. None of these applications required referral to the PDC.

Table 6

Form 3 applications	Total received in 19/20	Approved in 19/20	Not approved / Withdrawn in 19/20	Outstanding as at 1 July 2020	Rec. 18/19, processed 19/20
Single CPD Activity by individual practitioner	124	100	2 withdrawn	22	20

Table 7 below sets out the breakdown of CPD applications the Board has received over the past 8 years, identifying an increase in applications from the previous reporting period.

In addition, during the reporting year the PDC considered other matters including:

- The status of a QA provider that purchased an online CPD platform.
- The revision of the Board's guidelines for compliance with CPD.
- The impact of the Uniform Law on CPD in Western Australia.

Further, the PDC has considered the need to support practical measures to prevent sexual harassment. In particular, the PDC has formed the view that specific and tailored sexual harassment sessions could be approved by the Board to attract comparatively more points to encourage attendance.

Table 7

Application type (1 July – 30 June)	12/13	13/14	14/15	15/16	16/17	17/18	18/19	19/20
QA Providers	14	13	15	47	64	55	135	71
Individual activities by Non QA Provider	118	148	160	131	79	92	296	105
Single activities by an individual practitioner	143	146	152	188	147	207	202	124
Variation of CPD condition	83	113	100	84	99	143	229	273
TOTAL	358	420	427	450	389	497	863	573

The Board is taking steps to educate and influence education of any form of harassment, bullying or discrimination in the profession. As part of this commitment, the Board will promote CPD programmes targeting sexual harassment.

Acknowledgements

I would like to extend my sincere thanks for the contribution and support provided by Ms Rebecca Heath, the Deputy Convenor and my fellow committee members for their preparation for and consideration of the many matters dealt with during the reporting period.

Thanks are extended to all of the Board's employees for their efforts during the year, and to the Executive Director, Ms Libby Fulham, and support staff, for their diligent attention to the matters before the PDC.

John Syminton

Convenor

December 2020

REPORT FROM SENIOR TRUST ACCOUNT INSPECTOR

The Trust Account Inspectors investigate and report on trust accounting matters to the Board, the Legal Profession Complaints Committee, the Legal Contribution Trust, and the legal profession.

During the reporting period many challenges presented, particularly dealing with COVID-19.

COVID-19 meant some of the tasks to be undertaken in the year were delayed until a safe approach could be established. In particular there was an interruption to the scheduled investigations, and an extension was provided for the submission of external examiner reports. Other areas of operation were affected in minor ways.

Trust Account Educative Seminars

During the reporting period the Trust Account Inspectors managed to adapt their seminar sessions to an online format to be able to present seminars to capture larger numbers of the legal profession. There was a good uptake on this modified format.

The Trust Account Inspectors presented a refresher seminar on trust accounting requirements and an update on the introduction of the Uniform Law. Both seminars were conducted face to face (2 seminars) and via Zoom (4 seminars). External seminars were also presented to members of the Piddington Society, Curtin University and the College of Law. These seminars contained content on what a legal practitioner should know and be aware of when opening a trust bank account.

Reporting of Trust Irregularities

The reporting of irregularities to the Board is a requirement of section 227 of the *Legal Profession Act 2008* (**Act**). Table 1 below sets out the number of reported trust account irregularities during the reporting period.

Table 1

Trust irregularities reported past 10 years							
Quarter Ended	30 - Sep	31 - Dec	31-Mar	30-Jun	Total		
2010/2011	45	54	66	182	347		
2011/2012	175	135	198	247	755		
2012/2013	208	160	199	277	844		
2013/2014	239	218	221	278	956		
2014/2015	217	239	236	349	1041		
2015/2016	321	255	384	449	1409		
2016/2017	331	312	345	347	1335		
2017/2018	399	408	353	274	1434		
2018/2019	213	227	611	425	1476		
2019/2020	774	717	495	635	2621		

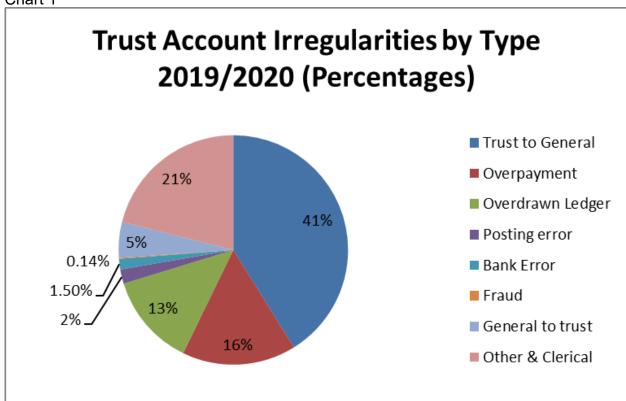
Figures for irregularities do not include irregularities identified and reported as part of the annual external examination (audit) process.

Categorised for 2019/2020 the errors comprised:

- 57%- Trust funds deposited, in error to the general account by either the client or the law practice and the overpayment of invoices.
- 5% General funds deposited in trust in error by clients with respect to the payment of tax invoices.
- 14.5% Overdrawn trust ledgers due to transposition errors, bank errors and drawing against uncleared funds;
- 21% Clerical, posting and other errors.
- 2.5%- related to bank errors, generally fees being charged to trust but also lost deposits, delays in processing deposits and processing to the incorrect account.

(See Chart 1 below)

Chart 1



It is noted that in this reporting period there were 6 notifications of trust funds being released to incorrect bank accounts, which occurred via email notifications from clients of their bank details which were intercepted and changed. The bank details were changed between the client sending the email with bank details and the law practice actually receiving the email. These have all been followed up to confirm that action has been taken to safeguard against any future occurrences and that the law practices have been requested to repatriate the funds into trust for the respective clients.

There was also a ransomware attack in which a law practice was locked out of emails, accounting package and client files. This was promptly reported to the Board and followed up to confirm what action had been taken to obtain access to the law practice's data, providing access to the office for clients by telephone and email, obtaining access to client files, documents, and confirming that no funds had been misappropriated.

External Examiner Report (EER)

A law practice that maintains a trust account is required to have its trust records externally examined at least once a year by an external examiner (**Examiner**). The Examiner is required to lodge an EER with the Board by 31 May each year. As part of the process the Board has requested that a declaration and trust money statement is provided as part of the EER. These reports provide further information regarding the law practice and specifically deal with aspects and concerns related to trust bank accounts. Provision of the additional information has been received positively by the profession and the information has provided greater understanding of the various law practices being established in WA.

Due to COVID-19 the Board provided greater flexibility with the reporting requirement to assist both Examiners establishing new procedures to undertake their examination of trust accounts and to assist the legal profession in providing the documents required when staff were working remotely.

During the period required for a trust account to be maintained and an EER to be submitted, being 1 April 2019 to 31 March 2020, there were 825 law practices, including Interstate Law Practices, that maintained 893 law practice trust accounts of which 79 were interstate trust accounts and 13 trust accounts currently being under management or being closed due to the principal no longer practising.

In the previous reporting period 17 law practices still had an outstanding EER, all of which have been dealt with by either the law practice providing the EER, or the matter being exempted by the Board. No outstanding EERs resulted in disciplinary action during the reporting period.

The clearing of outstanding EER's required confirmation, in some cases, that no transactions were undertaken providing the ability to exempt the requirement to provide an EER, or obtaining bank statements to confirm minimal transactions in the year. All required Board confirmation to not proceed due to closure of the trust bank account with no potential to obtain an EER, but that the legal practitioner's record is noted if they apply for a practising certificate in the future.

This year's report was produced at 31 July 2020 allowing one month's grace period due to COVID-19. Therefore the figures may appear to be higher in the area of outstanding reports than the previous years.

Table 2

External Examiners Reports (EER)							
	2019/2020	2018/2019	2017/2018	2016/2017	2015/2016		
Law Practices with Trust Accounts (WA)	746	765	701	678	693		
EERs Lodged and Approved	675	720	626	665	633		
Waivers Granted	30	28	33	17	10		
EERs Outstanding	41	17	8	24	29		

Qualified & Trivial EER	2019/2020	2018/2019	2017/2018	2016/2017	2015/2016
EERs Lodged and Approved	675	720	626	665	633
EERs Qualified & Trivial	17	46	65	111	139
EERs Quilified & Trivial %	3%	6%	10%	17%	22%

As at 30 June 2020 only 17 of the EERs received were qualified. The majority of qualifications relate to the manner in which trust records were maintained as they did not fully comply with the requirements of the Act. However, the main issues were related to proper record maintenance and the existence of audit trails for trust bank accounts.

Inspections

This reporting year has been extremely challenging due to the office closing and staff working remotely between March and June 2020. All investigations were placed on hold from late March to June 2020. Face-to-face investigations were recommenced in late June 2020, and continue, with extreme care.

It has been a priority to increase the investigation of law practices from previous years and the target is to visit every law practice in WA, as well as recently opened law practices, within a 5 year period. It is important to continue this as a major priority to minimise risk of trust account errors or defalcation. It is noted that 'desk top' reviews (non-site related investigations), routine investigations, new law practice investigations, and causal investigations, all form part of the overall investigation program.

Table 3 below sets out the number of law practices investigated by the Trust Account Inspectors, including routine and causal investigations. Further, it is noted that the last two years show the combined figure of investigations for the Trust Account Inspectors, which were previously provided under separate reports for the Board and the Legal Profession Complaints Committee.

Table 3

Trust Account Investigations					
Year	Commenced	Finalised	Pending	Conducted By	
2009/2010	8	6	9	Board Only	
2010/2011	8	4	10	Board Only	
2011/2012	19	2	21	Board Only	
2012/2013	17	4	16	Board Only	
2013/2014	17	4	17	Board Only	
2014/2015	17	0	21	Board Only	
2015/2016	26	0	27	Board Only	
2016/2017	29	0	29	Board Only	
2017/2018	17	1	16	Board Only	
2018/2019	100	82	15	TAI Team	
2019/2020	84	84			

IT AND INFORMATION MANAGEMENT

The Board's five person Information, Communications and Technology (ICT) team provides a range of internal support services including ICT infrastructure, security monitoring and management, end-user computing, mobile and support functions, record keeping and information management services, application and database management and enhancements, website development and management, data analysis and reporting services.

COVID-19 has had a significant impact on the operations of the Board and the ICT. A time when the Board's ICT response and support services, and mobile infrastructure, were put to the test. It is a testament to both the team and the Board's continuous support and investment into ICT developments that have positioned the Board into the best state possible to respond

ICT COVID Expenses	
Items	Costs
Software Subscriptions	2,020
Enhancements to online payment facilities	17,450
Physical document transfers	841
Mail re-direction	465
Telecommunications	1,791
ICT Equipment	957
General office expenses	534
TOTAL	24,059

to COVID-19 quickly and effectively with minimal impact to the ICT budget.

Specific achievements in response to COVID-19 include:

- Supporting the Board's entire workforce to work from home and ensuring all staff were equipped with necessary equipment to work remotely;
- Coordinating movements of physical records to and from personal residences as staff vacated and returned to the office:
- Deploying changes to online services to facilitate payment plans for the renewal of practising certificates; and
- Supporting the continued operations of the Board and all of its functions.

In the reporting period, the Board's ICT team focused on:

- Implementing the online admissions facility;
- Planning an improved management of CPD functions;
- Improvements to internal processing and database enhancements;
- Server and network application upgrades;
- Review of information security and classification;
- Managing the Board's cyber security maturity; and
- Reviewing and preparing the Board's recordkeeping plan.

Records Management

The records of the Board are managed, within the framework of the *State Records Act 2000*, and the Principles and Standards 2002 produced by the State Records Commission (**SRC**).

Recordkeeping Plan

The Board's recordkeeping plan is currently being reviewed in preparation for submission to the SRC in December 2020. In conjunction with this review, the following are also under review:

- Vital Records Plan.
- Business Continuity Plan.
- Retention and Disposal Schedule.

Evaluation of Recordkeeping Systems

The Board continues to review and develop its current recordkeeping program to ensure compliance with the SRC principles and standards governing recordkeeping by state government agencies. An updated recordkeeping plan reflecting the current recordkeeping program will be submitted to the SRC for approval.

The security and integrity of the Boards ICT systems and data holdings remain key priorities. The Board commenced an extensive review of information assets and assigned classifications and privileges requiring restructuring of the Board's file plans and a review of the Board's business classification scheme.

Recordkeeping Training Program

The Board continues to develop recordkeeping training strategies to support record management activities undertaken throughout the Board. The training strategies aim to consolidate records management policy and procedures.

A formal recordkeeping training program has been developed to incorporate recordkeeping awareness and best practice standards, Board core recordkeeping processes, electronic document and records management system functionality and workflow activities, and an improved delivery method approach for training. The delivery of the program was interrupted due to COVID-19 but will resume in 2020/2021.

Evaluation of the Recordkeeping Training Program

The Board continues to evaluate recordkeeping training, with findings used to develop training strategies that deliver knowledge of recordkeeping systems, practices and processes.

Recordkeeping Induction Program

The Board induction program provides reference to records management policies describing an employee's role and responsibilities in compliance with the Board's recordkeeping plan.

The records management component of the staff induction program has successfully been delivered to all new employees during the reporting year.

Analisa Zainal

IT and Information Manager

DISCLOSURES AND OTHER LEGAL REQUIREMENTS

Compliance with Public Sector Standards and Ethical Codes – As per section 31(2) of the *Public Sector Management Act 1994* (**PSM**).

The Legal Practice Board (**Board**) has fully complied with section 31(2) of the PSM as it relates to the operations of the Board. The Board continues to be fully compliant with regard to the public sector standards, the Code of Ethics and the Public Sector Commission's (**Commission**) requirement to maintain a Code of Conduct.

The Board is committed to maintain a high standard of accountability, integrity and transparency in all its functions and activities in line with the public sector standards. As part of this the Board is continuing its program of regular review and updating all the Board's policies relating to both its internal and external functions, including but not limited to human resources and work force management. The Board has a commitment to continue to maintain and review its own code of conduct for both Board members and Board staff in line with the Commissioner's Instruction No 8 as at 8 February 2020.

The Board provides the following information regarding compliance during the period under review.

Public Sector Standards:

- One breach claim closed without finding;
- Information on standards is provided at recruitment and the Code of Ethics is included in the Offer of Employment contract;
- All employees receive an induction manual on employment with the Board.
 The Code of Ethics is included in the Board's employee induction manual. The
 employee's induction manual sets out the Board's policies and conditions of
 employment and all employees are required to sign a document stating they have
 read the manual;
- Training is provided to persons on recruitment panels to ensure compliance with the relevant standards; and
- The Board's policies are consistent with ethical principles and are subject to regular review and update.

As per the Commissioner's Instruction No 8 the Board's Code of Conduct policy for both staff and Board members address's the following seven areas:

- Personal behaviour;
- Communications and official information;
- Fraudulent or corrupt behaviour;
- Use of public resources;
- Recordkeeping and use of information;
- Conflicts of interest and gifts and benefits; and
- · Reporting suspected breaches of the code.

The Board is committed to continually seeking to review and update its current practices through avenues including: the auditing and review of its functions, performance management, ongoing training and seeking feedback from all stakeholders.

Occupational Safety, Health, Injury Management and Wellness

In accordance with the Commissioner's Circular 2018-03 Code of Practice: Occupational Safety and Health in the Western Australian public sector, the Board is committed to promoting a safe healthy and congenial workplace. To this end the Board has the following policies and initiatives in place:

- A comprehensive Occupational Safety and Health (OS&H) policy document which
 outlines the Board's procedures for dealing with OH&S matters. The Board has an
 appointed OS&H Officer who is compliant with Worksafe standards and responds to
 any OS&H issues that may arise. The Board provides information on OS&H matters
 to all new staff on induction.
- The Board has an appointed OS&H Co-ordinator.
 - For the period under review there were no cases of OS&H injury.
- The Board has two (2) appointed staff contact officers and 1 appointed grievance officer.
 - There was one (1) staff grievance received during the year under review, resolved with no findings.
- Periodical reviews of the ergonomic conditions within the office are conducted with a view to improving the working conditions for all staff.
- Where possible the Board seeks to accommodate flexible working arrangements for staff.
- Access is available for all staff to counselling services through its nominated service provider Relationships Australia.
- A wellness program is in place that it is continuing to grow. Normally the Board provides fresh fruit weekly for the benefit of the staff and also regularly organises a visiting massage therapist for the benefit of the staff, however due to COVID-19 communal food and contact has been suspended. The Board will continue to develop this program with the input of the staff.
- Various social activities for the staff take place, including each year holding an
 inclusive event to raise funds for the Cancer Council. In addition to this the Board
 staff also contribute items each year to the Salvation Army's Christmas Appeal.
- All endeavours are made to be environmentally conscious and encourage recycling; for example all superseded electronic equipment is sent to an appropriate recycling facility.

It is a committed operational objective of the Board to continue to maintain the Board as a safe, healthy, welcoming and community aware work environment for all Board staff.

Freedom of Information

In accordance with the *Freedom of Information Act 1992* (WA) the Board has a dually appointed Freedom of Information Officer.

- Four (4) freedom of information applications were received and dealt with in the year under review.
- As 30 June 2020, there were no freedom of information applications in progress.

Corruption Prevention

The Board has acknowledged the risk of corruption when managing organisational risk. As part of the induction of new staff, they are made aware of the policies, practices and

procedures of the Board in dealing with private and confidential information collected and held by the Board.

During meetings of the Board and its Committees, the policy of the disclosure of conflicting interests, and the related self-disqualification from deliberating a matter because of a potential rise of conflicting interests is strongly upheld.

Public Interest Disclosure

In accordance with the *Public Interest Disclosure Act 2013* the Board has a dually appointed Public Disclosure Officer and policies and procedures in place for making a public disclosure.

No public disclosure requests were received during this period under review.

Substantive Equality

The Board is committed to providing equal employment opportunities to all its employees, it encourages diversity and has devised policy statements with a view to encouraging and supporting staff development and employment opportunities. Policy statements are provided to all new staff as part of their induction.

As previously stated the Board has a policy of providing flexible working conditions where appropriate. It should also be noted that the Board's premises have facilities for wheelchair access to assist both staff and clients should it be required.

The Board recognises that the legal profession is a diverse profession and as such the Board continually strives to perform its regulatory duties in a fair and equitable manner.

Special Purpose Financial Statements
For the financial year ended 30 June 2020

SPECIAL PURPOSE FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED 30 JUNE 2020

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LEGAL PRACTICE BOARD OF WESTERN AUSTRALIA STATEMENT BY EXECUTIVE DIRECTOR

For the year ended 30 June 2020

As detailed in note 1 to the financial statements, the Legal Practice Board of Western Australia is not a reporting entity because in the opinion of the Board there are unlikely to be users of the financial statements who are not able to command the preparation of reports tailored so as to specially satisfy all of their information needs. Accordingly, this 'special purpose financial report' has been prepared to satisfy the Board's reporting obligations under Section 549, 550 and 551 of the Legal Profession Act 2008.

The Board declares that:

- (a) In the Board's opinion, there are reasonable grounds to believe that the entity will be able to pay its debts as and when they become due and payable; and
- (b) In the Board's opinion, the attached financial statements and notes thereto are in accordance with the Legal Profession Act 2008, including compliance with accounting standards and giving a true and fair view of the financial position and performance of the entity.

Ms Elizabeth Fulham Executive Director

Bollen.

Date: 26 October 2020

Perth WA



Legal Practice Board of Western Australia

Independent auditor's report to the Legal Practice Board of Western Australia

Report on the Audit of the Financial Statements

Opinion

We have audited the financial report of the Legal Practice Board of Western Australia, which comprises the statement of financial position as at 30 June 2020, the statement of profit or loss and other comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, and statement by the Executive Director.

In our opinion, the accompanying financial report presents fairly, in all material respects, the financial position of the Legal Practice Board of Western Australia as at 30 June 2020, and its financial performance and its cash flows for the year then ended in accordance with the financial reporting requirements of section 549, 550 and 551 of the *Legal Professional Act 2008*.

Basis for Opinion

We conducted our audit in accordance with Australian Auditing Standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Report section of our report. We are independent of the Legal Practice Board of Western Australia 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 our audit of the financial report in Australia. We have also fulfilled our other ethical responsibilities in accordance with the Code.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Emphasis of Matter – Basis of Accounting

We draw attention to the *Financial Reporting Framework* section within the introduction to the financial report, which describes the basis of accounting. The financial report has been prepared to assist the Legal Practice Board of Western Australia to meet the requirements of section 549, 550 and 551 of the *Legal Professional Act 2008*. As a result, the financial report may not be suitable for another purpose. Our opinion is not modified in respect of this matter.

Responsibilities of Management and Those Charged with Governance for the Financial Report

Management is responsible for the preparation and fair presentation of the financial report in accordance with the financial reporting requirements of section 549, 550 and 551 of the *Legal Professional Act 2008* and for such internal control as management determines is

ACCOUNTANTS & ADVISORS

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Independent auditor's report to the Legal Practice Board of Western Australia (cont.)

necessary to enable the preparation and fair presentation of a financial report that is free from material misstatement, whether due to fraud or error.

In preparing the financial report, management is responsible for assessing the Legal Practice Board of Western Australia's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless management either intends to liquidate the Legal Practice Board of Western Australia or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Legal Practice Board of Western Australia's financial reporting process.

Auditor's Responsibilities for the Audit of the Financial Statements

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

A further description of our responsibilities for the audit of these financial statements is located at the Auditing and Assurance Standards Board website at:

https://www.auasb.gov.au/auditors responsibilities/ar4.pdf

This description forms part of our independent auditor's report.

William Buck

William Buck Audit (WA) Pty Ltd ABN 67 125 012 124

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Director

Dated this 26th day of October 2020

STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2020

	Note	2020 \$	2019 \$
CURRENT ASSETS		Φ	Φ
Cash and Cash Equivalents	4	3,269,073	2,842,153
Term Deposits	4	11,271,418	11,125,960
Trade and Other Receivables	5	692,574	735,829
Other Current Assets	6	36,302	97,288
TOTAL CURRENT ASSETS	•	15,269,367	14,801,230
NON-CURRENT ASSETS			
Leasehold Improvements	7	280,055	297,325
Plant and Equipment	7	285,790	317,653
Software Systems	7	294,036	130,783
Right-of-use Asset	8	4,540,573	-
TOTAL NON-CURRENT ASSETS		5,400,454	745,761
TOTAL ASSETS		20,669,821	15,546,991
CURRENT LIABILITIES			
Trade and Other Payables	9	279,337	202,177
Provisions	10	1,032,845	926,246
Income in Advance	11	6,886,303	8,089,697
Lease Liability	12	352,295	· · · · · · · · · · · · · · · · · · ·
TOTAL CURRENT LIABILITIES		8,550,780	9,218,120
NON-CURRENT LIABILITIES			
Provisions	10	156,919	152,765
Lease Liability	12	4,868,613	-
TOTAL NON-CURRENT LIABILITIES		5,025,532	152,765
TOTAL LIABILITIES		13,576,312	9,370,885
NET ASSETS		7,093,509	6,176,106
EQUITY			
Retained Earnings	13	7,093,509	6,176,106
TOTAL EQUITY		7,093,509	6,176,106

STATEMENT OF PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME FOR THE YEAR ENDING 30 JUNE 2020

REVENUE	Note	2020	2019
Office of the Board Trust Account Inspector Legal Profession Complaints Committee TOTAL REVENUE	14 15 16	8,993,031 616,849 93,151 9,703,031	\$ 8,918,144 785,063 145,855 9,849,062
EXPENDITURE Office of the Board Trust Account Inspector Legal Profession Complaints Committee TOTAL EXPENDITURE	14 15 16	4,896,126 403,394 3,486,108 8,785,628	4,831,114 538,087 <u>3,547,257</u> 8,916,458
Profit for the year from continuing operations		917,403	932,604
STATEMENT OF FOR THE YEAR END			
Operating Receipts Receipts from Customers Interest received		8,800,694 269,957	9,668,669 159,253
Operating Payments Payments to Employees & Suppliers		(7,915,923)	(8,678,135)
Net cash provided by/(used in) operating activities	19 (b)	1,154,728	1,149,787
Cash Flows from Investing Activities Investing Payments Payment for property, plant & equipment Purchase of Term Deposits (net) Lease Finance paid		(245,849) (145,458) (336,501)	(44,587) (3,034,122)
Net cash used in investing activities		(727,808)	(3,078,709)
Net increase/(decrease) in cash and cash equivalents		426,920	(1,928,922)
Cash and cash equivalents at the beginning of period		2,842,153	4,771,075
CASH AND CASH EQUIVALENTS AT THE END OF PERIOD	19 (a)	3,269,073	2,842,153

STATEMENT OF CHANGES IN EQUITY FOR THE YEAR ENDED 30 JUNE 2020

	Retained Earnings
	\$
Balance as at 1 July 2018	5,243,502
Profit for the Year	932,604
Total comprehensive income	932,604
Balance as at 30 June 2019	6,176,106
Balance as at 1 July 2019	6,176,106
Profit for the Year	917,403
Total comprehensive income	917,403
Balance as at 30 June 2020	7,093,509

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

Introduction

Financial Reporting Framework

The Legal Practice Board is not a reporting entity because in the opinion of the Board there are unlikely to be users of the financial report who are not able to command the preparation of reports tailored so as to specially satisfy all of their information needs. Accordingly, this special purpose financial statement has been prepared to satisfy the Board's reporting obligations under Section 549, 550 and 551 of the Legal Profession Act 2008.

Statement of Compliance

The financial statements have been prepared on the basis of recognition and measurement specified by all Accounting Standards and Interpretations, and the disclosure requirements of Accounting Standards AASB 101 'Presentation of Financial Statements', AASB 107 'Cash Flow Statements', AASB 108 'Accounting Policies, Changes in Accounting Estimates and Errors' and AASB 1054 'Australian Additional Disclosure'. Accounting standards applicable to 'not-for-profit' entities have been applied.

New or amended Accounting Standards and Interpretations adopted

The Board has adopted all of the new or amended Accounting Standards and Interpretations issued by the Australian Accounting Standards Board ('AASB') that are mandatory for the current reporting period.

Any new or amended Accounting Standards or Interpretations that are not yet mandatory have not been early adopted.

Impact of adoption

AASB 15 "Revenue from contracts with customers" and AASB 1058 "Income for Not-for-profit Entities" have been adopted without any need for change to the Board's accounting policies or practices.

AASB 16 "Leases" has been adopted using the modified retrospective approach and as such comparatives have not been restated. There was no impact on opening retained profits as at 1 July 2019. The adoption of AASB 16 significantly increased both the gross assets and liabilities of the Board due to the recognition of the value of leasehold buildings (note 8) together with the related liability for future lease payments (note 12). The amount of depreciation and lease finance charges recognised under AASB 16 for the 2020 financial year was \$235,000 greater than the cost of rent under the previous reporting method.

Basis of Preparation

The financial statements have been prepared on the basis of historical cost, except for certain non-current assets and financial instruments that are measured at revalued amounts or fair values, as explained in the accounting policies below. Historical cost is generally based on the fair values of the consideration given in exchange for assets. All amounts are presented in Australian dollars, unless otherwise noted. For the purpose of preparing the financial statements, the entity is a 'not-for-profit' entity.

Fair value is the price that would be received on sale of an asset, or paid to transfer a liability, in an orderly transaction between market participants at the measurement date, regardless of whether that price is directly observable or estimated using another valuation technique.

Critical Accounting Judgements and Key Sources of Estimation Uncertainty

In the application of A-IFRS management is required to make judgments, estimates and assumptions about carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstance, the results of which form the basis of making the judgments. Actual results may differ from these estimates. The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period or in the period of the revision and future periods if the revision affects both current and future periods.

Judgments made by management in the application of Accounting Standards that have significant effects on the financial statements and estimates with a significant risk of material adjustments in the next year are disclosed, where applicable, in the relevant notes to the financial statements.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

Accounting policies are selected and applied in a manner which ensures that the resulting financial information satisfies the concepts of relevance and reliability, thereby ensuring that the substance of the underlying transactions or other events is reported.

The accounting policies set out below have been applied in preparing the financial statements for the year ended 30 June 2020 and the comparative information presented in these financial statements for the year ended 30 June 2019.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

1. Significant Accounting Policies

a) Depreciation

All assets are carried at cost less provision for depreciation.

Depreciation is calculated on a straight-line basis so as to write off the net cost of each asset to its estimated residual value during its expected useful life using rates between 5 - 25%.

The estimated useful lives, residual values and depreciation method are reviewed at the end of each reporting period, with the effect of any changes in estimate accounted for on a prospective basis.

b) Employee Benefits

A liability is recognised for benefits accruing to employees in respect of wages and salaries, annual leave and long service leave when it is probable that settlement will be required and they are capable of being measured reliably.

Liabilities recognised in respect of employee benefits are measured at their nominal values using the remuneration rate expected to apply at the time of settlement. Liabilities recognised in respect of long term employee benefits are measured as the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

c) Property, Plant and Equipment

The residual values and useful lives of assets are reviewed, and adjusted if appropriate, at each reporting date.

An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount.

Gains and losses arising on disposals or retirement of an item of property, plant and equipment are determined as the difference between sales proceeds and the carrying amount of the asset. These are recognised in the Statement of Profit or Loss.

d) Right-of-use Assets

A right-of-use asset is recognised at the commencement date of a lease. The right-of-use asset is measured at cost, which comprises the initial amount of the lease liability, adjusted for, as applicable, any lease payments made at or before the commencement date net of any lease incentives received, any initial direct costs incurred, and, except where included in the cost of inventories, an estimate of costs expected to be incurred for dismantling and removing the underlying asset, and restoring the site or asset.

Right-of-use assets are depreciated on a straight-line basis over the unexpired period of the lease or the estimated useful life of the asset, whichever is the shorter. Where the Board expects to obtain ownership of the leased asset at the end of the lease term, the depreciation is over its estimated useful life. Right-of use assets are subject to impairment or adjusted for any remeasurement of lease liabilities.

The Board has elected not to recognise a right-of-use asset and corresponding lease liability for short-term leases with terms of 12 months or less and leases of low-value assets. Lease payments on these assets are expensed to profit or loss as incurred.

e) Intangible Assets

Intangible assets with finite lives that are acquired separately are carried at cost less accumulated amortisation and accumulated impairment losses. Amortisation is recognised on a straight-line basis over their useful lives. The estimated useful life and amortisation method are reviewed at the end of each reporting period, with the effect of any changes in estimate being accounted for on a prospective basis.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

1. Significant Accounting Policies (cont'd)

f) Income Tax

The entity is exempt from income tax under Chapter 2 Division 50 s.50-25 of the Income Tax Assessment Act 1997.

g) Revenue Recognition

Interest Revenue

Interest revenue is recognised as interest accrues using the effective interest method. This is a method of calculating the amortised cost of a financial asset and allocating the interest income over the relevant period using the effective interest rate, which is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset to the net carrying amount of the financial asset.

Certifications

Revenue from the issue of certificates is recognised proportionately over the period to which the certificate relates.

Rendering of Services

Revenue from the provision of services is recognised in the period to which the services relate.

h) Goods and Services Tax

Revenues, expenses and assets are recognised net of the amount of goods and services tax (GST), except where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO). In these circumstances, the GST is recognized as part of the cost of acquisition of an asset or as part of an item of expense.

Receivables and payables are stated with the amount of GST included.

The net amount of GST recoverable from, or payable to, the ATO is included as a current asset or liability in the statement of financial position.

i) Impairment of assets

At each reporting date the entity reviews the carrying amount of its assets to determine whether there is any indication that those assets have suffered any impairment loss. If any such indication exists, the recoverable amount of the asset is estimated in order to determine the extent of the impairment loss (if any). Recoverable amount is the higher of fair value less costs to sell and value in use. If the recoverable amount of an asset is estimated to be less than its carrying amount, the carrying amount of the asset is reduced to its recoverable amount and an impairment loss is recognised immediately in the Statement of Profit or Loss.

j) Cash and Cash Equivalents

Cash and cash equivalents comprise cash on hand, cash in banks and investments in term deposits with maturities of 3 months or less.

k) Provisions

Provisions are recognised when the entity has a present obligation as a result of a past event, it is probable that the entity will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

The amount recognised as a provision is the best estimate of the consideration required to settle the present obligation at the end of the reporting period, taking into account the risks and uncertainties surrounding the obligation. When a provision is measured using the cash flows estimated to settle the present obligation, its carrying amount is the present value of those cash flows.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

1. Significant Accounting Policies (cont'd)

When some or all of the economic benefits required to settle a provision are expected to be recovered from a third party, the receivable is recognised as an asset if it is virtually certain that reimbursement will be received and the amount of the receivable can be measured reliably.

I) Deferred Rent Incentive

Until the adoption of AASB 16 "Leases" amounts received, either in cash or by way of a fit-out contribution, were held in Deferred Rent Incentives and amortised as a reduction in accommodation expense over the period of the lease.

m) Trade and Other Receivables

Trade receivables are initially recognised at fair value and subsequently measured at amortised cost using the effective interest method, less any allowance for expected credit losses.

The Board has applied the simplified approach to measuring expected credit losses, which uses a lifetime expected loss allowance.

Other receivables are recognised at amortised cost, less any allowance for expected credit losses.

n) Trade and Other Payables

These amounts represent liabilities for goods and services provided to the Board prior to the end of the financial year and which are unpaid. Due to their short-term nature they are measured at amortised cost and are not discounted. The amounts are unsecured and are usually paid within 30 days of recognition.

o) Lease Liabilities

A lease liability is recognised at the commencement date of a lease. The lease liability is initially recognised at the present value of the lease payments to be made over the term of the lease, discounted using the interest rate implicit in the lease or, if that rate cannot be readily determined, the Board's incremental borrowing rate. Lease payments comprise of fixed payments less any lease incentives receivable, variable lease payments that depend on an index or a rate, amounts expected to be paid under residual value guarantees, exercise price of a purchase option when the exercise of the option is reasonably certain to occur, and any anticipated termination penalties. The variable lease payments that do not depend on an index or a rate are expensed in the period in which they are incurred.

Lease liabilities are measured at amortised cost using the effective interest method. The carrying amounts are remeasured if there is a change in the following: future lease payments arising from a change in an index or a rate used; residual guarantee; lease term; certainty of a purchase option and termination penalties. When a lease liability is remeasured, an adjustment is made to the corresponding right-of use asset, or to profit or loss if the carrying amount of the right-of-use asset is fully written down.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

		2020	2019
		\$	\$
2	Auditors Remuneration		
	William Buck Audit (WA) Pty Ltd - Audit Services	17,850	17,690
3	Supreme Court Law Library		
	The management of the Supreme Court Law Library v Department from 1 July 2016 and the operational cost of the Board. Arising from this rearrangement the Boa as follows:	ts are no longer the direc	t responsibility
	- Agreed cost reimbursement	600,000	567,000
4	Monetary Assets		
	Cash and cash equivalents		
	Cash at Bank	3,268,473	1,841,453
	Cash on Hand	600	700
	Term Deposits maturing within 3 months Total cash and cash equivalents	3,269,073	1,000,000 2,842,153
	Terms deposits maturing between 3-12 months	11,271,418 14,540,491	11,125,960 13,968,113
5	Trade and Other Receivables		
	Trade Receivables	770,877	799,374
	Less Allowance for Expected Credit Loss	(207,902)	(260,657)
	Prepayments	129,599	197,112
		692,574	735,829
	Refer to Note 1(m)		
6	Other Current Assets		
	Accrued Income	36,302	97,288

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

7 Property, plant and equipment	Office Equipment \$	Software Systems	Leasehold Improvements \$	Total \$
Cost				
Balance at 30 June 2019	699,075	1,393,940	330,398	2,423,413
Additions	19,087	226,763	-	245,850
Disposals	-	-	-	-
Balance at 30 June 2020	718,162	1,620,703	330,398	2,669,263
Accumulated Depreciation				
Balance at 30 June 2019	(381,422)	(1,263,157)	(33,073)	(1,677,652)
Depreciation for the year	(50,950)	(63,510)	(17,270)	(131,730)
Depreciation on disposals	-	-	-	-
Balance at 30 June 2020	(432,372)	(1,326,667)	(50,343)	(1,809,382)
Net Book Value				
As at 30 June 2019	317,653	130,783	297,325	745,761
As at 30 June 2020	285,790	294,036	280,055	859,881

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

		2020	2019
8	Right-of-use Asset	\$	\$
	Capitalised at commencement of year	4,916,344	
	Depreciation for the year	(375,771)	
	Net book value at end of year	4,540,573	-
	The Board's right-of-use asset comprises its offices situated at Lev 111 St Georges Terrace, Perth, WA.	/el 6,	
9	Trade and Other Payables		
	Trade Payables	193,017	101,358
	Other Payables	5,625	4,459
	Accruals	80,695	96,360
		279,337	202,177
10	Provisions		
	Current		
	Provision for Annual Leave	519,792	421,394
	Provision for Long Service Leave	513,053	504,852
	Total current provisions	1,032,845	926,246
	Non-current		
	Provision for Long Service Leave	156,919	152,765
11	Income in Advance		
	Continuing Professional Development Fees in Advance	149,299	210,855
	Photocopying in Advance	3,469	3,353
	Practising Certificates in Advance	6,721,327	7,387,658
	Solicitors Guarantee Fund	12,208	6,300
	Deferred Rent Incentive	6,886,303	481,531 8,089,697
		0,000,000	
12	Lease Liability		
	Current portion payable in 12 months	352,295	-
	Non-current portion	4,868,613	
	Total net present value	5,220,908	-
13	Retained Earnings		
	Balance at Beginning of the year	6,176,106	5,243,502
	Net Profit/(loss) for the year	917,403	932,604
	Balance at End of Year	7,093,509	6,176,106

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

14 Office of the Boa	rd		2020 \$	2019 \$
Income			•	•
Admissions			149,400	158,760
Assessment of Qu	alifications		26,400	25,600
Bank Interest			208,971	242,587
Continuing Profes	sional Develo	ppment	227,405	196,461
Evidentiary Certific			25,971	30,090
External Examiner		nent	272,045	256,375
Fines and Costs			15,500	81,266
Foreign Lawyers			18,750	10,000
Miscellaneous Inc	ome		8,576	3,507
Practice Certificate	es		8,040,013	7,913,498
			8,993,031	8,918,144
Expenditure				
Accommodation e	xpense	(Note 17)	711,752	438,155
Advertising	•	,	41,105	9,216
Audit and Account	ing Fees	(Note 2)	17,850	17,690
Expected Credit L	•	,	40,621	103,092
Bank Charges			48,944	56,199
Computer Expens	es		275,793	276,486
Conferences			15,474	11,220
Depreciation of off	ice equipme	nt/software	131,729	165,165
Election Services			9,954	10,032
Fringe Benefits Ta	X		4,794	4,786
Insurance			6,530	3,710
Law Library Exper	ises	(Note 3)	600,000	567,000
Legal Costs			458,048	504,708
Miscellaneous Cos	sts		40,249	37,724
Parking			18,271	17,799
Payroll Tax			117,766	108,661
Postage			12,945	13,730
Printing & Statione	ery		17,093	24,651
Professional Mem	berships		8,542	7,432
Reference Materia	ıls		36	24,449
Salaries			2,022,911	2,131,266
Seminars			131	713
Service and Maint	enance		3,311	4,632
Storage			22,854	25,848
Superannuation C	ontributions		184,828	181,746
Telephone			36,741	41,746
Training			10,492	15,460
Travel & Accommo			21,568	8,472
Workers' Compen	sation		15,794	19,326
			4,896,126	4,831,114

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

15	Trust Account Inspector	2020 \$	2019 \$
	Income	Ψ	Ψ
	TAI Reimbursements	433,220	587,342
	Seminar fees	11,999	26,091
	General Admin Costs	171,630	171,630
		616,849	785,063
	Expenditure		
	Conferences	3,143	1,623
	Fringe Benefits Tax	-	329
	Parking	6	15
	Payroll Tax	21,422	28,072
	Professional Membership	1,991	1,309
	Salary	329,907	450,800
	Seminars	1,987	3,930
	Stationery/meetings/office expenses	73	1,263
	Superannuation Contributions	30,546	44,307
	Telephone	822	1,998
	Training	1,050	994
	Travel & Accommodation	12,447	2,325
	Workers' Compensation	-	1,122
	·	403,394	538,087

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

16 Legal Profession Complaints Committee	2020	2019
Income	\$	\$
Costs Recovered	69,761	99,795
Fines	19,360	41,500
Fines – Summary Jurisdiction	4,000	4,500
Miscellaneous Income	30	60
micronal reduction in the second	93,151	145,855
Expenditure		
Conferences	9,760	2,164
Fringe Benefits Tax	4,794	4,456
Legal Costs	354,973	434,318
Miscellaneous Expenses	208	183
Parking/travel allowance	18,497	17,751
Payroll Tax	143,499	155,084
Professional Memberships	26,440	27,349
Salaries	2,684,250	2,659,733
Superannuation Contributions	242,692	244,628
Training	995	1,591
	3,486,108	3,547,257
17 Accommodation expense	2020	2019
	\$	\$
Accommodation expense comprises:		
 Depreciation of Right-of-use Asset 	375,771	-
- Lease Finance Charges	159,534	-
- Outgoings	176,447	176,797
- Rent		261,358
	711,752	438,155

Change in accommodation expense caused by adoption of Accounting Standard AASB 16.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

18 **Employee Benefits**

The aggregate employee benefit liability recognised and included in the financial statements is as follows:

Provision for employee benefits:	2020	2019
	\$	\$
Current (note 10)	1,032,845	926,246
Non-current (note 10)	156,919	152,765
	1,189,764	1,079,011

19 Notes to the cash flow statement

19 (a) Reconciliation of cash and cash equivalents

Increase/(decrease) in liabilities:

Net cash from/(used in) operating

Employee benefit provisions

Current payables

activities

Income in advance

For the purposes of the statement of cash flows, cash and cash equivalents includes cash on hand and in banks and investments in money market instruments, net of outstanding bank overdrafts.

Cash and cash equivalents at the end of the financial year as shown in the

	statement of cash flows is reconciled to the related items in the statement of financial position as follows:			
	Cash and cash equivalents (Note 4)	3,269,073	2,842,153	
19 (b)	Reconciliation of profit for the year to net cash flows	from operating activities		
		2020	2019	
	Profit and loss account:	\$	\$	
	Profit for the year	917,403	932,604	
	Loss on sale or disposal of non-current assets	-	-	
	Expected Credit Loss	(52,755)	103,092	
	Amortisation of lease liability	159,534	-	
	Depreciation and amortisation of non-current assets	507,500	165,165	
		1,531,682	1,200,861	
	Changes in net assets and liabilities:			
	(Increase)/decrease in assets:			
	Trade and other receivables	96,010	(243,987)	
	Other current assets	60,986	(83,334)	

77,160

(721,863)

1,154,728

110,753

(60,742)

203,656

133,333

1,149,787

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2020

20 Subsequent events

No subsequent events have occurred since that would impact on the financial statements.

21 Additional Company Information

The Legal Practice Board of Western Australia is a statutory authority.

Registered Office and Principal Place of Business

Level 6

111 St Georges Terrace

PERTH WA 6000

Tel: (08) 6211 3600

22	Commitments for Expenditure	2020	2019
	·	\$	\$
	Operating Lease Commitments		
	Not longer than 1 year	-	524,166
	Longer than 1 year and not longer than 5 years	-	2,269,221
	Longer than 5 years	-	1,952,548
		-	4,745,935
	With the adoption of AASB 16 "Leases" future lease commitments have as shown in note 12.	e been capitalised	
	Capital Expenditure Commitments Nil	<u> </u>	

23 Contingent liabilities

There are certain cases under appeal. Depending on the outcomes of the cases there may be some orders for costs. As the outcomes are not yet determined the amounts cannot be reliably estimated and so no adjustment has been made in the financial statements at the reporting date.

24 Related party transactions

The following Board Members provided legal services to the Legal Practice Board during the financial year ended 30 June 2020:

	2020	2019
	\$	\$
Mr Gary Cobby SC	42,506	17,121
Mr Martin Cureden SC	49,080	46,400
Mr Matthew Howard SC	42,924	14,467
Mr Alain Musikanth SC	37,739	11,770
Mr Mark Ritter SC	-	2,500
Mr Marcus Solomon SC	3,472	73,270
Mr Paul Yovich SC	-	52,430
Mr Sam Vandongen SC	4,350	1,000