

TABLE OF CONTENTS

Presiding Member's Report	1
<hr/>	
Commissioner's Report	2
<hr/>	
People who carried out the work of the Board	3
Members of the Board	
• Staff of the Board	
<hr/>	
Investigations by the Board	5
Who is approaching the Board	
• About what type of matters	
• Alleging what	
• Who is being complained about	
<hr/>	
Case Management	12
• Files opened and current numbers	
• The Board's files	
• Files closed	
• Representations to the Lay Observer	
• Workflow	
<hr/>	
Conciliation at the Board	15
<hr/>	
Litigation work of the Board	17
Tribunal matters	
• Supreme Court matters	
<hr/>	
Explanation of terms	19
<hr/>	
Financial Statements	20

PRESIDING MEMBER'S REPORT

It is my pleasure, tempered with some sadness, to present the 22nd and final Annual Report of the Board. On 30 June 2014, the Board ceased to exist by operation of legislation and the office of the Legal Profession Conduct Commissioner commenced operation on 1 July 2014. The work of the Board has transferred seamlessly to the new Commissioner's office, with the Commissioner ably supported by the former staff of the Board, who have transitioned to new positions.

I have greatly enjoyed my work with the Board, both as an ordinary member and later as Presiding Member. I wish to extend my personal thanks to all Board members who have served in this capacity since the Board's inception. They can be justifiably proud of the work of the Board over a number of years. In that regard, we have been ably assisted by the high quality reports and legal advice provided to us by the staff.

I also wish to extend my particular thanks to the outgoing Director of the Board, Alex Rathbone, who has always discharged her duties with exceptional skill. I also wish to thank the Honourable John Rau the Attorney-General for his support of the Board's work. Finally, I extend my own and the outgoing Board members' good wishes to the Commissioner for the future.

Catherine Parsonage

COMMISSIONER'S REPORT

The *Legal Practitioners (Miscellaneous) Amendment Act 2013* came into operation on 1 July 2014. The new *Legal Practitioners Regulations 2014* also came into operation on the same date.

The Amendment Act made major changes to the *Legal Practitioners Act 1981*, and those changes have had a significant impact on the way all lawyers go about their day-to-day business.

Amongst other things, the Amendment Act has significantly changed the way in which the disciplinary system for lawyers in South Australia operates. In terms of structural change to the system, the Board ceased to exist on 30 June 2014, and from 1 July 2014 complaints against lawyers and investigations into suspected misconduct by lawyers have been handled by the Commissioner.

The disciplinary system in which the Commissioner now operates is very different to the previous system. The Amendment Act had two main objectives (at least, from the point of view of making changes to the disciplinary system).

- First, to expand the range of conduct that might amount to misconduct – in particular, to include a “fit and proper person” test that relates to conduct both in practice and outside of it. These changes only apply to conduct that occurred on or after 1 July 2014.
- Secondly, to make the disciplinary process a more efficient one, both for the person (often the lawyer’s client) who complains about the conduct of a lawyer, and also for the lawyer about whom the complaint is made.

I hope that I will be able to demonstrate in future reports that we have achieved the second of those objectives. In the meantime, this report is in relation to the last full financial year of the Board.

I am making this report on the Board’s proceedings for that year under regulation 71 of the Regulations.

Despite operating for most of the year under the uncertainty of when the Amendment Act would be passed and how the transition to the new disciplinary system would take place, the Board and its staff continued to handle, in a professional manner, an ever increasing workload.

It is appropriate that I take this opportunity to acknowledge the work of the Board and its Director Alex Rathbone. The Board served both the legal profession and its clients extremely well over the many years since it replaced the old Legal Practitioners Complaints Committee. And, as its Director for the last seven years, Alex managed the Board and its affairs extremely professionally. It is fair to say that the Board had its share of extremely difficult matters to deal with in recent years, and it dealt with them well, albeit within the constraints of the legislation under which it acted. Hopefully those constraints have now been removed by the Amendment Act.

Alex retired from her role as the Board’s Director on 30 June 2014. Under the Amending Act, the employment of the other staff members of the Board transitioned to my new office on 1 July 2014. Although I have only been in the role for a short time, I can already say that the staff does an outstanding job in what are, on occasions, very difficult circumstances.

I should also note that the role of Lay Observer has been discontinued by the Amendment Act. The previous Lay Observers – most recently Anne Burgess, and John Boag for many years before her – performed a valuable service in hearing representations from those dissatisfied with the decisions of the Board or the Tribunal.

Greg May

THE PEOPLE WHO CARRIED OUT THE WORK OF THE BOARD

Board Members

Presiding Member		Appointments
Catherine Parsonage	Partner, Duncan Basheer Hannon	Appointed PM 24 May 2012
Appointed to Board 21 July 2005		
Legal Members		
Josephine Mercer	Legal Practitioner	24 May 2012
Leni Palk	Barrister, Solicitor & Notary Public	25 May 2006
Richard Yates	Solicitor, Tindall Gask Bentley	15 October 2012
Lay Members		
Stewart Leggett	Pastor	25 May 2003
Joan-Therese Fox	Teacher/Industrial Advocate (retired)	13 July 2006
Catherine Schultz	Consultant, Catherine Schultz Consulting	24 May 2012
Deputy Members		
James Marsh	Partner, Fisher Jeffries Deputy to Leni Palk	10 August 2003
Lay Observer		Appointments
John Boag		8 June 2004 - 18 July 2013
Anne Burgess		1 December 2013 - 30 June 2014

Staff Members

As at 30 June 2014

Title	Name	Commenced in current position
Director	Alexandra Rathbone	March 2007
Principal Legal Officer	Elizabeth Manos	January 2010
Conciliator	Amelia Taeuber	March 2010
Finance Manager	Kirstie Bateup	March 2010
Systems Manager	Bart Fabrizio	March 2010
Executive Secretary	Robyn Delaney	October 2010
Solicitor	Mike Ahern	September 2013
Solicitor (costs)	Rebecca Birchall	September 2005
Solicitor	Paul Blackmore	April 2013
Solicitor	Philippa Branson	March 2011
Solicitor	Alison Brookman	August 2013
Solicitor	Kathryn Caird	February 2013
Solicitor	Linda Doré	June 2011
Solicitor	Julia Dunstone	May 2012
Solicitor	Ron Fletcher	March 2010
Solicitor	Sharon Hurren	April 2007
Solicitor	Paul Keady	February 2013
Solicitor	Nadine Lambert	June 2007
Solicitor	Debra Miels	October 2010
Solicitor	Meredith Strain	January 2008
Paralegal	Yvette Manocchio	October 2010
Admin Officer	Robyn Hurni	November 2011
Admin Officer	Lee Moulden	August 2012
Admin Officer	Ros Spangler	February 2007
Receptionist	Pat Porter	August 2006
Junior Clerk	Rebekah Hill	February 2013
Archive Clerk	Annelise Farrelly	May 2013

For many years the Board employed and retained senior practitioners to carry out its work. The staff brought a diversity of skills to the Board and carried out what is sometimes difficult and complex work in an efficient, fair and gracious manner.

Many of the Board's staff worked less than full-time and the Board actively encouraged its employees to maintain a healthy work life balance.

INVESTIGATIONS BY THE BOARD

Who is approaching the Board?

The number of enquiries and written complaints received during the last five years

Type of contact	2009/10	2010/11	2011/12	2012/13	2013/14	Average	Change over 5 years
Enquiries	1049	1045	936	859	936	965	down 11%
Written complaints	328	313	329	372	445	357	up 36%
Written complaints as a percentage of enquiries received	31%	30%	35%	43%	48%		

Of the 445 written complaints made to the Board last year, 235 were made by the client of the practitioner complained about, that is approximately 52.8% of all complaints. By comparison, 51% of all complaints were made by the client of the practitioner in the previous year.

161 (or 36.2%) of complaints were made by third parties. The previous year 114 complaints were classified as third party complaints. The Board classified as a third party people who were in the following relationships with the practitioner complained about (this list is not exhaustive):

- The practitioner's client's opponent (for example the husband in family law proceedings where the practitioner is acting for the wife).
- A beneficiary where the practitioner is acting for the executor of a deceased estate.
- An expert retained by the firm to provide expertise in the client's case (for example medical professionals and forensic accountants).

Clients and third parties are by far the largest two categories of complaints, between them accounting for 89% of all complaints.

Last year the balance of complaints were commenced following referral by the Law Society, the Judiciary, the Police or other lawyers, or were commenced upon the Board of its own motion.

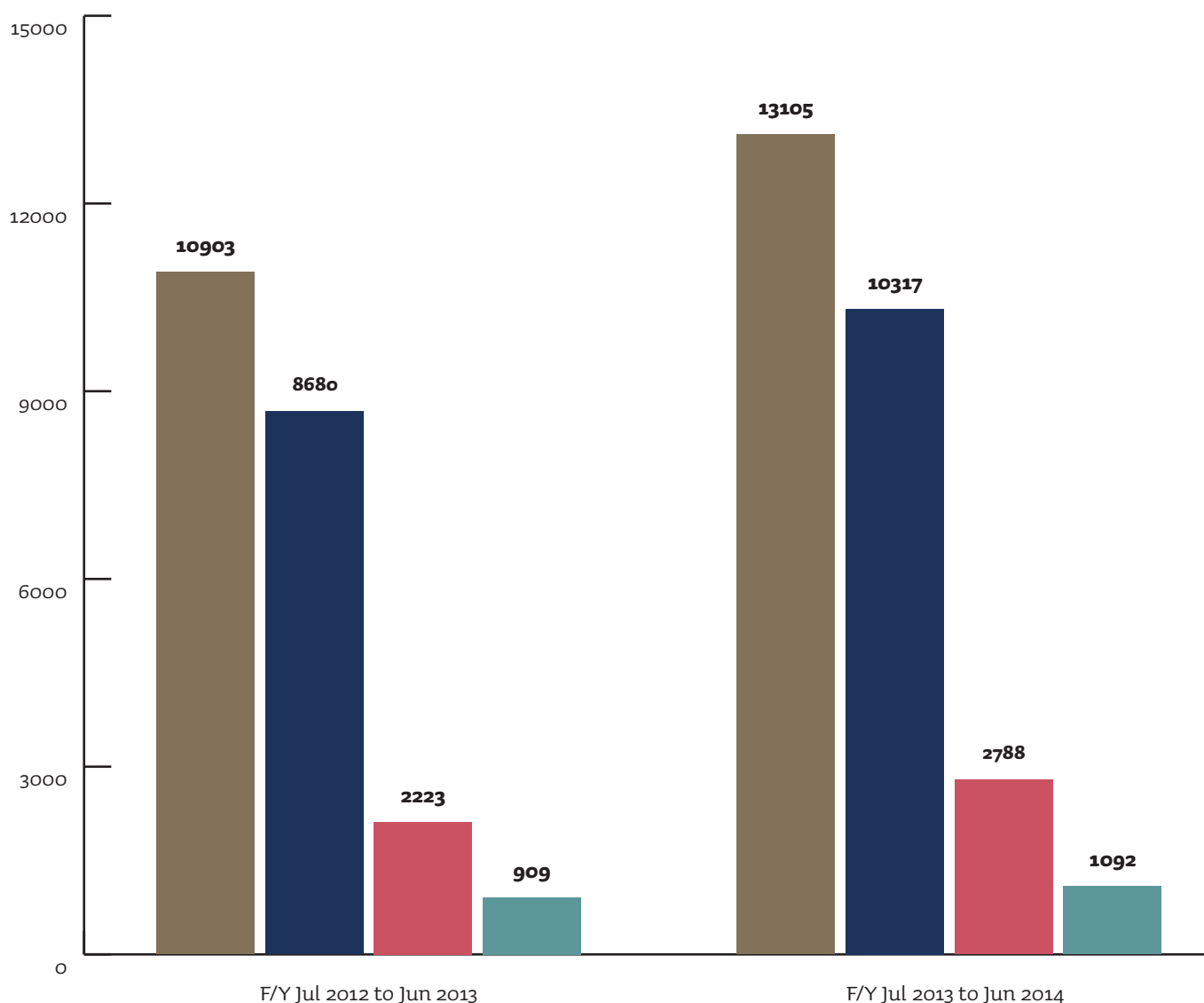
The majority of complaints received by the Board were lodged through the Board’s website at www.legalcomplaints.com.au, on a pro forma complaint form.

People who made enquiry of the Board still tended to make contact by telephone, although a small number emailed their queries through the website. The number of enquirers who made personal contact with the Board had been dropping, with an 11% decrease in numbers over the last five years.

By contrast the number of people accessing information on the Board’s website had increased significantly over the last few years. The Board commenced collating reliable statistics for visitors to its website in October 2010 and was able to track the number of local, Australian and worldwide visitors to the site. The Board was also able to determine which documents and pages on the website were accessed more frequently than others.

The Board collected only limited information about the profile of complainants to the Board. Most statistical information is focused on the types of matters complained about and the profile of practitioners who received complaints.

Website – the last 2 years



About what type of matters?

Area of law about which an enquiry or complaint was made in the reporting period

Areas of law	Enquiries	Percentage of total enquiries	Complaints	Percentage of total complaints
Family (including de facto)	196	20.9%	96	21.4%
Criminal	66	7%	74	16.5%
Probate and wills	176	18.7%	62	13.8%
Commercial	53	5.6%	48	10.7%
Personal injury	69	7.3%	33	7.4%
Administrative	18	1.9%	31	6.9%
Workers compensation	47	5%	27	6%
Real Property	26	2.8%	17	3.8%
Environment Resources & Development	6	0.6%	12	2.6%
Building disputes	7	0.7%	9	2%
Conveyancing	4	0.4%	6	1.3%
Tort (not personal injury)	22	2.4%	6	1.3%
Minor Civil	18	1.9%	6	1.3%
Company (including liquidation)	4	0.4%	5	1.1%
Debt Collection	8	0.9%	4	1%
Industrial	15	1.7%	4	1%
Not disclosed / other	178	18.9%	4	1%
Criminal injuries compensation	11	1.2%	3	0.7%
Bankruptcy	2	0.2%	1	0.2%
Migration	10	1.1%	0	
Consumer law	4	0.4%	0	

Comparison of complaints for last two years from top seven areas of law

Area of Law	2012/2013		2013/2014	
	Complaints		Complaints	
Family	89	23.9%	96	21.4%
Criminal	41	11%	74	16.5%
Probate & Wills	58	15.5%	62	13.8%
Commercial	36	9.7%	48	10.7%
Personal Injury	27	7.2%	33	7.4%
Admin Law	30	8%	31	6.9%
Workers Compensation	21	5.6%	27	6%
Total of top seven		80.90%		82.70%

In looking at the areas in which complaints were made this year as compared to last year, it can be seen that there is an increase in actual numbers in all 7 areas.

However, in percentage terms, there was an increase in complaints relating to:

- criminal law,
- commercial law,
- personal injury, and
- workers compensation.

On the other hand complaints concerning:

- family law,
- probate & wills, and
- admin law

dropped this year compared to last, at least in terms of overall percentages.

As has been consistently the case for many years, family law generated the most complaints, with probate & wills and criminal law being high generators too.

Alleging what?

Nature of allegations in reporting period

Nature of allegation	On enquiry	On complaint
Overcharging	277	148
Lack of communication	183	133
Poor handling	258	124
Inappropriate behaviour	160	124
Delay	154	89
No cost advice	94	66
Failure to comply with instructions	24	60
Negligence	78	53
Misrepresentation	15	30
Breach of Legal Practitioners Act	10	27
Conflict of interest	43	26
Failure to account to payer	15	25
Incompetence	30	21
Misleading the court	8	21
Failure to pay third party	10	20
Acting without instructions	12	19
Legal advice	90	16
Breach of confidentiality		12
Retention of documents	40	11
Trust regulatory breach	14	8
Other	55	8
Breach of undertaking	2	7
Theft/fraud	13	6
Acting against instructions	16	4
Criminal offence (not theft)	5	4
Legal system	46	2
Insufficient accounts	15	2
No jurisdiction	27	0

In the reporting period the Board opened 445 new investigation files. A total of 1,066 allegations were made as set out in the above table, across those files.

The top four allegations:

- Overcharging,
- Lack of communication,
- Poor handling, and
- Inappropriate behaviour

amounted to 529 of the 1,066 allegations made, or 49% of all allegations.

Allegations of Overcharging, Lack of communication and Poor handling (often with an allegation of Delay) are commonly found in a single complaint.

It is interesting to note that, with some allegations, there are a large number raised on enquiry but a significantly smaller number raised on complaint – including Overcharging, Cost advice, Legal advice, Jurisdiction issues for the Board, the Legal system and Insufficient accounts.

Traditionally, these were the matters where a person enquiring to the Board was able to be assisted by an enquiry officer providing information about the Board's jurisdiction, about the legal system in South Australia generally, and also in relation to a client's right to

request an account and costs information from their solicitor. This shows that many people are able to resolve matters with their own solicitors if provided with sufficient, accurate information about options available to them.

Who is being complained about?

Complaints by type of practice for the last two reporting periods.

Type of practice	2012/2013		2013/2014	
	Number of complaints		Number of complaints	
Sole practitioner	107	28.8%	119	26.7%
Employee	70	18.8%	102	22.9%
Partner	49	13.2%	71	16%
Director incorporated practice	79	21.2%	52	11.7%
Non-practising	19	5.1%	29	6.5%
Barrister	18	4.8%	20	4.5%
Government employee (including Legal Services Commission)	7	1.9%	16	3.6%
Manager/supervisor appointed	2	0.5%	6	1.4%
Consultant	4	1.1%	5	1.1%
Suspended practitioner	1	0.3%	5	1.1%
Corporate practitioner	1	0.3%	3	0.7%
Interstate practitioner	4	1.1%	2	0.5%
Judiciary	1	0.3%	1	0.2%
Unknown	10	2.6%	14	3.1%
Total	372		445	

As has been the case for many years, the category of practitioner against whom the most complaints were made was the sole practitioner. This would seem to reflect the difficulties inherent in practices of that nature, and also that they tend to deal with less sophisticated clients than do larger firms.

Complaints by Gender

Gender	Number of Complaints	% of Total Complaints	Number of Practitioners	% of Practising Profession
Men	233	52.4%	1921	49.8%
Women	94	21.1%	1809	47%
Unidentified/ Corporate	118	26.5%	123	3.2%
Total	445		3853	

Comparison of practitioners who received a complaint by post-admission experience

Length of time in practice	2010	2011	2012	2013	2014
Less than 5 years	35	21	25	22	40
	10.6%	6.7%	7.6%	5.9%	9%
5–10 years	50	45	51	62	65
	15.2%	14.4%	15.5%	16.7%	14.6%
10–15 years	24	40	37	36	41
	7.3%	12.8%	11.3%	9.7%	9.2%
More than 15 years	208	197	208	239	285
	63.4%	62.9%	63.2%	64.2%	64%
Not admitted or not identified or a firm	13	10	8	13	14
	4%	3.2%	2.4%	3.5%	3.2%
Total	328	313	329	372	445

Admission Years	Practice Experience	No. of Practitioners	% of Practising Profession	No. of Complaints	% of total Complaints
2010 - current	< 5	729	19.5%	33	7.4%
2005 - 2009	6 - 9 years	753	20.2%	62	14%
2000 - 2004	10 - 14 years	656	17.6%	50	11.2%
1995 - 1999	15 - 19 years	351	9.4%	34	7.6%
1990 - 1994	20 - 24 years	263	7.1%	38	8.5%
1985 - 1989	25 - 29 years	278	7.5%	56	12.6%
1980 - 1984	30 - 34 years	261	7%	57	12.8%
1975 - 1979	35 - 39 years	266	7.1%	63	14.2%
1970 - 1974	40 - 44 years	116	3.1%	22	5%
1960 - 1969	45 - 54 years	53	1.4%	15	3.4%
1950 - 1959	55 - 64 years	4	0.1%	1	.2%
Unknown				14	3.1%

It is difficult to draw too many conclusions from these statistics, but a few observations are appropriate:

- Those practitioners with more than 15 years experience, who represent approximately 43% of the practising profession, received just over 64% of the complaints.

Within that group, those practitioners admitted between 1975 and 1985 (29 - 38 years post admission experience) who represent just over 14% of the practising profession received 27% of the complaints.

- Those practitioners with less than 5 years experience, who represent approximately 20% of the practising profession, received just over 7% of the complaints. That should be compared with last year's statistics, which showed that those practitioners with less than 3 years experience received less than 1% of the complaints.

- Those practitioners admitted less than 10 years who represent 40% of the practising profession received 21% of all complaints made last financial year.

CASE MANAGEMENT

Files opened and current numbers

Comparison of opened and closed investigation files for the last three reporting periods

Status of file	2011/12	2012/13	2013/14
New investigation files opened	329	372	445
Current investigations as at 30 June	323	328	345
Investigation files closed	343	358	430

Comparison of current files by category for the last three reporting periods

Category	30 June 12	30 June 13	30 June 14
Investigation	323	328	345
Tribunal	18	21	22
Tribunal application (Section 23AA of the Act)	1	0	0
Debt collection	18	26	31
Supreme Court	13	12	6
High Court	0	1	0
Total	373	388	404

The Board's files

All new complaints that came to the Board were opened as investigation files. This category covered all allegations from consumer grievances about service issues (including costs) to allegations of serious misconduct.

If the Board resolved to lay a charge of unprofessional or unsatisfactory conduct before the Tribunal, the investigation file was closed at that time and a new file was opened with a different number for the Tribunal proceedings.

In addition the Board carried a number of different categories of files: For example;

- Supreme Court files which include appeals by the Board or practitioners and applications for suspension and/or strike off;
- Tribunal files for Tribunal matters including applications by practitioners to the Tribunal under section 23AA of the Act; and

- Debt files for debt recovery matters, being those matters where an order in favour of the Board had been made for cost recovery against a practitioner.

The numbers for total files across all categories includes all categories of files held by the Board resulting from complaint matters or own motion investigations and matters in which the Board is a party to litigation, but excludes enquiries and the Board's administration files.

The comparative numbers of current files remained steady as did the complexity of the types of matters the Board investigated.

While the number of new complaints increased slightly during this reporting period, the closure rate for investigation matters also increased resulting in quite steady numbers of current matters as at 30 June in each of the last five years.

Files closed

Basis of closure of investigation files in the reporting period

Basis of closure	Number of files
No misconduct	219
No further action	174
Resolution following conciliation	67
Resolved between the parties	54
Insufficient evidence of misconduct	49
No overcharging	28
No jurisdiction	19
No response from complainant and no issues of conduct	16
Finding of unprofessional conduct	14
Charge of unprofessional conduct laid	13
Finding of unsatisfactory conduct	10
Complaint withdrawn	12
Reprimand for unsatisfactory conduct	9
Reprimand for unprofessional conduct	4
Overcharging – reduction or refund recommended	6
Subject of complaint resolved	5
Order - 77AB - unsatisfactory conduct	2
Investigation not commenced or continued as complaint frivolous or vexatious	2
Order - 77AB - unprofessional conduct	1

In the reporting period the Board closed 430 investigation files.

Files were often closed on the basis of more than one finding by the Board.

For example a complaint made by a practitioner's client may have alleged delay, poor handling of the matter and that the practitioner overcharged in a matter where the case was lost. In the course of the investigation of the complaint the Board may have found evidence of breaches of the Act and Regulations with respect to maintaining proper trust account records.

At the conclusion of the investigation the Board may have decided that there was no evidence of misconduct

on the part of the practitioner and, following the conciliation of the costs dispute between the practitioner and his client, that no further action was required concerning the allegation of overcharging as the matter had resolved between the parties.

The Board would close such a file on the basis that it had found there was no misconduct, that the cost dispute had resolved between the parties, and that no further action was warranted or necessary on the part of the Board.

Of the 430 files closed in the reporting period, a finding of either unsatisfactory or unprofessional conduct was made in 24 instances representing findings of misconduct in 6% of the files closed in the reporting period.

Representations to the Lay Observer

Comparison of number of files referred to the Lay Observer for the last three reporting periods

Category	2011/12	2012/13	2013/14
Total files closed	343	358	430
Total files referred	22	29	25
Percentage	6.4%	8.1%	5.8%

The Lay Observer was appointed under section 90 of the Act. Mr John Boag was the Lay Observer at the start of the reporting period, but he retired as Lay Observer in July 2013 after nine years in the position. Ms Anne Burgess was appointed in his place from 1 December 2013 until the role was abolished by the Amendment Act.

A complainant in proceedings before the Board who was dissatisfied with the proceedings or the decision of the Board was entitled to make representations directly to the Lay Observer.

Workflow

Current files by age

Age of current files	2011/12		2012/13		2013/14	
3 years and older	60	18.6%	35	9%	29	7.2%
2 – 3 years	26	8%	26	6.7%	27	6.7%
1 – 2 years	54	16.7%	73	18.8%	95	23.5%
< 1 years	183	56.7%	254	65.5%	253	62.6%
Total Files	323		388		404	

CONCILIATION AT THE BOARD

Amelia Taeuber was the Board's dedicated conciliator since March 2010. She is an accredited conciliator.

This reporting year there was again an increase in the number of matters referred to the Board's conciliator by the investigating solicitors.

In total 110 complaint matters were conciliated or were in the process of conciliation as at 30 June 2014.

17 more complaint matters were referred to conciliation than in the previous year.

Conciliation was an important function for the Board. The matters that were generally considered suitable for conciliation were issues between a legal practitioner and their own client, which usually related to costs and communication. That is not to say that other matters were not able to be conciliated or other relationships were not considered suitable for conciliation, but these were the most common.

Amelia assessed each matter for conciliation on its merits and, as the Act gave no power to the Board to compel a party to conciliate, the voluntary participation of the parties in the conciliation process was needed.

Matters came to the attention of the conciliator either by referral from an investigating solicitor at some point during the course of the investigation, or by direct referral to conciliation upon receipt of the complaint.

The areas of law in complaints conciliated during 2013-2014

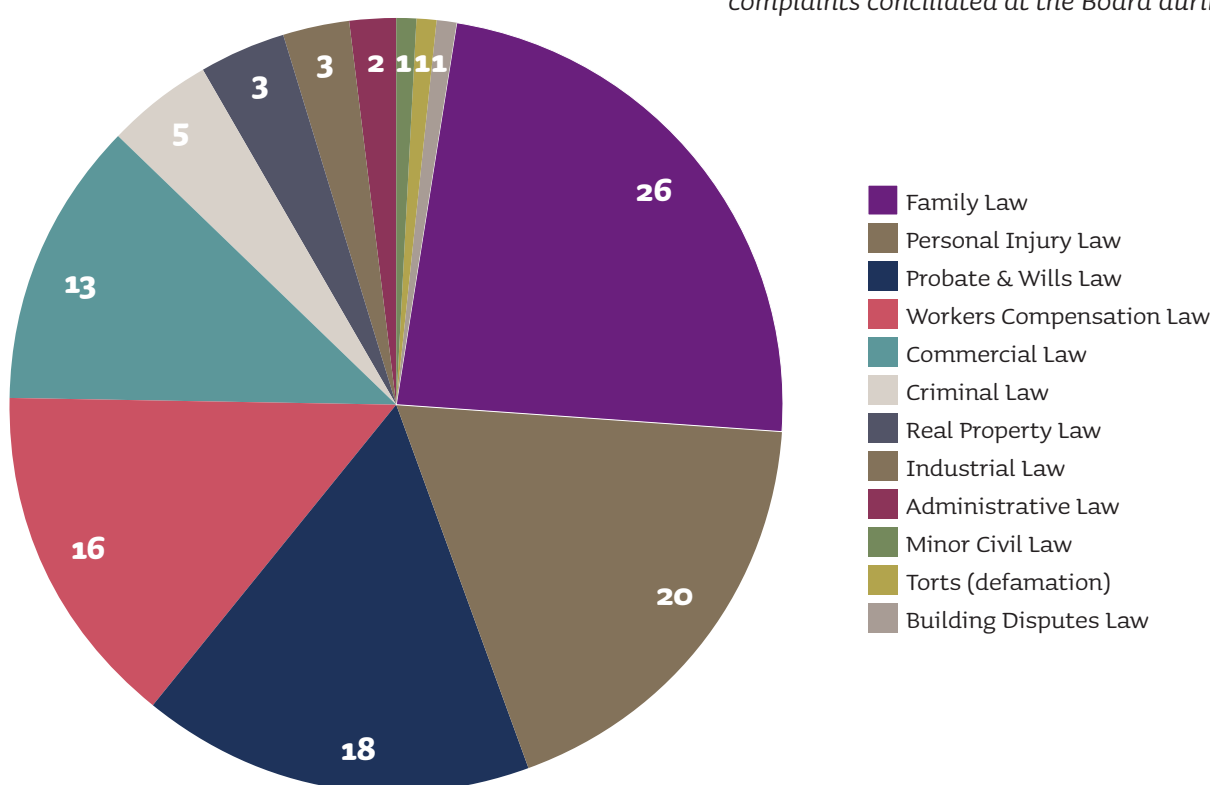
It is no surprise that the types of matters referred for conciliation reflected the types of matters in which the Board received complaints.

Family Law was the most common area of law in complaints conciliated at the Board, representing 23% of conciliations conducted during the reporting period. This statistic is consistent with the proportionally larger numbers of family law complaints received at the Board.

Personal Injury Law replaced Wills and Probate Law as the second largest area of law in complaints conciliated this reporting period, representing 18% of conciliations conducted; moving Wills and Probate to third position with 16%.

Workers Compensation Law and Commercial Law represented 14% and 11% of conciliations conducted at the Board respectively.

This pie chart illustrates the full range of areas of law in complaints conciliated at the Board during 2013-2014.



In addition to the conciliation of complaint matters, Ms Taeuber exercised conciliation skills in the enquiry matters that came to the Board.

Most enquirers who seek to contact the Board did so by telephone. In the main, the enquiry calls are taken by the conciliator and an investigating solicitor between them.

The statistics suggest that many matters are resolved at the enquiry stage, given the proportionally larger number of enquiries than written complaints.

This is reinforced by the types of issues that are enquired about. The number of allegations about Overcharging, Cost Advice, Legal Advice, Insufficient Accounts and the Legal System show a large number of enquirers raising these issues, but significantly fewer written complaints with these allegations.

Both the statistics and information from the conciliator suggest that information provided to enquirers about legal costs, legal accounts

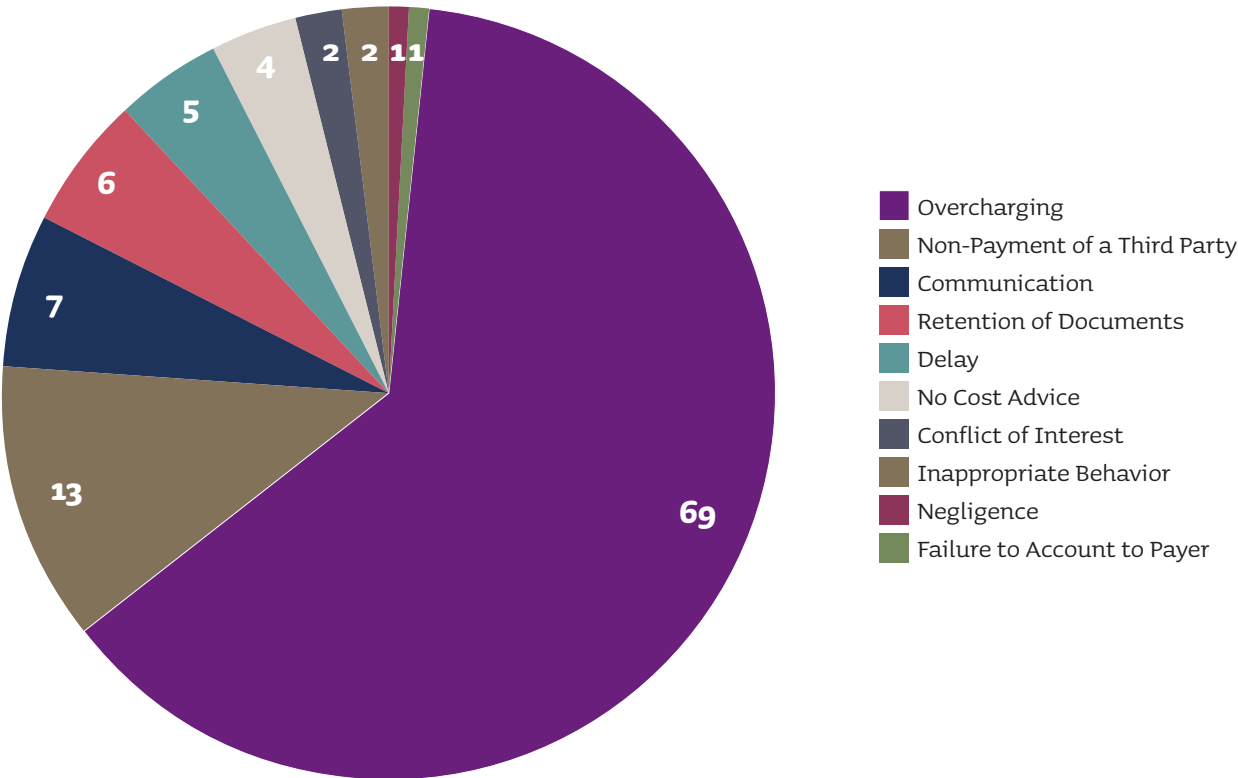
and the legal system can allay a number of concerns and or assist the enquirer to raise these types of queries directly with their lawyer.

The types of allegations conciliated during the reporting period

The allegation of Overcharging was, overwhelmingly, the most common allegation raised in complaints conciliated at the Board, representing 62% of conciliations conducted during the reporting period. This statistic is consistent with the large numbers of complaints of overcharging received at the Board.

Non-Payment to a Third Party replaced No Costs Advice as the second most common allegation raised this reporting period, representing 11% of conciliations conducted at the Board. Communication and Retention of Documents represented 6% and 5% of conciliations conducted at the Board respectively.

This pie chart illustrates the full range of the nature of allegations conciliated at the Board during 2013- 2014.



LITIGATION WORK OF THE BOARD

All Tribunal decisions and Supreme Court decisions referred to in this report can be accessed through the Commissioner's website at www.lpcc.sa.gov.au

Tribunal matters

Charges laid by the Board before the Tribunal and current matters as at 30 June

As at 30 June	No. of charges before Tribunal	No. of practitioners concerned	New charges laid in the year
2014	21	11	15
2013	17	13	21
2012	16	9	4
2011	26	14	9
2010	26	12	5
2009	28	16	13
2008	21	15	12

The Board was not the only party who could lay a charge of unsatisfactory or unprofessional conduct against a practitioner before the Tribunal. Under the Act, a charge could also be laid by the Attorney General, the Law Society or a person claiming to be aggrieved by reason of the alleged unprofessional or unsatisfactory conduct. This report refers only to charges laid by the Board.

In the reporting period the Board laid 15 new charges before the Tribunal.

In the same period 6 decisions were delivered by the Tribunal on charges laid by the Board. Two matters were finalised before the Tribunal. In the other 4 matters the Tribunal recommended that the Board commence disciplinary proceedings before the Supreme Court, which the Board then did.

The 2 matters concluded by the Tribunal were;

- In the matter of Terese Wacyk (decision dated 10 August 2012);

- In the matter of Heather Mack (decision dated 20 September 2012).

The Board laid a charge before the Tribunal in relation to the way in which Ms Wacyk handled certain litigation before the Supreme Court, and a separate charge in relation to her response to questions asked by the Board. The Tribunal dismissed both charges.

In May 2014, Ms Mack was reprimanded for engaging in unprofessional conduct in failing to comply with a notice issued by the Board under section 76(4a) of the Act. The practitioner was ordered to pay the Board's costs.

In the other 4 matters in which the Tribunal delivered decisions last year and on the recommendation of the Tribunal, the relevant practitioners were each referred to the Supreme Court. The Tribunal decisions were:

- In the matter of John-Paul Kassapis (decision dated 26 September 2013);
- In the matter of George Mancini (decisions dated 26 November 2013, 20 March 2014 and 25 March 2014);
- In the matter of Victor Kudra (decision dated 14 November 2013);
- In the matter of Joseph Pertl (decision dated 28 February 2014).

Supreme Court matters

In the reporting period the Supreme Court delivered a number of decisions relating to disciplinary matters.

In the matters of Michael Prescott, Michael Figwer, Anthony Power and Graham Warburton, the relevant practitioner's name was struck from the Roll.

In the matter of Joseph Pertl, the practitioner's name was removed from the Roll at his request (following an earlier order that the practitioner's right to practise be suspended until further order).

In the matters of Patric Alderman and Gregory Morcom, each practitioner's right to practise was suspended until further order.

In the matter of George Mancini, the Supreme Court ordered that the practitioner be supervised for a period of three years.

In the matter of Katrina Lind, the Supreme Court ordered that the practitioner be supervised for a period of three years (with that period ending on 28 October 2014, as this order replaced a previous suspension order made in October 2011).

In the matter of Victor Kudra, the Supreme Court ordered that the practitioner be supervised for a period of two years.

In the matter of Laurence Fittock, the Board applied for an Adjudication of the practitioner's costs. The Adjudication resulted in the practitioner's costs being fixed, and required a refund with interest to the client.

In the matter of Linden Fairclough, the Board intervened in his application for re-admission to the Roll. The practitioner subsequently discontinued his application.

In the matter of Dimitrios Georgiadis, the Board applied for an Adjudication of the practitioner's costs. The costs dispute was settled between the practitioner and the client, and so the Adjudication was discontinued.

In the reporting period, the Board commenced the following matters in the Supreme Court:

- 3 Applications for suspension (Patric Alderman, Gregory Morcom and Joseph Pertl);
- 4 Applications for strike off (Graham Warburton, John-Paul Kassapis, Victor Kudra and Joseph Pertl);
- 2 Appeals / Judicial Review applications (George Mancini and Victor Kudra);
- 1 Application for adjudications of costs (Laurence Fittock).

Two Supreme Court matters were initiated against the Board by John Viscariello during this reporting period.

- Mr Viscariello took proceedings for judicial review in the Supreme Court, seeking an order in the nature of mandamus against the Board. Mr Viscariello is seeking to compel the Board to undertake investigations into the conduct of various practitioners about whom he has complained. For various reasons, the Board considered it inappropriate that it do so at the time, and it had suspended those investigations. In order to commence his action for judicial review, Mr Viscariello needed to get the leave of the Supreme Court to proceed. In April 2014, Justice Nicholson granted Mr Viscariello leave to proceed with his application.
- Mr Viscariello also issued new proceedings on 30 June 2014 against the Board, seeking various orders relating to earlier findings against him in the Tribunal and in the Supreme Court that resulted in Mr Viscariello being struck from the Roll.

EXPLANATION OF TERMS AND ABBREVIATIONS USED IN THIS REPORT

Misconduct

Refers to both unsatisfactory conduct and unprofessional conduct as defined by the Act.

Supreme Court

Supreme Court of South Australia

Tribunal

Legal Practitioners Disciplinary Tribunal

Board

Legal Practitioners Conduct Board

Commissioner

Legal Profession Conduct Commissioner

Act

Legal Practitioners Act 1981

Amendment Act

Legal Practitioners (Miscellaneous) Amendment Act 2013 (Amendment Act)

Regulations

Legal Practitioners Regulations 2014

Law Society

Law Society of South Australia

Roll

The roll (register) of admitted legal practitioners kept by the Supreme Court of South Australia.

Practitioner

A person admitted to the Supreme Court and entitled to practise the profession of the law.

Own Motion Investigation

The Board may of its own motion investigate where it has reasonable cause to suspect a practitioner has been guilty of misconduct (section 76(1) of the Act).

Taxation/Adjudication

The formal court process for the adjudication of reasonable costs charged by a practitioner which is undertaken in the Supreme Court.

LEGAL PRACTITIONERS CONDUCT BOARD

TABLE OF CONTENTS

	Page
Auditors Independence Declaration	24
Income and Expenditure Statement	25
Balance Sheet	28
Reconciliation of Cash	29
Notes to the Financial Statements	30
Statement by the Legal Profession Conduct Commissioner	35
Independent Audit Report	36

LEGAL PRACTITIONERS CONDUCT BOARD

AUDITORS INDEPENDENCE DECLARATION TO THE LEGAL PROFESSION CONDUCT COMMISSIONER

I declare that, to the best of my knowledge and belief, during the year ended 30 June 2014 there have been:

- i. no contraventions of the auditor independence requirements in relation to the audit; and
- ii. no contraventions of any applicable code of professional conduct in relation to the audit.

SOTHERTONS Adelaide Partnership



J E MCKENZIE
Partner

Dated this 8 day of October 2014 .

LEGAL PRACTITIONERS CONDUCT BOARD

INCOME AND EXPENDITURE STATEMENT FOR THE YEAR ENDED 30 JUNE 2014

	2014 \$	2013 \$
INCOME		
Receipts from Guarantee Fund		
Operating	3,503,106	3,193,378
Special Grant	274,062	173,731
Interest on Funds	73,571	81,241
Sundry Income	2,518	2,500
Refund of NLRP Grant	-	(17,000)
TOTAL INCOME	3,853,257	3,433,851
EXPENDITURE		
Salaries and Staff Expenses		
Advertising Costs	2,563	1,834
Amenities	2,194	2,153
Consultants - Special Admin	-	8,490
Professional Development	21,100	29,323
Provision for Annual Leave	7,638	18,825
Provision for Long Service Leave	5,011	50,584
Payroll Tax	93,871	75,673
Practising Certificates	8,008	10,721
Salaries - Professional	1,809,622	1,396,589
Salaries - Support Staff	481,744	424,524
Salaries - Temp/Casuals	34,645	24,383
Subscriptions/Membership	853	7,139
Superannuation	211,881	165,319
Reportable Employer Superannuation	67,745	55,106
WorkCover	18,860	16,928
Total Salaries and Staff Expenses	2,765,735	2,287,591
Board Expenses		
Board Members	66,190	66,566
Deputy Members	200	200
Meeting Expenses	924	703
Sundries	766	570
Travel	114	-
Superannuation	5,219	4,570
Total Board Expenses	73,413	72,610
External Expert Expenses		
Conciliation Costs	1,440	3,264
Costs Assessment Expenses	33,845	41,931
Counsel Fees	353,477	384,883
Disbursements	97,208	153,427
Expert & Witness Fees	5,953	9,636
Locum Services	-	53,515
Superannuation on Locum Services	-	4,816
Total External Expert Expenses	491,923	651,472

The accompanying notes form part of these financial statements.

LEGAL PRACTITIONERS CONDUCT BOARD

INCOME AND EXPENDITURE STATEMENT FOR THE YEAR ENDED 30 JUNE 2014

	2014 \$	2013 \$
Administration and Operating Expenses		
Equipment Costs		
Computer - Operating	23,542	29,854
Computer - Provision/Purchase	1,231	10,150
Computer - Repairs and Maintenance	25,504	21,551
Depreciation	35,550	40,948
Lease Charges - Photocopier	19,014	21,353
Photocopier	11,773	11,627
Repairs and Maintenance	2,388	2,905
Total Equipment Costs	119,002	138,387
General Costs		
Audit Fees	7,200	7,200
Bank Charges	833	797
Car Parking	-	1,918
Courier Services	4,730	4,663
General Office Expenses	144	914
Insurance	11,335	13,874
Internet Services	1,727	1,589
Level 4 Expenditure	-	18,773
Library	13,669	7,252
Occupational Health and Safety	3,930	2,462
Postage	5,974	6,093
Printing and Stationery	23,480	24,442
Protective Security Compliance	16,800	-
Records Management	17,157	27,019
Telephone and Fax	11,644	11,300
Transition Costs re LPCB	4,292	-
Travel	-	457
Website Development	905	2,300
Total General Costs	123,820	131,051
Occupancy Costs		
Light and Power	17,887	16,928
Office Cleaning	27,150	12,766
Rent	205,120	193,838
Security	717	627
Total Occupancy Costs	250,874	224,159
TOTAL EXPENDITURE	3,824,767	3,505,270

The accompanying notes form part of these financial statements.

LEGAL PRACTITIONERS CONDUCT BOARD

INCOME AND EXPENDITURE STATEMENT FOR THE YEAR ENDED 30 JUNE 2014

	2014 \$	2013 \$
OPERATING SURPLUS/(DEFICIENCY)	28,490	(71,419)
ACCUMULATED FUNDS AT THE BEGINNING OF THE FINANCIAL YEAR	20,659	92,078
ACCUMULATED FUNDS AT THE END OF THE FINANCIAL YEAR	49,149	20,659

The accompanying notes form part of these financial statements.

LEGAL PRACTITIONERS CONDUCT BOARD

BALANCE SHEET AS AT 30 JUNE 2014

	Note	2014 \$	2013 \$
CURRENT ASSETS			
Cash	2	1,977	272,729
Receivables	3	490,165	31,075
Bonds	4	3,898	3,807
Prepayments	5	-	24,792
TOTAL CURRENT ASSETS		496,040	332,402
NON CURRENT ASSETS			
Fixed Assets	6	67,736	93,326
TOTAL NON CURRENT ASSETS		67,736	93,326
TOTAL ASSETS		563,776	425,728
CURRENT LIABILITIES			
Creditors and Accruals	7	283,897	186,988
Provisions	8	230,730	218,081
TOTAL CURRENT LIABILITIES		514,627	405,069
TOTAL LIABILITIES		514,627	405,069
NET ASSETS		49,149	20,659
ACCUMULATED FUNDS			
Retained Funds	9	49,149	20,659
TOTAL ACCUMULATED FUNDS		49,149	20,659

The accompanying notes form part of these financial statements.

LEGAL PRACTITIONERS CONDUCT BOARD

RECONCILIATION OF CASH FOR THE YEAR ENDED 30 JUNE 2014

	Note	2014 \$	2013 \$
RECONCILIATION OF CASH			
Net Income		28,490	(71,419)
Depreciation		35,550	40,948
Movement in Bonds		(91)	(1,082)
Payables		96,908	(3,190,825)
Prepayments		24,792	(7,821)
Provision for Annual Leave		7,638	18,825
Provision for Long Service Leave		5,011	50,584
Purchase of Office Equipment		(9,961)	(27,734)
Receivables		(459,090)	(21,692)
		<u>(299,242)</u>	<u>(3,138,801)</u>
Net Increase in Cash Held		(270,752)	(3,210,220)
Cash at Beginning of Financial Year		272,729	3,482,951
Cash at End of Financial Year	2	<u>1,977</u>	<u>272,729</u>

The accompanying notes form part of these financial statements.

LEGAL PRACTITIONERS CONDUCT BOARD

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2014

NOTE 1: STATEMENT OF ACCOUNTING POLICIES

The Legal Profession Conduct Commissioner ("Commissioner") has prepared the financial statements for the Board pursuant to regulation 71 of the Legal Practitioners Regulations, and on the basis that the Board was a non-reporting entity. These financial statements are therefore special purpose financial statements that have been prepared in order to meet the requirements of the Attorney-General in respect of the Legal Practitioners Act 1981.

The financial statements have been prepared on an accruals basis and are based on historical costs unless otherwise stated in the notes.

The following significant accounting policies, which are consistent with the previous period unless otherwise stated, have been adopted in the preparation of this financial report.

(a) Revenue

Grant revenue is recognised in the income and expenditure statement when the Board obtains control of the grant and it is probable that the economic benefits gained from the grant will flow to the Board and the amount of the grant can be measured reliably.

If conditions are attached to the grant which must be satisfied before it is eligible to receive the contribution, the recognition of the grant as revenue will be deferred until those conditions are satisfied.

All revenue is stated net of the amount of goods and services tax (GST).

(b) Fixed Assets

Leasehold improvements and office equipment are carried at cost less, where applicable, any accumulated depreciation.

The depreciable amount of all fixed assets is depreciated over the useful lives of the assets to the Board commencing from the time the asset is held ready for use. Leasehold improvements are amortised over the shorter of either the unexpired period of the lease or the estimated useful lives of the improvements.

(c) Employee Provisions

Provision is made for the Board's liability for employee benefits arising from services rendered by employees to balance date. Employee benefits have been measured at the amounts expected to be paid when the liability is settled. Long service leave is accrued after 5 years of service.

(d) Cash and Cash Equivalents

Cash and cash equivalents includes cash on hand, deposits held at call with banks, and other short-term highly liquid investments with original maturities of three months or less.

(e) Leases

Lease payments for operating leases, where substantially all the risks and benefits remain with the lessor, are charged as expenses in the period in which they are incurred.

(f) Goods and Services Tax (GST)

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office. In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense. Receivables and payables in the balance sheet are shown inclusive of GST.

LEGAL PRACTITIONERS CONDUCT BOARD

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2014

NOTE 1: STATEMENT OF ACCOUNTING POLICIES (cont.)

(g) Income Tax

No provision for income tax has been raised as the Board was exempt from income tax under Div 50 of the Income Tax Assessment Act 1997.

(h) Trade and Other Payables

Trade and other payables represent the liability outstanding at the end of the reporting period for goods and services received by the Board during the reporting period which remain unpaid. The balance is recognised as a current liability with the amount being normally paid within 30 days of recognition of the liability.

(i) Winding up of the Board

The financial statements have been prepared on the basis that the Board was a going concern, despite the fact that the operations of the Board, including its assets and liabilities, were transferred to the Commissioner on 1 July 2014 pursuant to the transitional provisions in the Legal Practitioners (Miscellaneous) Amendment Act 2013. The Board ceased to exist on 1 July 2014.

LEGAL PRACTITIONERS CONDUCT BOARD

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2014

NOTE 2: CASH

	2014	2013
	\$	\$
Cash on Hand	300	300
Cash at Bank	955	581
Cash at Call	-	976
Access Saver	722	270,871
	<u>1,977</u>	<u>272,729</u>

NOTE 3: RECEIVABLES

	2014	2013
	\$	\$
Advance - Legal Profession Conduct Commissioner	185,000	-
GST Refundable	27,483	31,319
Reimbursement Account	3,620	1,449
Sundry Debtors	274,062	-
VISA Account	-	(1,633)
	<u>490,165</u>	<u>31,075</u>

NOTE 4: BONDS

	2014	2013
	\$	\$
Bonds - Building Access	960	870
Bonds - Car Park Access	2,938	2,937
	<u>3,898</u>	<u>3,807</u>

NOTE 5: PREPAYMENTS

	2014	2013
	\$	\$
Rent and Outgoings	-	24,792
	<u>-</u>	<u>24,792</u>

LEGAL PRACTITIONERS CONDUCT BOARD

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2014

NOTE 6: FIXED ASSETS

	2014	2013
	\$	\$
Office Furniture at cost	50,011	50,011
Less: Accumulated Depreciation	(46,294)	(43,996)
	<u>3,717</u>	<u>6,015</u>
Office Equipment at cost	127,547	117,586
Less: Accumulated Depreciation	(107,355)	(91,022)
	<u>20,192</u>	<u>26,565</u>
Leasehold Improvements at cost	153,834	153,834
	(110,007)	(93,088)
	<u>43,827</u>	<u>60,746</u>
Total Fixed Assets	<u>67,736</u>	<u>93,326</u>

NOTE 7: CREDITORS & ACCRUALS

	2014	2013
	\$	\$
PAYG Tax Withholding	153,177	36,080
Sundry Creditors	125,528	131,376
Superannuation	5,191	19,468
Staff Social Fund	-	64
	<u>283,897</u>	<u>186,988</u>

NOTE 8: PROVISIONS

Provision is made for the liability for employee entitlements arising from services rendered by employees to balance date.

	2014	2013
	\$	\$
Annual Leave	84,646	77,008
Long Service Leave	146,084	141,073
	<u>230,730</u>	<u>218,081</u>
Number of employees at 30 June 2014 (FTE)	20	26

The policy for the provision of long service leave is that the provision is recognised after the employee has provided 5 years of service.

LEGAL PRACTITIONERS CONDUCT BOARD

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2014

NOTE 9: ACCUMULATED FUNDS

	2014	2013
	\$	\$
Accumulated surplus at the beginning of the financial period	20,659	92,078
Operating surplus/(deficit) for the year	28,490	(71,419)
Accumulated surplus at the end of the financial period	49,149	20,659

NOTE 10: RECOVERIES OF TRIBUNAL COSTS - AMOUNTS OUTSTANDING

Monies received by the Legal Practitioners Conduct Board are the result of party and party costs awarded in favour of the Board by the Legal Practitioners Disciplinary Tribunal and the Supreme Court. Such costs are recovered from practitioners in proceedings. The Board remits the recovered funds to the Law Society of South Australia in its capacity as administrator of the Guarantee Fund.

	2014	2013
	\$	\$
Recoveries recouped and remitted to the Guarantee Fund	41,102	19,000
	41,102	19,000

NOTE 11: LEASING COMMITMENTS

(a) Operating Lease Commitments

Being for rent of office premises:

	2014	2013
	\$	\$
Payable:		
- not later than one year	106,719	216,350
	106,719	216,350

NOTE 12: ECONOMIC DEPENDENCY

The statutory authority is dependent on the continuation of grants from the Legal Practitioners Guarantee Fund.

NOTE 13: WINDING UP AND TRANSFER OF BOARD TO LEGAL PROFESSION CONDUCT COMMISSIONER

As of 1 July 2014 the Legal Practitioners Conduct Board was replaced by the Legal Profession Conduct Commissioner pursuant to the *Legal Practitioners (Miscellaneous) Amendment Act 2013*.

Under Section 16(1) of Part 4 of Schedule 2 of the Amendment Act, "all assets, rights and liabilities of the Board are transferred to the Commissioner" on 1 July 2014, which includes all existing contracts of the Board as at 30 June 2014.

LEGAL PRACTITIONERS CONDUCT BOARD

STATEMENT BY THE LEGAL PROFESSION CONDUCT COMMISSIONER

The Commissioner has determined that this special purpose financial report should be prepared in accordance with the accounting policies outlined in Note 1 to the financial report.

In the opinion of the Commissioner, the financial report as set out on pages 2 to 12:

1. Presents a true and fair view of the financial position of the Legal Practitioners Conduct Board as at 30 June 2014 and its performance for the year ended on that date.
2. At the date of this statement, there are reasonable grounds to believe that the Legal Practitioners Conduct Board or its successor organisation, the Legal Profession Conduct Commissioner will be able to pay its debts as and when they fall due.

The Commissioner is required by regulation 71 of the Legal Practitioners Regulations to prepare this special purpose financial report on behalf of the Board.



.....
Greg May
Legal Profession Conduct Commissioner

Dated this^{7th} day of October 2014 .

LEGAL PRACTITIONERS CONDUCT BOARD



INDEPENDENT AUDITOR'S REPORT TO THE LEGAL PROFESSION CONDUCT COMMISSIONER

PARTNERS:
David Ellis
James McKenzie
Ross Musolino
Alexander Reade

We have audited the accompanying financial report, being a special purpose financial report, of the Legal Practitioners Conduct Board for the financial year ended 30 June 2014, consisting of the Income and Expenditure Statement, Balance Sheet, Reconciliation of Cash, accompanying notes and Statement by the Commissioner.

Commissioner's Responsibility for the Financial Report

The Commissioner is responsible for the preparation and fair presentation of the financial report and he has determined that the accounting policies described in Note 1 to the financial report are appropriate to meet the requirements of the Legal Practitioners' Act 1981 (as amended) and the Attorney-General. The Commissioner's responsibilities also include designing, implementing and maintaining internal controls relevant to the preparation of a financial report that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial report based on our audit. No opinion is expressed as to whether the accounting policies used, as described in Note 1, are appropriate to meet the needs of the Attorney-General. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

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

The financial report has been prepared for distribution to the Attorney-General for the purpose of fulfilling the Commissioner's financial reporting obligations under the Legal Practitioners' Act 1981 (as amended). We disclaim any assumption of responsibility for any reliance on this report or on the financial statements to which it relates to any person other than the Attorney-General, or for any purpose other than that for which it was prepared.

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

Independence

In conducting our audit, we have complied with the independence requirements of Australian professional ethical pronouncements.

LEGAL PRACTITIONERS CONDUCT BOARD

INDEPENDENT AUDITOR'S REPORT TO THE LEGAL PROFESSION CONDUCT COMMISSIONER


Opinion

In our opinion, the financial report of the Legal Practitioners Conduct Board presents fairly, in all material respects, the financial position of Legal Practitioners Conduct Board as at 30 June 2014 and of its financial performance for the year then ended in accordance with the accounting policies described in Note 1 to the financial statements, and the Legal Practitioners' Act 1981 (as amended).

Basis of Accounting

Without modifying our opinion, we draw attention to Note 1 to the financial report, which describes the basis of accounting. The financial report has been prepared for the purpose of fulfilling the Commissioner's financial reporting responsibilities to the Attorney-General. As a result, the financial report may not be suitable for another purpose.

Sothertons Adelaide Partnership


J E McKenzie
Partner

Dated this 5 day of October 2014.