



LEGAL  
PROFESSION  
BOARD OF  
TASMANIA

# ANNUAL REPORT

## 2008 -2009

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

## PART ONE: CHAIRMAN'S REPORT

The Legal Profession Act 2007 ("the Act") received Royal Assent on 15 August 2007, but its commencement was deferred. Its members were appointed in June 2008 in exercise of the power conferred by section 11 of the Acts Interpretations Act 1931. They were first called together on 22 July 2008, elected their Chairperson, and then set about the task of finding, fitting out, and furnishing suitable premises from which to operate; appointing necessary staff; properly equipping them for the discharge of the Board's statutory functions; and generally putting in place the procedures and other mechanisms which would be required for the Board's operation. This was done against an initial indication that the Act could be proclaimed to commence by 1 October 2008, although that date was postponed for reasons unrelated to the Board's preparedness until 31 December 2008.

Because of a statutory quirk, the Board was unable to obtain funding from its normal source by section 359 of the Act, the Solicitors' Guarantee Fund. Before approval in April/May 2009 of its budget for the 2009/10 financial year, it was able to function only by virtue of refundable advances from the Department of Justice and access to the Department's physical facilities, for which appreciation is expressed.

The Board, at the outset, hoped that it would be able to deal with most complaints within a short time-frame, as prior to the commencement of the Act there had been consistent criticism of matters taking too long to resolve, in some cases stretching over a number of years. As the Board commenced dealing with complaints, both new and transitional, it quickly became apparent that the provisions of the Act, particularly those designed to ensure procedural fairness, created a regime which effectively denied a speedy resolution to any matter except one in which a practitioner quickly conceded wrongdoing.

As a result, the Board has not been able to determine complaints as quickly as it had initially hoped. Notwithstanding, it is confident that it has dealt with all complaints received as efficiently and effectively as is possible within the statutory framework which binds it.

The Board has dedicated significant effort in establishing a realistic and achievable business plan for the coming financial year. The strategic direction for the first half of that year is for the Board to undertake a period of consolidation, with the focus on developing consistent, tested and documented procedures in relation to dealing with complaints and conducting hearings, and to complete construction of its website so that this provides not only the level of information which the Act requires but also is a source of sufficient information to satisfy the needs of any reasonable person contemplating dealing with the Board.

The strategic direction for the second half of 2009/10 is for the Board to focus more sharply on its educative and advisory role in relation to the legal profession and the Tasmanian community in general.

The nature and number of complaints that the Board has received is detailed later in this report in statistical format. However, it is clear that the quantum of complaints received against legal

practitioners is low when considered against the number of practitioners within Tasmania and the tens of thousands of legal transactions that occur each year in the provision by them of legal services.

Notwithstanding, there is always room for improvement and the Board is committed to monitoring the standard of legal services being provided in the community and assisting the legal profession and the community at large in identifying trends and significant issues that may arise. It will promote improvement of legal services, ultimately benefiting the Tasmanian community.

The Board extends its thanks and appreciation to the Attorney-General, the Honourable Lara Giddings MHA, for her continued support of the Board's work. I would like also to recognise and thank in particular the Secretary of the Department of Justice, Ms Lisa Hutton, for providing the Department's assistance and support, especially during the transitional and commencement phases of the Board's operations. In addition, I take this opportunity to thank the members of the Board for their significant contribution to the work of the Board since their appointment. On their behalf I gratefully acknowledge the work of the employees of the Board. Their hard work and dedication are pivotal to the efficiency and effectiveness of the Board.

**William Bale QC**  
Chair, Legal Profession Board of Tasmania

# PART TWO: THE LEGAL PROFESSION BOARD OF TASMANIA

## THE FUNDAMENTAL PURPOSE OF THE BOARD

The Board's fundamental purpose is to:

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

## THE VISION OF THE BOARD

The Board, through its regulatory functions, aims to promote a legal profession in Tasmania which meets the highest standards of propriety and efficiency. To this end, the Board will seek to establish and maintain a complaints investigations process which will be as good as or better than any other in the Nation.

## THE BOARD MEMBERS

The Board is an independent statutory body responsible for receiving and investigating complaints about the conduct of lawyers. It consists of six Board Members appointed by the Governor of Tasmania for a term of five years.

### Chairman of the Board:

*Mr William Bale QC* was elected by the members of the Legal Profession Board in July 2008 as the Board's Chairman. Mr Bale previously held the position of Solicitor General of Tasmania from 1986 until his retirement in September 2007 and has been a Tasmanian legal practitioner since 1964.

### Lay Members:

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

*Mr Peter Dane* is currently the State Manager Pricing and Regulation for Aurora Energy and has held senior management positions in the telecom and electricity industries since 1983. Mr Dane has a Master of Business Administration from the University of Tasmania.

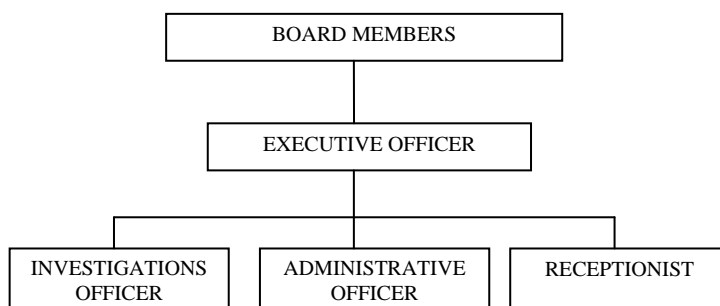
### Legal Members:

*Mr Michael Brett* is currently a leading barrister based in Launceston, is a member of the Anti Discrimination Tribunal and is a member of the Legal Aid Commission.

*Mr David Bessell* is a senior legal practitioner who retired in 2007 from his position as a senior partner in a prominent Hobart law practice.

*Mr John Upcher* is a senior legal practitioner who is currently practising as a consultant in a prominent Hobart law practice.

## ORGANISATIONAL CHART



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

## STATUTORY FUNCTIONS OF THE BOARD

Pursuant to section 59I of the Act, the Legal Profession Board has the following statutory functions:

- to maintain the Register (of legal practitioners);
- to monitor the standard and provision of legal professional services;
- to receive, investigate and determine complaints made under Chapter 4 and, as necessary, refer complaints to the Tribunal or Supreme Court for hearing and determination;
- to approve terms and conditions of professional indemnity insurance policies provided to law practices;
- to advise the profession on appropriate standards of conduct;
- to monitor and identify trends and issues that emerge within the legal profession;

- to approve courses of continuing legal education;
- to advise the Minister on any matters relating to this Act;
- such other functions as may be imposed by this or any other Act; and
- to conduct education programs relating to client-lawyer relationships for members of the public.

## FUNDING OF THE BOARD

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

## PART THREE: THE YEAR IN REVIEW

### PERFORMANCE OF THE LEGAL PROFESSION BOARD OF TASMANIA

The following statistical information regarding the Legal Profession Board's performance is based on the six month period, 1 January 2009 to 30 June 2009, as the organisation commenced complaint handling operations from 1 January 2009.

#### *COMPLAINT HANDLING*

**Table 1: Number of complaint enquiries received to 30 June 2009**

Method of Enquiry	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	TOTAL
<i>Enquiries made by phone</i>	40	37	51	41	55	37	261
<i>Enquiries made in person</i>	5	4	3	6	0	5	23
<i>Enquiries made by email</i>	1	5	1	1	1	1	10
<i>Enquiries made by letter</i>	1	1	2	0	1	2	7
<b>Total Enquiries</b>	<b>47</b>	<b>47</b>	<b>57</b>	<b>48</b>	<b>57</b>	<b>45</b>	<b>301</b>

The above table demonstrates that the Board has dealt on average with 50 complaint enquiries per calendar month. The total time spent per enquiry has been recorded throughout the period and averaged 15 minutes per enquiry, or a total of 75.25 hours (approximately 10 days) for the six month period.

The Board has recognised the importance of dealing effectively with complaints at the time of the initial enquiry as, on occasions and where appropriate, it provides an opportunity to resolve a problem before it escalates into a formal complaint.

**Table 2: Number of written complaints received to 30 June 2009**

	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	TOTAL
<i>Transitional complaints from the Law Society</i>	36	7	0	1	0	0	44
<i>Transitional complaints from the Legal Ombudsman</i>	9	0	0	0	0	0	9
<i>2009 complaints</i>	3	2	14	18	11	3	51
<b>Total Complaints Received</b>	<b>48</b>	<b>9</b>	<b>14</b>	<b>19</b>	<b>11</b>	<b>3</b>	<b>104</b>

The Legal Profession Board received 44 transitional complaints from the Law Society at the commencement of the Act pursuant to schedule 9 clause 24 of the savings and transitional provisions. These complaints were ones that the Law Society had either not completed or had not

referred to the Disciplinary Tribunal prior to the Act's commencement. The Board was obliged to deal with these matters under Chapter 4 of the Act. Most of the complaints had been made to the Law Society in 2008, but some dated back to 2006.

The Legal Profession Board of Tasmania also received 9 transitional complaints from the Legal Ombudsman pursuant to schedule 9 clause 35 of the Act.

With 51 new complaints received in the 6 months to 30 June, the Board's estimated normal annual work load of approximately 120 complaints is likely to be substantially exceeded in its first full year of operation.

**Table 3: Principal allegations against legal practitioners**

Principal Allegation	Transitional complaints (Law Society)	Transitional complaints (Legal Ombudsman)	2009 complaints	Total	%
<i>Abusive/Rude</i>	2		5	7	6%
<i>Breach of Act, rules, court order or undertaking</i>	2		2	4	3%
<i>Communication with client - including failure to communicate</i>			3	3	3%
<i>Communication with other party</i>			1	1	1%
<i>Confidentiality breach</i>	3			3	3%
<i>Conflict of interest</i>	2		2	4	3%
<i>Costs/Bills/Fees</i>	8		13	21	20%
<i>Court performance</i>	2		3	5	5%
<i>Criminal allegations</i>			1	1	1%
<i>Delay</i>	6		4	10	10%
<i>Dishonest/Misleading</i>	6		4	10	10%
<i>Documents - including retention or lost</i>	1		2	3	3%
<i>Instructions - failure to comply</i>	5		7	12	12%
<i>Instructions - acting without instructions</i>	1			1	1%
<i>Investigate - Failure or inappropriate investigation</i>		9		9	9%
<i>Negligence - including poorly handling case</i>	4		4	8	8%
<i>Trust money - including failure to account</i>	2			2	2%
<b>Totals</b>	<b>44</b>	<b>9</b>	<b>51</b>	<b>104</b>	<b>100%</b>

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



Table 3 identifies the principal allegation for each category of complaint received to 30 June 2009. Where a complaint included more than one allegation, the principal allegation is the one identified. As can be seen from Table 3, allegations relating to costs, delay and dishonesty comprised 40% of all complaint allegations received.

**Table 4: Area of law to which complaints related**

Area of the Law	Transitional complaints (Law Society)	Transitional complaints (Legal Ombudsman)	2009 complaints	Total	%
<i>Administrative</i>			1	1	1%
<i>Building</i>	1			1	1%
<i>Commercial/Contract</i>	8		2	10	10%
<i>Commonwealth/Constitutional</i>	1			1	1%
<i>Conveyancing</i>	6		6	12	12%
<i>Crimes compensation</i>	4			4	3%
<i>Criminal</i>	5		6	11	10%
<i>Debt collection</i>	1		1	2	2%
<i>Family/defacto</i>	5		9	14	13%
<i>Industrial relations</i>	2			2	2%
<i>Investigation by Law Society</i>		9		9	9%
<i>Personal injury</i>	4		4	8	8%
<i>Planning</i>			3	3	2%
<i>Probate/estate/wills</i>	3		8	11	10%
<i>Workers' compensation</i>			6	6	7%
<i>Other</i>	4		5	9	9%
<b>Total</b>	<b>44</b>	<b>9</b>	<b>51</b>	<b>104</b>	<b>100%</b>

Often the areas of law that feature in complaints are those that most closely affect the complainant's private affairs. When an individual seeks legal services from a legal practitioner, a great deal may be at stake for the individual, which can lead to strains both emotionally and financially.

The area of law most often involved in complaints received to 30 June 2009, was family law. This is consistent with complaints data across Australian jurisdictions from previous years. The areas of law also highly representative in the reporting period were conveyancing, probate and estate, and criminal.

**Table 5: Complainant's profile**

MALE/FEMALE	Number	%
Male	65	63%
Female	37	35%
Complaints made by the Board	2	2%
<b>Total</b>	<b>104</b>	<b>100%</b>

COMPLAINTS BY REGION	Number	%
South	64	62%
North	16	15%
North West	14	13%
Interstate/International	10	10%
<b>Total</b>	<b>104</b>	<b>100%</b>

Table 5 highlights that 62% of complaints originated from the South of the State with the majority of complainants being male (63%). The Board initiated 2 complaints in the reporting period.

### *INVESTIGATIONS*

**Table 6: Investigations commenced and completed to 30 June 2009**

Month	Investigations Commenced	Investigations Completed
Jan-09	1	0
Feb-09	9	0
Mar-09	10	0
Apr-09	7	1
May-09	10	1
Jun-09	7	4
<b>Total</b>	<b>44</b>	<b>6</b>

Generally, upon receiving a written complaint, the Legal Profession Board ensures that, as soon as practicable and once all the relevant information has been gathered, the legal practitioner is notified of the complaint and its details. Submissions are sought from the practitioner and the procedural fairness provisions of the Act are strictly followed. If a complaint is not summarily dismissed or subsequently withdrawn by the complainant, the Legal Profession Board is obliged to investigate it under section 440 of the Act.

Table 6 shows that the Legal Profession Board has commenced an average of 7 complaint investigations per month to 30 June 2009 and has completed 6 investigations or 13.6% in total during the 6 month reporting period.

**Table 7: Complexity of investigations**

Category	Criteria	Number	%
<i>Simple</i>	Basic investigation, low volume of documentary evidence, no witness or 3rd party involvement	16	36%
<i>Intermediate</i>	Medium volume of documentary evidence, single witness or 3rd party involvement	16	36%
<i>Complex</i>	Multiple witnesses, significant volume of evidence	8	19%
<i>Very Complex</i>	High volume of evidence, multiple witnesses, interaction with commercial entities	4	9%
<b>Total</b>		<b>44</b>	<b>100%</b>

When an investigation is commenced, each complaint is classified in relation to its apparent complexity. The complexity of a complaint may alter through the investigation process and is reclassified accordingly. The classification of investigations, although not a precise science, relates predominantly to the volume of documentation, the involvement of witnesses or third parties and the legally or factual complexity of the issues.

In the six month period to 30 June 2009, the Legal Profession Board had in excess of a quarter (28%) of all investigation files that were classified as either complex or very complex matters. Simple and intermediate investigations formed the majority of all investigations at 72%.

## FINALISATIONS AND OUTCOMES

Table 8: Complaints finalised and method of finalisation to 30 June 2009

Method of Finalisation	Relevant Section of Act	Description	Number Finalised	%
<i>Summarily dismissed</i>	s.433 (1) (a)	<i>Complaint lacking in substance</i>	11	30%
<i>Summarily dismissed</i>	s.433 (1) (e)	<i>Complaint is not one that the Board has the power to deal with</i>	5	14%
<i>Summarily dismissed</i>	s.433 (1) (d)	<i>Conduct complained about is the subject of another complaint</i>	1	3%
<i>Summarily dismissed</i>	s.433 (3)	<i>Complaint requires no further investigation</i>	1	3%
<i>Dismissed following an investigation</i>	s.451 (a)	<i>No reasonable likelihood that the practitioner will be found guilty</i>	1	3%
<i>Withdrawal</i>	s.434	<i>Complaint withdrawn by complainant</i>	6	16%
<i>Withdrawal</i>	s.434	<i>Complaint withdrawn following mediation</i>	1	3%
<i>Complaint Closed</i>		<i>Pertains to transitional Legal Ombudsman complaints or where deemed to be no complaint</i>	10	28%
<b>TOTAL</b>			36	100%

In the first six months of operation to 30 June 2009, the Legal Profession Board finalised 36 complaints, the majority (35 complaints or 97%), prior to commencing an investigation. These 36 finalisations represented 35% of the total complaints received by the Legal Profession Board for the reporting period.

The most common method of finalisation of complaints to 30 June 2009 was summary dismissal pursuant to section 433 (1) (a) as lacking in substance. 11 complaints or 30% of all finalisations were subject to this determination.

As at 30 June 2009, no complaints had been dealt with by the Legal Profession Board by formal hearing or had been referred to either the Disciplinary Tribunal or Supreme Court, although a number of matters had been progressed through investigation almost to one or other of these stages.

**Table 9: Number of pending complaints as at 30 June 2009**

Complaints	Number	%
Total complaints received	104	100%
Finalised complaints	36	35%
<b>Total Pending Complaints</b>	<b>68</b>	<b>65%</b>

Complaints under investigation	44	65%
Pending complaints (not under investigation)	24	35%
<b>Total Pending Complaints</b>	<b>68</b>	<b>100%</b>

Table 9 shows that the Legal Profession Board has 68 pending complaints as 30 June 2009, of which 44 complaints or 65% are under investigation and 24 complaints or 35% are in the preliminary review process required by the Act prior to investigation.

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

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

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### **DISCIPLINARY TRIBUNAL ANNUAL REPORT**

The Tribunal heard and determined four matters during the reporting period. Three matters were dealt with pursuant to the Legal Profession Act 1993 and one matter was dealt with pursuant to Legal Profession Act 2007. There are five matters awaiting hearing and determination.

#### **MATTER A**

The Practitioner was found guilty of unprofessional conduct because of delay and making misleading statements to his clients about the progress of two matters relating to criminal injuries compensation under the Victims of Crime Assistance Act 1976. The practitioner was reprimanded, fined \$2,000.00 and ordered to pay the Law Society's costs of \$7,359.00 for investigating each complaint.

#### **MATTER B**

The Practitioner was found guilty of unprofessional conduct by being in breach of a fiduciary duty owed to lender clients to disclose to them negotiation fees and commissions that the Practitioner was to receive from borrower clients. The Practitioner was admonished.

#### **MATTER C**

The Practitioner was found guilty of unprofessional conduct in that he misled the State Revenue Office when he signed a Solicitor's Undertaking in relation to two First Home Owner Grant Applications. The Practitioner was reprimanded, fined \$1,000.00 and ordered to pay the Law Society's costs of the application, including the costs incurred in investigating the matters that formed the basis of the application.

#### **MATTER D**

The Practitioner was found guilty of professional misconduct for falsifying the date on a Contract of Sale in order to avoid payment of penalty and interest on stamp duty. The Practitioner was fined \$10,000.00 and ordered to pay the Law Society's agreed costs of the application in the sum of \$4,125.00.

**Chairman**  
August 2009

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

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

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Section 653 of the *Legal Profession Act 2007* (the *Act*) requires the prescribed authority to prepare and present to the Legal Profession Board of Tasmania, a report on its operations for the financial year ending 30 June 2009. Following please find the Society's report in satisfaction of that requirement.

### **Practising Certificates**

Practising Certificates issued under the *Legal Profession Act 1993* which ordinarily would have ceased to have effect on 31 December 2008, were extended to 30 June 2009 by virtue of Clause 6 of Schedule 9 of the *Act*.

The process of renewing practising certificates for the financial year 2009/2010 was commenced on 6 May 2009 with a view to issuing new certificates effective from 1 July 2009.

### **Trust Account Inspections**

Trust account inspections for the period ending 30 December 2008 were conducted by approved inspectors. Detailed consideration of those inspection reports is underway. A report will be prepared at the conclusion of the review process.

### **Rules of Practice**

The *Rules of Practice 1994* continue to have effect, other than where they are inconsistent with the *Act* or *Legal Profession Regulations 2008*. The implementation of new Tasmanian rules has been postponed pending an assessment of the progress of a Law Council of Australia project to develop nationally consistent rules. Tasmania has a representative on the Law Council rules working group, and a decision on whether to implement new Tasmanian rules is likely to be made towards the end of 2009.

Yours sincerely

**Martyn Hagan**  
Executive Director

## PART SIX: FINANCIAL STATEMENTS AS AT 30 JUNE 2009

The report of Financial Statements 2008-09 is attached in satisfaction of section 601 of the *Legal Profession Act, 2007*.



Legal Profession Board of Tasmania

Financial Statements 2008-09

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## Income Statement for the period ended 30 June 2009

		31 Dec 2008 to 30 June 2009
Notes		\$'000
<b>Revenue and other income</b>		
Revenue from Solicitor's Guarantee Fund for 2008/2009	1.6(a), 3.1	576
Other revenue	1.6(b), 3.2	12
<b>Total income and other revenue</b>		<b>588</b>
<b>Expenses</b>		
Employee benefits	1.7(a), 4.1	276
Supplies and consumables	1.7(d), 4.2	109
Depreciation and amortisation	1.7(e), 4.4	7
Other expenses	1.7(d), 4.3	48
<b>Total expenses</b>		<b>440</b>
<b>Net surplus before revenue from Solicitor's Guarantee Fund for 2009/2010</b>		<b>148</b>
Revenue from Solicitor's Guarantee Fund for 2009/2010	1.6(a), 3.1	320
<b>Net surplus</b>		<b>468</b>

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

## Balance Sheet as at 30 June 2009

		2009
Notes		\$'000
<b>Assets</b>		
Cash and cash equivalents	1.8(a), 8.1	719
Receivables	1.8(b), 5.1	201
Prepayments		3
Office improvements, plant and equipment	1.8(d), 5.3	95
Intangible assets	1.8(c), 5.2	3
<b>Total assets</b>		<b>1,021</b>
<b>Liabilities</b>		
Payables	1.9(a), 6.1	533
Employee benefits	1.9(b), 6.2	20
<b>Total liabilities</b>		<b>553</b>
<b>Net assets</b>		<b>468</b>
<b>Equity</b>		
Accumulated funds	7.1	468
<b>Total equity</b>	7.1	<b>468</b>

This Balance Sheet should be read in conjunction with the accompanying notes.

## Cash Flow Statement for the period ended 30 June 2009

	Notes	31 Dec 2008 to 30 June 2009
		\$'000
<b>Cash flows from operating activities</b>		Inflows (Outflows)
<b>Cash inflows</b>		
Solicitor's Guarantee Fund Receipts		707
Other revenue receipts		12
<b>Total cash inflows</b>		<u>719</u>
<b>Net cash generated from operating activities</b>	8.2	<u>719</u>
<b>Net increase in cash held</b>		<u>719</u>
<b>Cash and cash equivalents at the beginning of the reporting period</b>		<u>-</u>
<b>Cash and cash equivalents at the end of the reporting period</b>	8.1	<u>719</u>

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

## Statement of Recognised Income and Expense for the period ended 30 June 2009

	Notes	31 Dec 2008 to 30 June 2009
		\$'000
<b>Income and expenses recognised directly in equity</b>		-
<b>Net income recognised directly in equity</b>		<u>-</u>
Net surplus for the financial period	7.1	468
<b>Total recognised income and expense for the period</b>		<u>468</u>

This Statement of Recognised Income and Expense should be read in conjunction with the accompanying notes.

## Notes to and forming part of the Financial Statements for the period ended 30 June 2009

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## Note 1 Significant Accounting Policies

### 1.1 Objectives and Funding

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

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

The Board commenced operations on 31 December 2008 and consists of six Board Members appointed by the Governor of Tasmania for a term of five years.

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

### 1.2 Basis of Accounting

The Financial Statements are a general purpose financial report and have been prepared in accordance with:

- Australian Accounting Standards (AAS) issued by the Australian Accounting Standards Board (AASB); and
- The Treasurer's Instructions issued under the provisions of the *Financial Management and Audit Act 1990*.

The financial statements were signed by the Chairman on 28 August 2009.

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

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

### 1.3 Functional and Presentation Currency

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

### 1.4 Changes in Accounting Policies

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

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

- AASB 2008-10 *Amendments to Australian Accounting Standards: Reclassification of Financial Instruments* permits the reclassification of certain non-derivative financial assets. The Board does not intend on reclassifying its financial assets in the current period, accordingly there will be no financial impact.
- AASB 2007-9 *Amendments to Australian Accounting Standards arising from the Review of AASs 27, 29 and 31* – The primary focus of this Standard has been on relocating, where necessary, the requirements in AASs 27, 29 and 31, substantively unamended (with some exceptions), into topic-based Standards. The Standard will not have a material financial impact on the Financial Statements.



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

The following new standards relevant to the Board have been issued by the AASB and are yet to be applied:

- AASB 2007-8 *Amendments to Australian Accounting Standards Arising from AASB 101* - revised Standard to be applied in reporting periods beginning on or after 1 January 2009. The Standard will not have a financial impact on the Financial Statements but will require a number of changes in disclosures.
- AASB 2007-10 *Further Amendments to Australian Accounting Standards arising from AASB 101* - revised Standard to be applied from reporting periods beginning on or after 1 January 2009. This Standard changes the term “general purpose financial report” to “general purpose Financial Statements” and the term “financial report” to “Financial Statements”, where appropriate, in Australian Accounting Standards (including Interpretations) and the *Framework* to better align with IFRS terminology. The Standard will not have a financial impact on the Financial Statements.
- AASB 2008-5 *Amendments to Australian Accounting Standards arising from the Annual Improvements Project* – revised Standard to be applied from reporting periods beginning on or after 1 January 2009. The amendments to some Standards result in accounting changes for presentation, recognition or measurement purposes, while some amendments that relate to terminology and editorial changes are expected to have no or minimal effect on accounting. The Standard will not have a material financial impact on the Board’s Financial Statements.

The future adoption of these standards is not expected to have a material impact on the financial statements of the Board.

## **1.5 Transactions by the Government as Owner – Restructuring of Administrative Arrangements**

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

## **1.6 Income**

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

### **(a) Revenue from Solicitor’s Guarantee Fund**

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

### **(b) Other Revenue**

Revenue from other sources is recognised when the Board gains control of the funds and it is probable that the inflow of funds has occurred and can be reliably measured.

## **1.7 Expenses**

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

### **(a) Employee Benefits**

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

### **(b) Impairment – Financial Assets**

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

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

All impairment losses are recognised in the Income Statement.

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

### **(c) Impairment – Non-financial assets**

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

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

### **(d) Other Expenses and Supplies & Consumables**

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

### **(e) Depreciation and amortisation**

All applicable non-financial assets having a limited useful life are systematically depreciated over their useful lives in a manner which reflects the consumption of their service potential.

Depreciation is provided for on a straight line basis, using rates which are reviewed annually. Major depreciation rates are as follows:

Plant & equipment: 20%

Office improvements: 20%

All intangible assets having a limited useful life are systematically amortised over their useful lives reflecting the pattern in which the asset's future economic benefits are expected to be consumed by the Board.

Major amortisation rates are:

Software: 25%

## **1.8 Assets**

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

### **(a) Cash and Cash equivalents**

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

### **(b) Receivables**

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

### (c) Intangible assets

An intangible asset is recognised where:

- it is probable that an expected future benefit attributable to the asset will flow to the Board; and
- the cost of the asset can be reliably measured.

The costs in respect to the Boards Case Management System are valued at cost.

### (d) Office improvements, plant and equipment

#### (i) Valuation basis

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

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

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

#### (ii) Subsequent costs

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

#### (iii) Asset recognition threshold

The asset capitalisation threshold adopted by the Board is \$1,000. Assets valued at less than \$1,000 are charged to the Income Statement in the year of purchase (other than where they form part of a group of similar items which are material in total).

## 1.9 Liabilities

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

### (a) Payables

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

### (b) Employee Benefits

Liabilities for wages and salaries and annual leave are recognised when an employee becomes entitled to receive a benefit. Those liabilities expected to be realised within 12 months are measured as the amount expected to be paid. Other employee entitlements are measured as the present value of the benefit at 30 June 2009, where the impact of discounting is material, and at the amount expected to be paid if discounting is not material.

A liability for long service leave is recognised, and is measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date.

### (c) Superannuation

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

### **1.10 Leases**

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

The Board is prohibited by Treasurer's Instruction 502 *Leases* from holding finance leases.

### **1.11 Judgements and Assumptions**

In the application of Australian Accounting Standards, the Board is required to make judgements, 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 circumstances, the results of which form the basis of making the judgements. 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.

Judgements made by the Board that have significant effects on the financial statements are disclosed in the relevant notes to the financial statements.

The Board has made no assumptions concerning the future that may cause a material adjustment to the carrying amounts of assets and liabilities within the next reporting period.

### **1.12 Budget Information**

At the commencement of its operations in 2008, the Board was unable to obtain funding via section 359 of the Act. Before approval in April/May 2009 of its budget for the 2009/10 financial year, it was able to function only by virtue of refundable advances from the Department of Justice and therefore no budget information is reported for the period 2008/09.

### **1.13 Rounding**

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

### **1.14 Taxation**

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

### **1.15 Goods and Services Tax**

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

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

## Note 2 Events Occurring After Balance Date

There have been no events subsequent to the balance date which would have a material effect of the Board's Financial Statements as at 30 June 2009.

## Note 3 Income

### 3.1 Solicitor's Guarantee Fund

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	31 Dec 2008 to 30 June 2009
	\$'000
Solicitor's Guarantee Fund Revenue for 2008/2009	576
Solicitor's Guarantee Fund Revenue for 2009/2010	320
<b>Total revenue from Solicitor's Guarantee Fund</b>	<b>896</b>

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### 3.2 Other Revenue

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	31 Dec 2008 to 30 June 2009
	\$'000
Fines Revenue	10
Interest Revenue	2
<b>Total</b>	<b>12</b>

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## Note 4 Expenses

### 4.1 Employee Benefits

	31 Dec 2008 to 30 June 2009
	\$'000
Wages and salaries (Staff)	160
Wages and salaries (Board members)	91
Superannuation – contribution scheme	22
Other employee expenses	3
<b>Total</b>	<b>276</b>

Superannuation expenses relating to defined benefits schemes relate to payments into the Superannuation Provision Account (SPA) held centrally and recognised within the Finance-General Division of the Department of Treasury and Finance. The amount of the payment is based on an employer contribution rate determined by the Treasurer, on the advice of the State Actuary. The current employer contribution is 11 per cent of salary.

Superannuation expenses relating to the contribution scheme are paid directly to the superannuation fund at a rate of nine per cent of salary. In addition, departments are also required to pay into the SPA a “gap” payment equivalent to two per cent of salary in respect of employees who are members of the contribution scheme.

### 4.2 Supplies and Consumables

	31 Dec 2008 to 30 June 2009
	\$'000
Consultants	14
Property expenses	14
Maintenance	3
Communications	5
Information technology	28
Travel and transport	5
Advertising and promotion	2
Printing	1
Plant and Equipment	10
Other supplies and consumables	27
<b>Total</b>	<b>109</b>

#### 4.3 Other Expenses

	31 Dec 2008 to 30 June 2009
	\$'000
Operating Leases	32
Other Expenditure	16
<b>Total</b>	<b>48</b>

#### 4.4 Depreciation and Amortisation

	31 Dec 2008 to 30 June 2009
	\$'000
Depreciation – office improvements and plant and equipment	6
Amortisation – software	1
<b>Total</b>	<b>7</b>

## Note 5 Assets

### 5.1 Receivables

	2009
	\$'000
GST Receivables	12
Revenue from Solicitor's Guarantee Fund – 2009 funding	189
<b>Total</b>	<b>201</b>
Settled within 12 months	201
<b>Total</b>	<b>201</b>

**5.2 Intangible assets**

	<b>2009</b>
	<b>\$'000</b>
<b>Intangible assets</b>	
Cost – case management system	4
Less Accumulated Amortisation	(1)
<b>Total</b>	<u><b>3</b></u>

Note: The software, acquired during the year, is valued at cost and during 2008-09, the Board assessed the software as not being impaired. The software is being amortised over 4 years.

**(a) Reconciliation of movements**

	<b>2009</b>
	<b>\$'000</b>
<b>Carrying amount at beginning of period</b>	<u><b>-</b></u>
Additions – case management system	4
Amortisation expense	(1)
<b>Carrying amount at 30 June</b>	<u><b>3</b></u>



### 5.3 Office improvements, plant and equipment

#### (a) Carrying amount

	<b>2009</b>
	<b>\$'000</b>
<b>Office improvements</b>	
At cost	60
Less: Accumulated amortisation	(2)
<b>Total</b>	<b>58</b>
<b>Plant and equipment</b>	
At cost	41
Less: Accumulated depreciation	(4)
<b>Total</b>	<b>37</b>
<b>Total office improvements, plant and equipment</b>	<b>95</b>

#### (b) Reconciliation of movements

Reconciliations of the carrying amounts of each class of Office improvements, plant and equipment are set out below. Carrying value means the net amount after deducting accumulated depreciation and accumulated impairment losses (if relevant).

<b>2009</b>	<b>Office improvements \$'000</b>	<b>Plant &amp; equipment \$'000</b>	<b>Total \$'000</b>
<b>Carrying value at beginning of the period</b>	-	-	-
Additions	60	41	101
Disposals	-	-	-
Depreciation	(2)	(4)	(6)
<b>Carrying value at 30 June</b>	<b>58</b>	<b>37</b>	<b>95</b>

## Note 6 Liabilities

### 6.1 Payables

	<b>2009</b>
	<b>\$'000</b>
Payables – Department of Justice	529
Other accrued expenses – case management system	4
<b>Total</b>	<b>533</b>
Settled within 12 months	533
<b>Total</b>	<b>533</b>

Settlement is usually made within 30 days. Payable noted above to Department of Justice includes \$101,000 for items capitalised into office improvements, plant & equipment.

## 6.2 Employee Benefits

	<b>2009</b>
	<b>\$'000</b>
Accrued salaries	6
Annual leave	12
Long service leave	2
<b>Total</b>	<b>20</b>
Settled within 12 months	18
Settled in more than 12 months	2
<b>Total</b>	<b>20</b>

## Note 7 Equity and Movements in Equity

### 7.1 Reconciliation of Equity

	<b>Accumulated Funds 2009 \$'000</b>	<b>Total Equity 2009 \$'000</b>
<b>Balance at beginning of period</b>	-	-
Net surplus	468	468
<b>Balance at 30 June 2009</b>	<b>468</b>	<b>468</b>

## Note 8 Cash Flow Reconciliation

### 8.1 Cash and Cash Equivalents

	<b>2009</b>
	<b>\$'000</b>
Operating Account	719
<b>Total cash and cash equivalents</b>	<b>719</b>

## 8.2 Reconciliation of Operating Surplus to Net Cash used by Operating Activities

	31 Dec 2008 to 30 June 2009
	\$'000
Net operating surplus	468
<b>Non-cash items</b>	
Depreciation and amortisation	7
<b>Movements in operating assets</b>	
(Increase) / Decrease in Receivables	(201)
(Increase) / Decrease in Other assets	(3)
Increase / (Decrease) in Employee benefits	20
Increase / (Decrease) in Payables	428
<b>Net cash generated from operating activities</b>	<b>719</b>

## 8.3 Financing Facilities

	2009
	\$'000
<b>Tas Government Card - Credit card facility</b>	
Amount used	-
Amount unused	10
<b>Total</b>	<b>10</b>

## Note 9 Financial Instruments

### 9.1 Risk exposures

#### (a) Risk management policies

The Board has exposure to the liquidity risk from its use of financial instruments.

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

#### (b) Liquidity risk

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

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

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

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

**2009**

	Maturity analysis for financial liabilities		
	1 Year	Undiscounted Total	Carrying Amount
<b>Financial liabilities</b>			
Payables	533	533	533
<b>Total</b>	<b>533</b>	<b>533</b>	<b>533</b>

## 9.2 Categories of Financial Assets and Liabilities

	<b>2009</b>
	<b>\$'000</b>
<b>Financial assets</b>	
Cash and cash equivalents	719
Loans and Receivables	201
<b>Total</b>	<b>920</b>
<b>Financial Liabilities</b>	
Financial liabilities measured at amortised cost	533
<b>Total</b>	<b>533</b>

## 9.3 Net Fair Values of Financial Assets and Liabilities

	<b>2009</b>	
	<b>Total Carrying Amount \$'000</b>	<b>Net Fair Value \$'000</b>
<b>Financial assets</b>		
Cash and cash equivalents	719	719
Receivables	201	201
<b>Total financial assets</b>	<b>920</b>	<b>920</b>
<b>Financial liabilities</b>		
Payables	533	533
<b>Total financial liabilities</b>	<b>533</b>	<b>533</b>

### *Financial Assets*

The net fair values of cash and non-interest bearing monetary financial assets approximate their carrying amounts.

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

### *Financial Liabilities*

The net fair values for trade creditors are approximated by their carrying amounts.

## Note 10 Schedule of Commitments

2009

\$'000

### By type

#### *Lease Commitments*

Operating leases

562

*Total lease commitments*

562

### By maturity

#### *Operating lease commitments*

One year or less

63

From one to five years

227

Greater than five years

272

*Total operating lease commitments*

562

Note: The Operating Lease commitments include buildings, car park and motor vehicles.

**Statement by Chairman and Principal Accounting Officer**

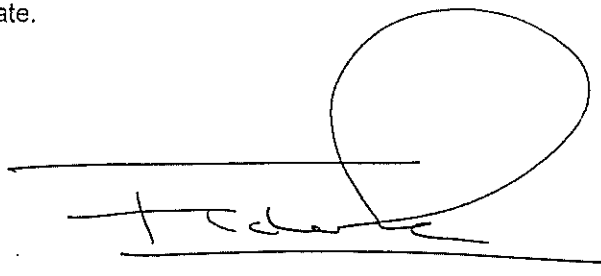
The accompanying Financial Statements of the Legal Profession Board of Tasmania are in agreement with the relevant accounts and records and have been prepared in compliance with Treasurer's Instructions issued under the provision of the *Financial Management and Audit Act 1990* and Section 599 of the *Legal Profession Act 2007* to present fairly the financial transactions for the period ended 30 June 2009 and the financial position as at the end of the year.

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



William Bale

CHAIRMAN



Frank Ederle

EXECUTIVE OFFICER