



Annual Report **2011**

Legal Services **COMMISSIONER**

Legal Services COMMISSIONER

2 September 2011

Dear Attorney-General

I am pleased to provide you with a copy of the Legal Services Commissioner's Annual Report for 2010-11. This report provides an overview of our operations for the 2010-11 reporting year. It has been prepared in accordance with the *Financial Management Act 1994*.

Yours sincerely



Michael McGarvie
Legal Services Commissioner

Legal Services Commissioner Annual Report

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Abbreviations

the Act	the <i>Legal Profession Act 2004</i>
Bar	Victorian Bar
Commissioner	the Legal Services Commissioner, Michael McGarvie
DRT	Dispute Resolutions Team
LIV	Law Institute of Victoria
LSB	Legal Services Board
LSC	the office of the Legal Services Commissioner
MP	Member of Parliament
RRT	Rapid Resolution Team
VCAT	Victorian Civil and Administrative Tribunal

About the Legal Services Commissioner

The Legal Services Commissioner (LSC) is responsible for the receipt and handling of complaints about lawyers in Victoria.

The LSC was established on 12 December 2005 by the *Legal Profession Act 2004* (the Act). Michael McGarvie is the Commissioner. Michael is also the Chief Executive Officer of the Legal Services Board (LSB).

The LSC is an independent statutory authority accountable to the Victorian Parliament. The Attorney-General, The Hon. Robert Clark MP, is the responsible Minister.

Our objectives

The statutory objectives of the LSC are to:

- ensure that complaints against lawyers and disputes between law practices or lawyers and clients are dealt with in a timely and effective manner
- educate the legal profession about issues of concern to the profession and to consumers of legal services, and
- educate the community about legal issues and the rights and obligations that flow from the lawyer-client relationship.

Our mission

The LSC strives to raise the standard of legal services provided in Victoria to a level of excellence and to deliver high consumer satisfaction.

Our values

Impartiality: Making decisions objectively

Integrity: Earning and sustaining public trust

Accountability: Taking responsibility for results

Responsive service: Demonstrating a spirit of service

Human rights: Providing a fair go for everyone

Commissioner's report

I am pleased to present the 2010-11 Annual Report of the Legal Services Commissioner. This report documents the work of my organisation in my first full year as Commissioner.



Complaints handling

This year's report highlights the outstanding results achieved in our complaints handling area in 2010-11. Most notable is the number of complaints finalised, which was 2,609. This is 31% more than the number finalised in 2009-10. Our ability to finalise complaints faster resulted in there being only 848 unresolved complaints at 30 June 2011. This is compared with 1,515 outstanding complaints in the previous year. Reducing the number of outstanding complaints to below 1,000 is a significant milestone for us.

At the time of my appointment in December 2009, the number of outstanding complaints was approximately 1,600. This was a real concern to me. Also of concern was the amount of time taken to investigate and close complaints. For example, in 2009-10 approximately 50% of complaints were finalised within a period of 120 days or more.

The majority of consumers who lodge complaints with our office want a quick resolution to their matter. Likewise, a pending complaint can be the cause of much angst and concern for lawyers. I therefore focused on addressing two issues this year, which were; minimising delays in complaints and reducing the number

of outstanding complaints. These issues were also identified by the Victorian Ombudsman who conducted a review of our operations in 2008-09 and made several recommendations for improving our complaint handling processes. Delays and the amount of time taken to finalise complaints were two of the main issues identified by the Ombudsman.

The complaints handling data for the reporting period indicates that these objectives have been achieved.

These objectives were largely achieved through several initiatives introduced in the previous reporting year, one of which was the establishment of the Rapid Resolution Team (RRT), which is responsible for handling service related complaints quickly and with minimal delay.

A majority of complaints lodged with my office raise issues that would not warrant us taking disciplinary action against lawyers. The issues relate to communication breakdown, delays in legal matters or dissatisfaction with the service provided by the lawyer. In most cases, the complainant is seeking a practical outcome to the matter; for example, an apology from the lawyer or a reduction in their bill. The RRT has proven to be a worthy initiative that has produced very positive outcomes for lawyers, legal consumers and my staff. In many cases, the complaint can be resolved through discussions and emails with the lawyer and consumer. There is less formal correspondence required, which means complaints are resolved within a shorter time frame. The efforts of the RRT has led to a reduction in complaint handlers' file loads, which has provided staff with more time to focus on finalising outstanding complaints and investigating the more serious matters.

The number of outstanding complaints finalised is also due to the work of a project team that was established in April 2010. This project team is responsible for finalising complaints that have been outstanding for 12 months or more. This project team finalised 301 outstanding complaints in the reporting year.

Another initiative was the establishment of the Investigations Team in our complaints handling area. I noted that significant delays were often experienced in the investigations process. There are a number of steps involved in conducting investigations. For example, some investigations require complaint handlers to interview witnesses, review client files and gather relevant documents. In some cases, there is a large volume of evidence that needs to be considered. I established the Investigations Team to ensure that investigations are conducted thoroughly and quickly. The introduction of this team has helped streamline the investigations process across the office, which will ensure that investigations are undertaken quickly and with a consistent approach.

It should be understood that 26% of all investigations done this year were performed by our delegates, the Law Institute of Victoria and the Ethics Committee of the Victorian Bar. Both of these bodies contributed significantly to improving clearance rates and reducing delay.

I am very pleased with the results achieved in our complaints handling area this year. However, I believe more can be done to ensure that there is minimal delay in finalising complaints. This will continue to be a key focus for us in 2011-12.

Litigation

Our court cases often produce significant outcomes that may have implications not only for the lawyer concerned, but also consumers of legal services and members of the legal profession. For this reason, I felt it was important to establish a specialist Litigation Team in our complaints area who could ensure our matters are carefully prepared and adequately managed. The Litigation Team has achieved some pleasing results since its inception in July 2010. For example, the Litigation Team made 38 disciplinary applications in 2010-11 compared with 22 in 2009-10. 36 applications were in relation to substantive matters, compared with only seven in 2009-10. The outcome of *LSC v Brott* was another outstanding achievement for the Litigation Team. This case resulted in VCAT recommending that the legal practitioner be struck off the roll of legal practitioners. This was the first time that a disciplinary matter prosecuted by the LSC has resulted in a recommendation that a lawyer be struck off the roll of legal practitioners. The legal practitioner was subsequently struck off the roll by the Supreme Court of Victoria in March 2011.

Establishing relationships

This year I encouraged my staff to focus on developing positive relationships with the parties involved in complaints as well as our co-regulators. I believe that developing and maintaining good relationships is crucial to the complaints handling process as well as legal regulation in general. Having a good rapport with the parties enables us to understand the issues in complaints and helps us to seek their co-operation in resolving matters.

It can be difficult to establish trusting relationships with the parties through written communication or telephone conversations. That is why I encourage my staff to make personal contact with lawyers and consumers to discuss and fully understand the issues in the complaints. This led to an increase in the number of meetings being held at our office during the year. Consequently, I commissioned renovations to be undertaken which resulted in the creation of three new interview and meeting rooms on our premises.

Ex-gratia payments

The Act provides me with the power to grant an ex-gratia payment to individuals whom I regard as having suffered a financial loss as a result of the actions of a lawyer or law firm. I granted \$26,500 to legal consumers who I felt were genuinely deserving of a payment. I will use this very useful provision more extensively in the future, where necessary.

Education activities

We continued to engage with the legal profession and consumers through our Education and Outreach Programs. This year, we delivered 10 ethics workshops to over 300 Victorian lawyers. We also presented to approximately 1,800 lawyers through 28 seminars and conferences on issues relating to legal ethics and the LSC's operations. My staff also conducted 10 outreach visits to a range of metropolitan, suburban and rural areas to distribute information about consumers' rights and responsibilities in the lawyer-client relationship and the complaints handling regime. Through the outreach visits, my staff met with representatives from 71 community support groups.

This interaction with the community and legal profession is very important because it enables us to hear first-hand about the issues affecting these groups that could potentially be addressed through the complaints handling process.

National Legal Profession Reform Project

Work on the National Legal Profession Reform Project continued to progress this year. We prepared a very detailed submission in response to draft legislation prepared by the Council of Australian Governments. Our submission supported the proposed model overall. We also participated in a number of discussions with the Victorian Department of Justice on specific details relating to the proposed model. Until a decision regarding the national model is made, we will continue to carry out our complaints handling and regulatory functions as normal.

Thanks

This report is a testament to the hard work and commitment of my staff during 2010-11. I would like to congratulate them on achieving these tremendous results and thank them for their efforts throughout the year. I would also like to acknowledge the valuable work of our delegates, the Law Institute of Victoria and Victorian Bar, who greatly assisted us in delivering our complaints handling functions in 2010-11.

Michael McGarvie
Legal Services Commissioner

Achievements and significant events

2,609 complaints finalised compared with 1,796 in 2009-10. More information on page 20.

848 complaints outstanding at 30 June 2011 compared with 1,515 in 2009-10. More information on page 21.

505 complaints resolved within 30 days compared with 311 in 2009-10. More information on page 20.

The Litigation Team was established to manage all court cases involving the LSC. The Team **initiated 38 disciplinary applications compared with 22 in 2009-10**. 36 applications were in relation to substantive matters compared with seven in the previous year. More information on pages 15 and 16.

VCAT made a recommendation that a lawyer be struck off the roll of legal practitioners in a disciplinary application made by the LSC. This is **the first time that a disciplinary matter prosecuted by the LSC has resulted in a recommendation** that a lawyer be struck off the roll of legal practitioners. More information on page 16.

The LSC **prepared a detailed submission** in response to the draft consultative package on the proposed National Legal Profession Reform Project. More information on page 28.

The LSC **co-hosted the 2010 CORO Conference** in August. A total of 64 people attended CORO, which included representatives from legal regulators in each jurisdiction in Australia as well as from New Zealand. More information on page 27.

The Investigations Team was established to **improve the way investigations are carried out** and to ensure investigations are conducted quickly and consistently. More information on page 13.

LSC staff **presented to approximately 1,800 lawyers through 28 seminars and presentations** compared with 11 presentations delivered to 380 lawyers in 2009-10. More information on page 22.

LSC staff **conducted 10 Outreach visits in 2010-11** which involved visits to six suburban and four regional locations. More information on page 23.

LSC staff met with representatives from **71 community support organisations** through the **Outreach Program**. More information on page 24.

Report of operations

This chapter discusses the LSC's performance in carrying out its functions during the reporting year.

Complaints handling

The LSC is responsible for handling complaints about Victorian lawyers, including resolving disputes between clients and law practices or lawyers.

From the pre-complaint stage until the complaint is finalised, the LSC is committed to assisting legal consumers with their complaints. The LSC understands that the complaints process may be confusing and aims to make it as simple and transparent as possible. This section discusses the LSC's performance in carrying out its complaints handling function in the reporting year. Please note that the data featured in this chapter is a summary of the complaints handled in 2010-11. Full complaints data for this period is available in Chapter 5 (page 71).

Enquiries

The LSC offers an enquiries service to assist members of the public with preliminary queries relating to the client-lawyer relationship and the complaints handling process in general. Enquiries officers advise

consumers on whether the LSC has power to handle their matter, and if so, how their complaint will be dealt with. Consumers wishing to lodge a formal complaint will be provided with a complaint form and further information about the complaints handling process. Matters that do not fall within the LSC's jurisdiction will be referred to the relevant organisation for assistance. In some cases, the LSC may provide information that will assist the consumer to resolve the issue directly with their lawyer. For example, a caller may ask about their entitlement to receive their file back from their lawyer, and then may be better able to achieve this knowing when a lawyer can and cannot retain a client's file. Enquiries can be made over the telephone, in writing, by email or in person. A telephone interpreter can be arranged for people who need one.

The LSC received 4,572 enquiries in 2010-11 compared with 5,202 in 2009-10. The LSC provided complaint forms to 50% of people who contacted the enquiries service. In 35% of the matters, the person making the enquiry took no further action after discussing the matter with an enquiries officer. Figure 1 shows the outcomes of enquiries received by the LSC.

Complaints

Consumers may make two types of complaints - a civil complaint (also called a civil or costs dispute) or a disciplinary complaint.

Civil complaints

A civil complaint involves a civil dispute. A civil dispute is any one of the following:

- a costs dispute between a lawyer or law practice and client in relation to legal costs not exceeding \$25,000
- a claim that a person has suffered a pecuniary loss as a result of an act or omission by a law practice or lawyer (a financial loss or pecuniary loss dispute), or
- any other genuine dispute between a person and a law practice or lawyer.

Generally speaking only a client of a lawyer can make a civil complaint, as opposed to a disciplinary complaint, which generally can be made by anyone.

Figure 1: Number and outcome of enquiries

YEAR	COMPLAINT FORM SENT	INFORMATION PROVIDED – NO FURTHER ACTION TAKEN	REFERRAL TO OTHER BODY	NO JURISDICTION	TOTAL ENQUIRIES RECEIVED
2010-11	2,270 (50%)	1,635 (35%)	597 (13%)	70 (2%)	4,572
2009-10	2,590 (50%)	1,666 (32%)	899 (17%)	47 (1%)	5,202
2008-09	2,142 (40%)	2,450 (44%)	853 (15%)	11 (1%)	5,456

Disciplinary complaints

Disciplinary complaints raise serious allegations about the lawyer's professional conduct that, if established, would amount to unsatisfactory professional conduct or professional misconduct. Unsatisfactory professional conduct is defined to include conduct of a lawyer occurring in connection with the practice of law that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent lawyer.

Examples of unsatisfactory professional conduct include:

- instances of conflict of interest
- significant and obvious negligence, and
- failure to advise about the expiry of a limitation period.

Professional misconduct is more serious. It is defined to include:

- unsatisfactory professional conduct of a lawyer, where the conduct involves a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence, and
- conduct of a lawyer, whether occurring in connection with the practice of law or occurring otherwise than in connection with the practice of law, that would, if established justify a finding that the lawyer is not a fit and proper person to engage in legal practice.

Examples of professional misconduct include:

- trust defalcations
- dishonest or fraudulent activity, and
- taking of executor's commission without obtaining appropriate consent.

The LSC also deals with complaints that raise service related issues. These complaints often raise issues that are complex, yet may not warrant the LSC taking disciplinary action against the lawyer. In most cases, the complaint can be resolved with the assistance of the LSC. Examples of service related complaints include:

- lawyers not responding promptly to communication
- delays in legal matters caused by lawyers, or
- confronting or impolite behaviour or language used by lawyers.

Please note that the data for service related complaints in this report is included in the category of disciplinary complaints, given the way they have historically been handled. These complaints might better be expressed as potential disciplinary complaints.

Mixed complaints

A mixed complaint contains both a civil complaint and a disciplinary complaint.

New complaints received in 2010-11

The LSC received 1,984 new complaints in 2010-11, which is 10% fewer than the number received in the previous year. Consistent with previous years, the number of disciplinary complaints outnumbered civil complaints. However, the number of civil complaints received increased by 16%, while the number of mixed complaints decreased by 16%. This variation may be due to a change in the way complaints are classified and allocated by the LSC. In the past, service related issues in civil disputes were classified as disciplinary, which gave rise to the mixed complaint. The practice of the LSC now is to handle service related issues which generally would not result in disciplinary findings as part of the civil dispute.

Consistent with previous years, the top five areas of law that featured in the new complaints were family/de facto, conveyancing, probate and estate, commercial and criminal. The issue of costs and bills was the most complained about issue followed by negligence, trust money and dishonesty. The LSC is pleased to see a decline in the number of complaints about communication issues. Poor communication is a common cause of complaints to the LSC. This year, the LSC highlighted the importance of maintaining good communication with clients through its engagement with members of the legal profession.

Figure 2: Number and type of complaints received

YEAR	CIVIL ONLY	DISCIPLINARY ONLY	MIXED	ALL CIVIL	ALL DISCIPLINARY	TOTAL COMPLAINTS
2010-11	812 (41%)	992 (50%)	180 (9%)	992 (41%)	1,172 (59%)	1,984
2009-10	568 (25%)	1,094 (50%)	549 (25%)	1,117 (51%)	1,643 (74%)	2,211
2008-09	539 (26%)	1,196 (58%)	322 (16%)	861 (42%)	1,518 (74%)	2,057

See Figures 26 and 27 in Chapter 5 for more information about new complaints

Figure 3: Top five areas of law that featured in the new complaints

AREA OF LAW	2008-09	2009-10	2010-11
Family/De facto	464	512	443
Conveyancing	184	197	240
Probate and Estate	232	214	201
Commercial	188	217	171
Criminal	145	115	138

See Figure 32 in Chapter 5 for a full list of the areas of law that featured in the new complaints.

Figure 4: Top six issues that featured in the new complaints

NATURE OF ALLEGATION	2008-09	2009-10	2010-11
Costs/Bills	938	1,030	838
Negligence – including bad case handling	444	623	369
Trust money – including failure to account, mismanagement of funds	134	169	133
Dishonest/Misled	137	152	131
Documents – including retention and lost	90	134	108
Communication with client – including failure to return calls, give progress reports	192	171	102

See Figure 31 in Chapter 5 for a full list of the issues that featured in the new complaints.

Civil complaints

Complaints that raise a civil dispute are referred to the Dispute Resolutions Team (DRT) who will try to assist the consumer and lawyer to resolve the dispute. The DRT may assist the parties resolve the dispute in one or more of the following ways:

- communicating offers of settlement between each party over the telephone, by email, in writing, or in person
- referring the dispute for formal mediation
- in the case of a costs dispute, arranging for a non-binding assessment of the costs, or
- taking any other action the LSC considers necessary to assist the parties to reach agreement or an outcome that is acceptable to both parties.

The most common method for resolving civil disputes is through discussions with the lawyer and consumer over the phone, in person or by email. An important part of the dispute resolution process involves managing the parties' expectations. For example, if a complainant demands an outcome that the LSC cannot provide, then it is important that this is clarified with the complainant in the first instance. It is important that the parties are given a realistic understanding of what can be achieved through the complaints process.

In most cases, consumers will lodge civil disputes in relation to the legal costs charged by their lawyer; however the underlying issues in the disputes relate to the quality of legal services and advice given, particularly where the matter has resulted in an unsatisfactory outcome for the consumer. Complaint handlers must therefore work with the parties to consider and assess the issues in the dispute, perhaps refine them, and help them to reach a satisfactory agreement. Where the lawyer and complainant are unable to resolve the dispute with the assistance of the LSC, they may apply to VCAT to determine the dispute. Unlike the LSC, VCAT has power to hear and make a binding decision about the dispute, and make orders as to who should pay the costs and how much money should be paid. The LSC has no role before VCAT with respect to a civil dispute but acts as a gateway, only letting through those disputes which cannot be resolved.

Outcomes of civil complaints

The LSC received 812 civil complaints in 2010-11. The LSC had power to handle 605 civil complaints, as the remaining 207 complaints were outside of the LSC's jurisdiction: for example, the complaint was made outside of the required time limits; the complainant failed to lodge costs with the LSC; or, the lawyer had already commenced legal proceedings to recover legal costs. The number of civil

disputes where the LSC had power to handle the dispute increased by 52% in 2010-11. As previously stated, this may be due to a change in the way civil disputes are classified and allocated.

Where the LSC had power to resolve the dispute, the LSC helped the parties resolve the dispute in 473 matters, compared with 218 in 2009-10. The LSC was unable to settle the civil dispute in 132 cases and therefore advised the parties of their right to apply to VCAT.

One of the unique features of the civil complaint handling process is that where a person makes a complaint involving a costs dispute, that person must lodge the unpaid amount of legal costs with the LSC within 28 days of making the complaint. The LSC may determine that a complainant need not lodge a disputed amount, or may lodge a lesser amount, if satisfied that lodging the costs would cause the complainant undue hardship.

The LSC must dismiss a complaint if the complainant fails to comply with these requirements. During the year, the LSC received \$556,410.55 in disputed costs. This money was held in trust pending settlement or court orders. This represents only a proportion of the total amount of costs in dispute, as costs may have already been paid to the lawyer or the LSC may have determined that the unpaid costs need not be lodged.

Figure 5: Outcomes of civil disputes where the LSC had jurisdiction to handle the dispute

CIVIL DISPUTE OUTCOMES WHERE THE LSC HAD JURISDICTION TO HANDLE THE DISPUTE	2008-09	2009-10	2010-11
Dispute settled between lawyer and client	234 (73%)	218 (78%)	473 (78%)
Dispute was unable to be settled and parties were advised of their right to apply to VCAT	87 (27%)	60 (22%)	132 (22%)
Total	321	278	605

See Figure 35 in Chapter 5 for further details about the outcomes of civil disputes

Case Studies

- 01 Irina retained a lawyer to act for her in an unfair dismissal matter. The proceedings resulted in a negative outcome for Irina. She therefore lodged a complaint with the LSC and asked for a full refund of her legal bill on the basis that she was unhappy with the outcome, for which she held the lawyer responsible.

A complaint handler discussed with her and confirmed in writing the reality that VCAT would be most unlikely to make such an order should the matter not be resolved. The complaint handler provided Irina the outcomes of previous VCAT decisions on costs disputes, particularly that costs orders can sometimes be made against complainants who are not willing to make reasonable compromises. Following these discussions, Irina offered to pay half of the bill. The lawyer declined this offer and insisted that Irina pay the full amount. After further discussions with the complaint handler, Irina agreed to pay 80% of the bill. The lawyer felt that this was a reasonable offer and agreed to settle at this amount.

- 02 **Chun saw a lawyer who offered the first half-hour consultation free of charge. Chun claimed that the lawyer told him that the time spent in the consultation after 30 minutes 'did not matter'. He said he did not ask for any further work to be done and that the lawyer provided him with no solution to his legal problem. Chun then received a bill for \$297. The details provided in the bill confirmed that the first half hour was free, but the next half hour was charged and a number of further attendances were given, including the review of documents and giving some legal advice by email.**

The lawyer claimed that an appropriate service had been provided and that Chun was aware that any time after the first half hour would be charged. Chun lodged a complaint with the LSC, which was referred to the DRT. Chun told a complaint handler he felt he had been misled and refused to pay the full amount. He also explained that he was facing significant financial difficulties and was unable to pay the full amount. The complaint handler discussed the matter with the lawyer, including Chun's financial situation.

The lawyer made an offer to reduce the bill to \$220. Chun was not happy with the amount and insisted he pay the lawyer nothing. The complaint handler advised Chun that he would have to pay something. Chun considered this advice and made an offer to settle for \$165. The lawyer accepted this offer on the basis that Chun paid the amount within 7 days of signing the settlement agreement. Chun signed the agreement and paid the lawyer.

- 03 John disputed a bill for \$2,820. He lodged a complaint with the LSC, alleging that the lawyer had done work on a matter where he had been instructed to do no more. The lawyer argued that documents had been provided and work was done as instructed and that John did not tell him to cease work until a later time than John alleged. The lawyer provided file notes that supported his version of events.

A complaint handler advised John that there was evidence that would support the bill being payable. John did not accept this and made an offer to settle the dispute on the basis that the lawyer accepts \$500 for the entire bill. The lawyer declined the offer and chose not to participate further in the negotiation. The complaint handler therefore advised John and the lawyer of their rights to apply to VCAT to resolve the dispute. John applied to VCAT, however VCAT did not reduce the bill at all and furthermore, ordered that John pay the lawyer's costs in the sum of \$500.

Complaints about service related issues or conduct that is of a kind that is more suited to a mediated outcome

Complaints that raise service related concerns and conduct issues are referred to the Rapid Resolution Team (RRT) who will try to resolve the complaints through informal dispute resolution. Service related complaints, in most cases, may not warrant the LSC conducting a formal investigation.

While the complaints may be complex, the RRT seeks to assist the parties to reach a practical outcome. In these circumstances, and only where the LSC believes it is appropriate to do so, a mediated outcome is sought. The role of the RRT is to assist the lawyer and consumer to reach a satisfactory agreement. Upon receiving a complaint, RRT staff will contact the consumer and lawyer to discuss the matter, and in particular, the outcome that they hope to achieve.

Managing the parties' expectations is paramount to resolving service related complaints and some conduct complaints. A unique feature of the RRT is its staff, all of whom are senior lawyers, each with over 20 years' legal experience. Their experience enables them to identify how problems have occurred between the lawyer and consumer and provide guidance to help the parties resolve the dispute.

Service related complaints handled by the Rapid Resolution Team

Case Studies

- 01 Bill was a lawyer who made a complaint to the LSC about another lawyer with whom he used to own a legal practice. Bill objected to the lawyer continuing to use the name and signage of the practice, which included his name. A member of the RRT suggested some form of mediation between the lawyers. The lawyers tried to persuade the staff member as to the merits of each of their claims, seeking some form of disciplinary action against the other, but eventually both saw the value of mediation. Through the mediation process, the pair agreed to obtain a quote for the cost of painting over the old sign and to split the costs between them.**
- 02 A lawyer commenced acting for Louis in a Victims of Crime Assistance Tribunal claim. As time proceeded, the basis of the claim became less clear. The alleged crime was investigated by the police over the course of a year, during which nothing could proceed on the file; the police then decided not to press charges. Some further work was done on the file, but eventually, some three years after the matter had started, the lawyer advised Louis that there was no real prospect of success and advised him to withdraw the claim. Louis made a complaint to the LSC alleging negligence and serious delay. A member of the RRT interviewed both parties and inspected the lawyer's file. The staff member concluded that there were some instances of delay, but that the main problem was that Louis should have been advised of the poor prospects of success much earlier in the matter. The lawyer apologised to Louis. Louis was satisfied with the lawyer's apology and withdrew his complaint.**
- 03 James and Bettina were due to marry in November 2009. In the month before the wedding, James approached a lawyer to draft a pre-nuptial agreement. He stressed that he wanted the document finalised before the wedding. The lawyer asked James for detailed information as to the value of his assets and advised James to defer completion of the agreement until after the wedding. The agreement was not completed until mid-February 2010, some three months after the wedding. James made a complaint to the LSC alleging excessive delays, poor service and raised a costs dispute. The LSC wrote to the lawyer requiring from her a full written explanation. That explanation was provided to James, who maintained that the lawyer had delayed the finalisation of the agreement by asking for information in a piecemeal fashion, instead of seeking proper instructions in the initial stages of the matter. The matter was referred to a member of the RRT who spoke to the parties over the telephone and visited the lawyer's firm to inspect her file. The staff member concluded that there was evidence of some delay and lack of communication between December and February. While the lawyer was willing to compromise her bill and refund moneys in recognition of this, the partners of her firm did not agree to reduce the bill. The parties were then given rights to apply to VCAT, and James made an application to VCAT. The complaint file was closed; however, the staff member reminded the lawyer to ensure that work undertaken could be finished in a timely fashion, particularly where the client stressed the need for urgency. After James made the application to VCAT, the partners of the lawyer's firm re-considered their position and contacted the staff member to seek to reopen negotiations. The staff member was able to broker an arrangement whereby James was refunded money from his bill in return for the withdrawal of his application to VCAT.**

Disciplinary complaints

Complaints that raise allegations about the professional conduct of a lawyer and are of a character that do not seem capable or appropriate for negotiated resolution are referred to the Investigations Team for investigation. The purpose of an investigation is to determine whether a lawyer has engaged in professional misconduct or unsatisfactory professional conduct. Upon receiving a complaint, the Investigations Team determines the scope of the problem and extent of the investigation. An investigations plan is formalised and discussed, which outlines the steps that are to be taken. This plan is revised as the investigation progresses. The Investigations Team uses a number of techniques for investigating complaints, including:

- reviewing the legal file or related documents
- interviewing the complainant, lawyer and other witnesses
- seeking a written explanation from the lawyer in response to the issues raised in the complaint
- visiting the lawyer's office to identify potential problems in the legal practice
- obtaining copies of documents from courts or tribunals
- conducting searches of the Land Titles Office, company records, electoral register and other sources
- attending court or tribunal on related matters, and
- seeking information from other legal regulators, for example the LSB and LIV.

From the evidence gathered, the Investigations Team may determine that the lawyer has not engaged in conduct that amounts to a disciplinary breach. Where this occurs, the Investigations Team will advise the complainant of the outcome and may also provide guidance to the lawyer to help them improve their practices and avoid further problems from occurring. Where the Investigations Team determines that a disciplinary breach has occurred, then the matter will be referred to the Commissioner who will decide whether the conduct amounts to unsatisfactory professional conduct or professional misconduct. If the Commissioner determines that the conduct amounts to professional misconduct, then the LSC will make an application to VCAT. For unsatisfactory professional conduct matters, the Commissioner may apply to VCAT for an order against the lawyer or may instead take an alternative disciplinary action against the lawyer.

The LSC conducted 449 investigations in the reporting year, compared with 749 in 2009-10. This decrease is due to a change in the way complaints are handled by the LSC. Previously, the LSC formally investigated complaints that contained service related issues. In many cases, the alleged conduct would not amount to a disciplinary breach and would often result in the complaint being dismissed by the LSC or would be formally investigated when this was unsuitable. These complaints are now referred to the RRT for resolution. Now, the LSC only launches a formal investigation where it is evident that the complaint raises allegations of serious disciplinary breaches.

Disciplinary complaint outcomes

In 2010-11, the LSC formed the view that VCAT was likely to find the lawyer guilty of a disciplinary breach in 152 matters. In 338 cases, the LSC formed the view that VCAT was unlikely to find the lawyer guilty of a disciplinary breach. In 333 matters, the consumer was satisfied with their outcome and therefore withdrew their complaint. This is compared with 211 in 2009-10. This increase is due to the efforts of the RRT where if the complainant is satisfied with the outcome of the matter, then they may choose to withdraw their complaint against the lawyer. Where the LSC is unable to resolve the matter, the LSC may form the view that no further investigation is required. This was the case in 172 matters compared with 67 in 2009-10.

Figure 6 shows the outcomes of disciplinary complaints for 2010-11 and previous years.

Figure 6: Disciplinary complaint outcomes

DISCIPLINARY COMPLAINT OUTCOMES	2008-09	2009-10	2010-11
LSC formed view that VCAT likely to find lawyer guilty of a disciplinary breach	77 (7%)	64 (7%)	152 (11%)
LSC formed view that VCAT unlikely to find lawyer guilty of a disciplinary breach	345 (31%)	254 (28%)	338 (26%)
Complainant satisfied with lawyer's explanation and withdrew complaint*	161 (15%)	211 (23%)	333 (25%)
Complaint made out of time	16 (2%)	5 (1%)	14 (1%)
Complaint made before (or subject of another complaint)	23 (2%)	18 (2%)	15 (1%)
Complaint did not contain enough information (eg. did not include complainant's details)	1 (1%)	0	0
Complainant failed to provide further information when requested	108 (10%)	75 (8%)	48 (4%)
Complaint lacked legal substance etc (eg. alleged conduct was not inappropriate)	170 (15%)	104 (11%)	157 (12%)
Complaint about lawyer/client relationship and duties but made by third party (eg. not the client)	30 (3%)	26 (3%)	36 (3%)
LSC formed the view that complaint required no further investigation (eg. lawyer not obliged to accept instructions from complainant)	43 (4%)	67 (7%)	172 (13%)
Complaint not one that the LSC has power to deal with (eg. involves question of law and better dealt with by a court)	115 (10%)	89 (10%)	47 (4%)
Lawyer deceased	1 (1%)	2 (1%)	1 (1%)
Lawyer ill health or not located	11 (1%)	8 (1%)	2 (1%)
Closed due to ongoing proceedings	No data	No data	7 (1%)
Total	1,101	923	1,322

*Please note that withdrawing a complaint is seen by the LSC as a perfectly valid means of concluding a complaint if the complainant is satisfied with the outcome and if the LSC accepts that a fair and practical result was achieved.

Referral of an investigation to a Prescribed Investigatory Body

The LSC may undertake an investigation or can instead refer the investigation to a Prescribed Investigatory Body (PIB), which currently means either the Law Institute of Victoria or the members of the Ethics Committee of the Victorian Bar. Where this occurs, the PIBs must report back their findings to the LSC.

Decisions following an investigation are to be made by the LSC. During the year, the LSC referred 26% of the total number of investigations to the PIBs for investigation. This is shown in Figure 7.

Figure 7: Investigations commenced by the LSC and referred to PIBs

INVESTIGATIONS	2008-09	2009-10	2010-11
Investigations by LSC	528 (81%)	581 (77%)	333* (74%)
Investigations referred to PIBs	124 (19%)	168 (23%)	116 (26%)
Total Investigations	652	749	449

* The decrease in the number of 'investigations' is as a result of the way in which new complaints are now assessed and allocated. If complaints were assessed as in previous years this number would be 597. See Figures 28 and 29 in Chapter 5 for further details about investigations.

Establishment of the Investigations Team

The Commissioner established the Investigations Team in October 2010 after recognising that investigations could be carried out more thoroughly and quickly if the processes across the office were streamlined.

In the past, investigations were conducted by staff across a number of different teams, which meant staff were managing investigations in addition to other complaint handling

duties. This often resulted in lengthy, drawn out investigations, particularly where large volumes of evidence needed to be considered. The Commissioner felt the introduction of a specialist Investigations Team would help ensure that investigations are conducted efficiently and with a consistent approach.

Seconded from Ombudsman Victoria

A senior investigations officer from Ombudsman Victoria was seconded to the LSC for a period of three months

to fill a short-term vacancy in the Investigations Team. The investigations officer provided valuable ideas about effective investigation techniques and provided insight into how the LSC can improve their investigation processes. The LSC was grateful for the opportunity to draw on the knowledge and skills of the officer and welcomes future exchanges of information with Ombudsman Victoria.

Disciplinary complaints handled by the Investigations Team

Case Studies

- 01** Sam engaged a lawyer to represent him in a family law matter. When the matter concluded, Sam claimed he had been poorly represented. Sam lodged a complaint with the LSC, which was referred to the Investigations Team. A complaint handler inspected the lawyer's files and found that there appeared to be a strong basis to say that the advice given was unsatisfactory. The complaint handler met with the lawyer to discuss the complaint, during which the lawyer offered to pay Sam compensation in the amount of \$8,000. From the evidence gathered, the LSC was satisfied that VCAT would find the lawyer guilty of unsatisfactory professional conduct. However, the LSC took into account the fact that the lawyer paid compensation to Sam and therefore decided to reprimand him rather than ask VCAT to deal with him. Sam was satisfied with the outcome.
- 02** The Investigations Team received a complaint about a lawyer who on a number of occasions failed to return a client's calls. The lawyer was likewise failing to respond to the LSC's letters and telephone calls. A complaint handler visited the lawyer at his office and discovered that the lawyer was facing a very difficult period in his practice because of an unusually heavy workload and did not have any administrative support. The complaint handler assisted the lawyer in providing a response to the complaint and also advised the lawyer about the importance of maintaining regular contact with clients, including keeping them informed about any delays due to workloads.
- 03** Tony lodged a complaint on behalf of his elderly Macedonian mother, Nikki, about the conduct of her lawyer. Tony claimed that his mother had been coerced into signing documents by his sister who had arranged the appointment and that the lawyer failed to ensure that his mother genuinely wanted to sign the documents. Tony contacted the LSC in a rather agitated and aggressive manner, which raised suspicion among the Investigations Team about the validity of the complaint. A complaint handler contacted the lawyer who said he had spoken to Tony and had formed a view that Nikki was in fear of Tony. As it seemed possible that the son was unduly influencing his mother, the complaint handler decided that he needed to satisfy himself that Nikki genuinely wanted to lodge a complaint.

The complaint handler organised a meeting with her at a location close to her home and arranged for an interpreter to be present. Nikki conducted the interview through the interpreter without Tony being present. The complaint handler found that the woman was very clear in her desire to complain about the lawyer. She also provided further details about her interaction with the lawyer and showed no fear of her son Tony. The complaint handler then interviewed the lawyer who insisted that Nikki signed the document on her own volition. The complaint handler inspected the lawyer's file and found that there was sufficient evidence supporting the lawyer's explanation. The LSC dismissed the complaint.

Own motion investigations

The LSC may commence an investigation on the Commissioner's own motion, and open an own motion investigation file. The Act empowers the LSC to investigate the conduct of a lawyer 'if the Commissioner has reason to believe that the conduct may amount to unsatisfactory professional conduct or professional misconduct, even though no complaint has been made about the conduct or a complaint about the conduct has been withdrawn'. The power to commence an own motion investigation is an important one. It enables the LSC to investigate conduct that has not attracted a complaint but is nonetheless improper or unsatisfactory. Sometimes a client may lack sufficient knowledge to even realise that a lawyer has acted badly and should be investigated to protect themselves and other legal consumers. Accordingly, the own motion power is a significant consumer protection power. An own motion investigation may be initiated in any one of the following circumstances (this list is not exhaustive):

- where a disciplinary complaint is withdrawn and the LSC considers that the investigation should continue
- following receipt of a trust account investigation report from the LSB
- following receipt of a report by a Judge about a lawyer's conduct in Court
- following identification of improper conduct of a lawyer in the media
- following identification of improper conduct in an investigation by the LSC into some other conduct, or
- following receipt of a report by another agency such as the Office of Public Prosecutions about a criminal prosecution of a lawyer.

The LSC cannot, however, commence an own motion investigation as and when the Commissioner chooses to do so. There is a threshold requirement that must be met. The LSC must be satisfied that there is reason to believe that the lawyer may have engaged in professional misconduct or unsatisfactory professional conduct. The LSC commenced 52 own motion investigations during the year, as well as 19 preliminary investigations. As at 30 June 2011, there were 71 open own motion investigation files, which number includes the files opened during 2010-11 as well as the files opened in previous years. See Figure 30 in Chapter 5 for further details about the number of own motion investigations commenced in 2010-11.

Mixed complaints

A mixed complaint is dealt with using the civil complaints handling procedure and disciplinary procedure. The LSC closed 451 mixed complaints in 2010-11 compared with 418 in 2009-10. The LSC was satisfied in 51 mixed cases that the lawyer would be likely to be found guilty of a disciplinary breach. In 182 cases, the LSC formed the view that VCAT would be unlikely to find the lawyer guilty of a disciplinary breach. See Figures 37 and 38 in Chapter 5 for further details about the outcomes of mixed complaints.

Applications to VCAT

Following an investigation about the professional conduct of a lawyer, where the LSC is satisfied that VCAT would find the lawyer guilty of professional misconduct, the LSC is required to apply to VCAT for an order against the lawyer. The LSC may also apply to VCAT for an order against a lawyer where the LSC is satisfied that VCAT would find the lawyer guilty of unsatisfactory professional conduct (although there are other options to consider where this is the case; see alternative disciplinary actions on page 16).

Outcomes of VCAT applications

In 2010-11, the LSC made 38 applications to VCAT: 36 applications were made under the *Legal Profession Act 2004*; and 2 applications were made under the old *Legal Practice Act 1996*. Of the 38 applications, 36 were in relation to substantive matters, compared with seven in 2009-10. Substantive charges include things like trust account offences, unqualified practice charges, dishonesty and conflicts of interest. There were only five applications made in relation to failure to respond to the LSC's enquiries compared with 15 in 2009-10. The number of charges brought against lawyers for failure to respond matters has decreased significantly this year. This is because the LSC has adopted a new approach for dealing with lawyers who fail to respond to a complaint. Where a lawyer does not respond to a complaint or request, the LSC will contact or visit the lawyer to ensure they provide a response in a timely manner.

Where the LSC makes an application to VCAT, Counsel may be briefed to appear on behalf of the LSC, or a member of staff may appear on behalf of the LSC. There were 60 days where the LSC was a party before VCAT. This involved 14 days where staff appeared for the LSC, and 46 days where Counsel appeared. This includes six days where both Senior and Junior Counsel appeared. By using the LSC's own staff, the LSC is better able to efficiently and effectively handle certain matters before VCAT in a cost effective manner. The outcomes of the applications made to VCAT, including the type of charges and orders made, are listed in Chapter 5.

Alternative disciplinary actions

Where the LSC determines that VCAT is likely to find a lawyer guilty of unsatisfactory professional conduct, the LSC may apply to VCAT for an order against the lawyer or may instead take an alternative disciplinary action against the lawyer.

The decision to take an alternative disciplinary action may be based on a number of factors, including:

- the lawyer’s circumstances, including the lawyer’s health, age, years of experience, and financial situation
- whether the lawyer acknowledges his or her error and/or has shown remorse
- whether the lawyer made a mistake and is unlikely to repeat the conduct
- whether the lawyer cooperated during the investigation, or
- whether the conduct is systemic in nature, and affects, or has the potential to affect, a class of persons.

Alternative disciplinary actions include:

- with the consent of the lawyer, reprimand the lawyer
- with the consent of the lawyer, caution the lawyer
- take no further action against the lawyer if satisfied that –
 - the lawyer is generally competent and diligent, and
 - there has been no substantiated complaint (other than the complaint that led to the investigation) about the conduct of the lawyer within the last five years, or
 - where the complainant has requested a compensation order, require the lawyer to pay compensation to the complainant as a condition of deciding not to apply to VCAT in respect of the lawyer.

These alternative disciplinary actions are not available where the LSC determines that VCAT is likely to find a lawyer guilty of professional misconduct. Where this occurs, the LSC must apply to VCAT for an order against the lawyer. The LSC took alternative disciplinary action in 129 matters in 2010-11 compared with 68 in the previous year. In a majority of the matters, the LSC reprimanded the lawyer. There were more compensation orders made in 2010-11 compared with previous years.

Figure 8 shows the number and type of alternative disciplinary actions taken by the LSC in 2010-11.

Figure 8: Alternative disciplinary actions taken by the LSC

ALTERNATIVE DISCIPLINARY ACTION	2008-09	2009-10	2010-11
LSC reprimanded lawyer	37	30	67
Lawyer found generally competent and diligent and so no further action	28	27	44
LSC cautioned lawyer	13	9	9
Lawyer pays compensation as a condition of LSC not making a disciplinary application to VCAT	3	2	9
Total	81	68	129

New Litigation Team

The Litigation Team was established in July 2010. The Team are responsible for coordinating all court cases involving the LSC. The majority of the LSC’s cases are heard in VCAT, however the team also deals with appeals to the Supreme Court and Court of Appeal, administrative law matters and Charter of Human Rights issues.

The creation of this Team has allowed for a more focused and consistent approach when finalising investigations that are likely to result in a prosecution.

VCAT recommends strike-off – a first for the LSC

In March 2011, Justice Habersberger of the Supreme Court of Victoria ordered that Issac Alexander Brott be struck off the roll of legal practitioners in an application made to the Court by the LSC. The LSC made the application after VCAT found Mr Brott guilty of four charges of misconduct and subsequently referred Mr Brott to the Supreme Court to have his name removed from the roll. This was the first time that VCAT has recommended the strike-off of a lawyer in a matter where the LSC initiated the application. This is the most serious disciplinary action that can be taken against a lawyer. The misconduct charges are discussed in a case study on page 19.

VCAT decisions in matters involving the LSC

Legal Services Commissioner v Comito [2011] VCAT 497 (24 March 2011)

Mr Comito purported to witness the signing of documents relating to financing arrangements in respect of a property development.

He signed a bank guarantee and indemnity purportedly witnessing the signing of those documents by the client. He also certified that he was the lawyer instructed and employed by the client independently of the bank, and that he had explained the effect of the guarantee and indemnity to the client. He also purported to witness the client's signature on a facility agreement between the client and the bank; and a mortgage of land in favour of the bank.

In fact, Mr Comito had not witnessed the client's signature on the guarantee and indemnity, the facility agreement or the mortgage; nor was he instructed by the client; nor did he explain the effect of the guarantee and indemnity to the client.

Mr Comito admitted the misconduct, explaining that the client had been a close friend of his for some 30 years before they had a falling out. The documents in question

related to a joint business venture involving the client and the lawyer's son and daughter. Mr Comito had agreed to do any necessary legal work in relation to the joint venture without a fee. He witnessed the signatures of his son and daughter; however the client had not been present or signed the documents at that time.

VCAT recognised that this case involved the conflict of the informality of family and personal relationships with the necessary formality of a professional relationship.

Taking into account Mr Comito's previously unblemished record and the circumstances in which the misconduct occurred, VCAT reprimanded Mr Comito and ordered he pay a fine of \$10,000, plus the Commissioner's costs.

Legal Services Commissioner v Hession [2010] VCAT 1687 (5 October 2010)

Mr Hession was appointed sole executor of a will and also performed legal work in relation to the estate. In administering the estate, Mr Hession transferred various amounts totalling over \$30,000 to pay for the legal services.

He later transferred various amounts totalling over \$100,000 as executor's commission after he was told by a costs consultant that an executor can charge between 2% and 5% of the value of the estate. This amount was 5% of the value of the estate. Some months later, the law practice's trust account was inspected by a trust account inspector and found to be deficient.

Mr Hession was advised by the trust account inspector that he was not entitled to charge executor's commission if not authorised by the will, unless he obtained the consent of the beneficiaries or an order of the Supreme Court. Accordingly, Mr Hession repaid the money into trust.

In relation to the taking of executor's commission, VCAT found Mr Hession guilty of misconduct at common law. He had not independently researched the area of law about executor's commission and had relied on the advice of the costs consultant.

VCAT indicated that a competent practitioner would have made enquiries as to the accuracy of the advice of the costs consultant and investigated whether it was subject to any qualifications. Had he done so, he would have discovered that in the absence of a provision in a will authorising an executor to charge commission, an executor is entitled to commission only if all the beneficiaries have full capacity and give informed consent to the payment of commission, or if an order for the payment of commission is made by the Supreme Court.

Furthermore, the *Administration and Probate Act 1958* authorises the Supreme Court to allow payment of commission to an executor not exceeding 5% 'for his pains and trouble as is just and reasonable'. Here, 'trouble' appears to relate to work performed by the executor in the administration of the estate; and that in determining whether commission should be awarded, the Court will determine whether the work performed by the executor includes legal work for which the executor has been separately remunerated.

VCAT found that Mr Hession had also displayed indifference to, and disregard for, his obligations as trustee to administer the estate in the best interests of the beneficiaries and according to law. His conduct in taking executor's commission would be reasonably regarded as disgraceful and dishonourable by lawyers of good repute and competency. In relation to the letter to the beneficiaries seeking their consent to pay him 7% commission, VCAT found that the practitioner had breached his fiduciary obligation to provide full and accurate information in that the letter made a number of false representations including false representations about how much commission may be payable and when commission may be taken.

Further, when preparing the letter to the beneficiaries, the practitioner relied on the advice of the trust account inspector and did not research the law himself. This conduct was considered reckless. VCAT found Mr Hession's conduct in relation to the letter was unsatisfactory professional conduct (and so falling short of misconduct).

VCAT ordered that he pay a fine of \$30,000 to the LSB. VCAT also required Mr Hession to complete further education and training before acting in this area of law again.

Legal Services Commissioner v Brott [2011] VCAT 110 (7 February 2011)

Mr Brott purported to act as the lawyer for two individuals involved in separate motor car accidents who were the not at fault party in the collisions, both of whom were comprehensively insured and, indeed, liability was admitted in both instances.

Both motor vehicles were repaired by a motor vehicle repairer, who requested that both persons complete an accident details form with a claims company. The form authorised the claims company to send a letter of demand to the other parties and instruct solicitors, provided no legal costs were incurred without prior knowledge or an additional authority.

Mr Brott commenced acting without any contact or communication with either individual and in the absence of any instructions from them about their respective collisions. Solicitors for the insurance company asked Mr Brott if he had actual instructions to act on behalf of the individuals to commence proceedings rather than instructions given in the accident claims forms.

Mr Brott confirmed that he had instructions to act on behalf of the individuals to commence legal proceedings. It became apparent during the legal proceedings that the individuals did not wish to be involved in the litigation and would not co-operate with Mr Brott. As such, the proceedings became unsustainable and Mr Brott filed a notice of discontinuance on behalf of both individuals.

The LSC brought four charges of misconduct at common law against Mr Brott, to which he pleaded guilty on the morning of the hearing. The hearing before VCAT therefore related solely to penalty. The LSC submitted, among other things, that general and specific deterrence were both relevant in this case.

As described by VCAT, general deterrence was relevant because 'such schemes might well appeal to unscrupulous practitioners as money making schemes, and they are not likely to be easily discovered'.

Specific deterrence was also said to be highly relevant in light of the known prior history of Mr Brott over a long period of time and that Mr Brott had engaged in the same type of activity on at least one other occasion.

Due to his persistent refusal to acknowledge and abide by proper professional standards, the LSC submitted that the public needed to be permanently protected from Mr Brott engaging in legal practice in the future and therefore sought orders that he be referred to the Supreme Court with a recommendation that his name be struck off the roll of legal practitioners.

Counsel for Mr Brott submitted that any period of suspension of his practising certificate be concurrent with the period of suspension imposed on Mr Brott in a previous matter. VCAT was satisfied that the letter to the insurer's solicitors regarding having instructions and his letter to the claims company requesting the provision of backdated signed authorities constituted aggravating circumstances which provided additional grounds for an extension to the period of Mr Brott's disqualification.

Even without these additional grounds, VCAT was satisfied that it was appropriate to extend Mr Brott's period of disqualification. VCAT was not persuaded that Mr Brott was in any way remorseful nor that he had demonstrated any insight into his wrongdoing.

Having regard to the need to protect the public and having regard to Mr Brott's pattern of conduct over an extended period, VCAT also ordered that Mr Brott be referred to the Supreme Court with a recommendation that his name be struck off the roll of legal practitioners. This was the first time that VCAT had recommended the strike-off of a lawyer in a matter where the LSC had initiated the application. Subsequently, on 25 March 2011, Justice Habersberger of the Supreme Court of Victoria ordered that Mr Brott be struck off the roll of legal practitioners.

Finalised complaints

The LSC finalised 2,609 complaints in 2010-11, which included complaints received in previous years. The LSC finalised 31% more complaints this year compared with the previous year. This is due to a number of initiatives introduced by the LSC to try and minimise delays and reduce the

number of outstanding complaints. These initiatives included the establishment of the RRT and the Investigations Team. The introduction of the RRT process also led to a dramatic reduction in the file loads of complaint handlers, which enabled staff to devote more time to finalising outstanding complaints and investigating more serious complaints.

Older and more complex complaints were also dealt with by a specialist project team, which further reduced the file loads of complaint handlers.

Figure 9 shows the number of complaints finalised in 2010-11 by complaint type.

Figure 9: Finalised complaints

YEAR	CIVIL	DISCIPLINARY	MIXED (CIVIL & DISCIPLINARY)	TOTAL
2010-11	836 (32%)	1,322 (51%)	451 (17%)	2,609
2009-10	455 (26%)	923 (51%)	418 (23%)	1,796
2008-09	534 (28%)	1,101 (58%)	258 (14%)	1,893

Time taken to finalise complaints

Figure 10 shows the time taken to resolve complaints in 2010-11 compared with the time taken in previous years. The LSC closed 505 complaints within a 30 day period compared with 311 in 2009-10. The LSC finalised 582 complaints within a 31-90

day period, which is 31% more than the number finalised in the same period of time in 2009-10. Approximately half of the complaints were finalised within a period of 120 days or more. This may be due to the efforts of a specialist project team that was established in April 2010 to finalise complaints that have been outstanding for a period of 12 months or more. These complaints

often contain complex issues that need to be thoroughly analysed to determine the most appropriate way for resolving the complaint. The specialist project team is responsible for ensuring that matters progress to the resolution stage with minimal further delay. The project team finalised 301 matters during the reporting year.

Figure 10: Time taken to finalise complaints

DAYS SINCE RECEIPT OF COMPLAINT	<30	31-60	61-90	91-120	+120	TOTAL
CIVIL DISPUTE						
2010-11	217	152	119	94	254	836
2009-10	119	76	51	57	152	455
2008-09	117	102	81	60	174	534
DISCIPLINARY						
2010-11	265	147	121	94	695	1,322
2009-10	155	112	97	81	478	923
2008-09	242	140	106	88	525	1,101
MIXED (CIVIL & DISCIPLINARY)						
2010-11	23	19	24	23	362	451
2009-10	37	26	37	47	271	418
2008-09	34	34	33	20	137	258
TOTAL						
2010-11	505	318	264	211	1,311	2,609
2009-10	311	214	185	185	901	1,796
2008-09	393	276	220	168	836	1,893

Complaints outstanding

There were 848 outstanding complaints as at 30 June 2011 compared with 1,515 in 2009-10. This means the number of outstanding complaints at the end

of the reporting year decreased by 44% compared with the previous year. A total of 490 complaints had been unresolved for a period of 120 days or more, compared with 1,003 at 30 June 2010.

Figure 11 shows the number of complaints outstanding as at 30 June 2011 by complaint type.

Figure 11: Number of complaints outstanding

DAYS SINCE RECEIPT OF COMPLAINT	<30	31-60	61-90	91-120	+120	TOTAL
CIVIL DISPUTE						
2010-11	61	48	21	17	53	200
2009-10	69	64	31	31	46	241
2008-09	28	15	26	13	21	103
DISCIPLINARY						
2010-11	59	46	38	40	334	517
2009-10	73	69	64	59	628	893
2008-09	69	73	67	51	420	680
MIXED (CIVIL & DISCIPLINARY)						
2010-11	7	6	8	7	103	131
2009-10	14	5	13	20	329	381
2008-09	35	28	28	26	138	255
TOTAL						
2010-11	127	100	67	64	490	848
2009-10	156	138	108	110	1,003	1,515
2008-09	132	116	121	90	579	1,038

Use of the Commissioner's ex-gratia payment

The Act gives the Commissioner power to grant an ex-gratia payment to an individual where circumstances warrant it. The Commissioner granted \$26,500 in ex-gratia payments overall. In one case an ex-gratia payment was made to a person who had been unsuccessful in making a fidelity fund claim for technical reasons. In this case, the Commissioner regarded the victim of dishonest or fraudulent conduct by a lawyer to be deserving of an ex-gratia payment.

Creation of more interview and meeting rooms

This year, the Commissioner encouraged staff to meet with lawyers, legal consumers and key witnesses as part of the complaint handling process. The Commissioner believes that meeting personally with the parties enables staff to gain a greater awareness and understanding of the issues in complaints.

Face-to-face meetings also assist staff in developing a rapport with the parties, which is necessary for seeking their co-operation with and establishing consumer confidence in the complaints process.

This however, led to a greater demand for meeting rooms at the LSC's premises, and therefore renovations were carried out between November 2010 and February 2011 to create three new meeting rooms at the LSC's office. Enhancements were also made to the LSC reception area to create a friendly and welcoming environment for visitors.

Educating the legal profession and consumers of legal services

As previously stated, two of the LSC's statutory objectives are to:

- educate the legal profession about issues of concern to the profession and to consumers of legal services, and
- educate the community about legal issues and the rights and obligations that flow from the client-lawyer relationship.

The LSC delivers on these objectives through its Education Program, which promotes engagement with a diverse range of consumers of legal services and members of the legal profession, in both rural and metropolitan areas of Victoria.

Educating the legal profession

The LSC engages with and provides feedback to the legal profession through a variety of means including ethics workshops, seminar and conference presentations, round table discussions and lectures to law and legal studies students.

Ethics workshops

The LSC conducts ethics workshops which aim to educate lawyers about ethical conduct and their professional responsibilities. The workshops present lawyers with a range of scenarios that they may encounter in everyday legal practice. As a group, the participants discuss and consider the appropriate course of action in each case. The scenarios are based on common issues which feature in complaints to the LSC and in issues identified through discussions with community support groups.

LSC staff guide the discussions and advise the workshop participants on the appropriate outcome in each scenario. Lawyers can claim these workshops as part of the compulsory continuing professional development training scheme. In the reporting year, the LSC conducted ten ethics workshops for over 300 lawyers.

The workshops included:

- three regional workshops in Bendigo, Beechworth and Warrnambool
- four workshops in the city and suburbs
- two workshops for government lawyers (the Department of Human Services Court Advisory Unit and the Australian Crime Commission), and
- one workshop for a plaintiff law firm.

Seminars and conferences

The LSC also engages with the legal profession through seminar and conference presentations. During the year the LSC presented to over 1,800 lawyers at 28 seminars and conferences across metropolitan Melbourne and regional Victoria. In the previous reporting year, the LSC delivered 11 presentations to 380 lawyers. The main focus of the presentations was the changes made to the complaints handling regime, however several other topics were also discussed, including:

- client and practitioner problems in the area of succession law
- legal cost consultants and the issues around non-lawyer costs consultants
- trends in complaints about lawyers, and how to avoid them
- developing and maintaining good relationships within legal partnerships
- the proposed national legal profession reforms, and
- the regulation of the legal profession in general.

The presentations were made to a diverse range of legal professionals, including:

- Northern Suburbs Law Association meeting (August 2010)
- Conference of Regulatory Officers (August 2010)
- Leo Cussen Institute's Talk to the Profession Seminar (August 2010)
- Australian Lawyers Alliance Cost Law Seminar (September 2010)
- Victorian Bar Professional Development Seminar (September 2010)
- Law Institute of Victoria's Property and Environment Law Conference (October 2010)
- Eastern Suburbs Law Association meeting (October 2010)
- Law Institute of Victoria's National Costs Law Conference (February 2011)
- Victorian Bar Readers' course (November 2010 and April 2011), and
- Southern Solicitors Group meeting (May 2011).

University students and trainee lawyers

The LSC presents to undergraduate and postgraduate students enrolled in law courses at Victorian universities. In 2010-11, the LSC delivered 13 presentations to 600 law and legal studies students across four institutions, including Monash University, La Trobe University, Victoria University and the University of Melbourne. The lectures covered the role and functions of the LSC, Victoria's regulatory regime and issues which feature commonly in complaints to the LSC. LSC staff also presented to over 100 trainees enrolled in the Leo Cussen Practical Legal Trainee course. This presentation discussed the role of the LSC, common mistakes in legal practice and the importance of communicating effectively with clients.

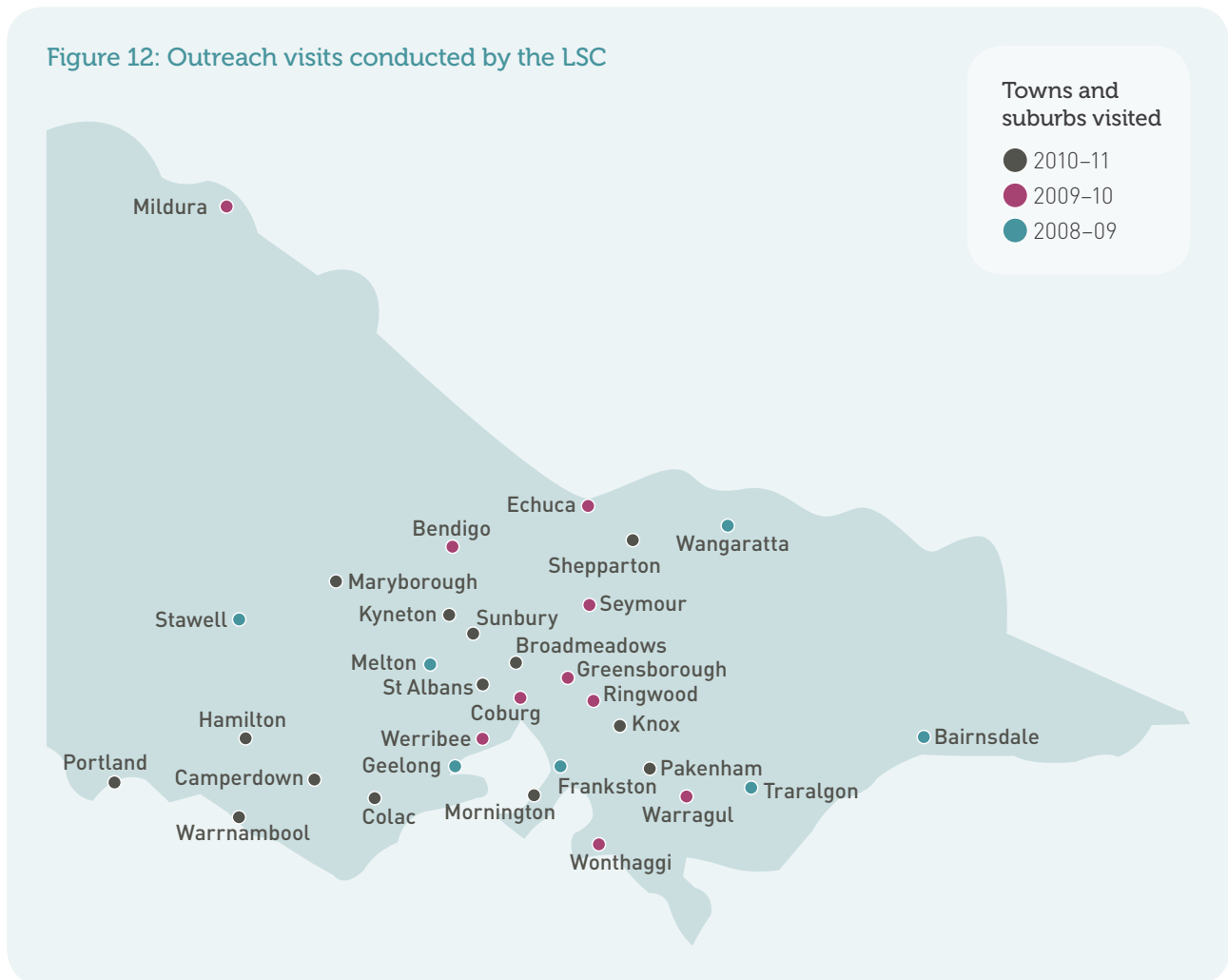
Educating consumers of legal services

The LSC is responsible for ensuring consumers of legal services are aware of their rights and responsibilities when working with lawyers, and raising awareness of the complaint handling regime among the Victorian community. The LSC conducts an Outreach Program throughout metropolitan Melbourne and regional Victoria to disseminate information to consumers.

During the year, the LSC conducted 10 Outreach visits across Victoria. Three visits were made to areas within metropolitan Melbourne (St Albans, Knox and Broadmeadows), three visits to locations on the outer suburban fringe (Mornington, Sunbury and Pakenham) and four visits to regional Victoria (Shepparton, Kyneton, Maryborough and the south west, covering Colac, Camperdown, Warrnambool, Portland and Hamilton).

Figure 12 illustrates the townships and suburbs which the LSC's Outreach Program has visited in recent years.

Figure 12: Outreach visits conducted by the LSC



Engagement with community groups

Consumers will often turn to community support services and information networks when in need of assistance, for example when things go wrong with their lawyer. Therefore, the LSC engages with a cross-section of community support groups through the Outreach Program. The LSC distributes information about consumers' rights and responsibilities when engaging a lawyer and the process for making a complaint with the LSC. The LSC met with representatives from 71 community support services through the 2010-11 Outreach Program, which included crisis support organisations, information referral services, disability support groups, multicultural services, indigenous services and services for youth and the aged.

Organisations that the LSC met with in 2010-11 included:

- Salvation Army Court and Prison Chaplains, Melbourne
- Mornington Community Information and Support Centre Inc
- Lilydale and District Community Information Centre
- Broadmeadows Women's Community House
- Citizen Advocacy, Sunbury
- Arabic Welfare Incorporated, Brunswick
- Colac Area Health Financial Counselling, Colac
- Corangamite Shire Council, Cultural and Community Development Unit, Camperdown
- Centacare South West Family Services, Warrnambool
- Brophy Family and Youth Services, Portland and Hamilton
- Harrison Community Services, Uniting Care, Wantirna
- Westernport Accommodation and Youth Support Service, Dandenong
- Outlook Disability Services, Pakenham

- Aboriginal Liaison Officers, Goulburn Valley Health, Shepparton
- Youth Referral and Independent Person Program, Uniting Care Cutting Edge, Shepparton
- Adult Mental Health, Goulburn Valley Health, Shepparton, and
- Macedon Ranges Family and Community Services, Kyneton.

Feedback on the relationship between lawyers and consumers

The LSC also seeks feedback from community groups, both positive and negative, on the overall relationship between consumers and lawyers in local areas. This information assists the LSC in identifying emerging issues and key trends in the lawyer-client relationship. It also influences the education activities and messages communicated to the legal profession through ethics workshops and seminar presentations. Some of the issues that were identified during discussions with community support groups in 2010-11 included:

- the language used by lawyers is inaccessible to many consumers
- access to lawyers in rural communities is sometimes difficult
- there is a lack of legal information available in languages other than English
- due to the demands on their services, legal aid duty lawyers are often not able to spend enough time with clients before appearing in court, causing stress and further delays in having matters heard
- communication with consumers is often not managed effectively, leading to unrealistic expectations of clients, a poor understanding of court and settlement processes, and perceptions of conflict of interest when lawyers from opposite sides are friendly towards each other
- lawyers sometimes do not understand or make allowances for the emotions of clients who are in crisis situations

- legal costs are generally poorly understood, frequently leading to disputes about legal fees, and
- outdated court buildings restrict the ability for clients to have private conversations with their lawyers, and can expose children appearing in court to adult offenders in some locations.

Engagement with Members of Parliament

The LSC provides information about the complaints handling process to the electorate offices of Members of Parliament (MPs). Constituents often approach their local MPs for information or assistance on specific issues. The LSC therefore visits the offices of local MPs as part of the Outreach Program. During the year, the LSC visited a total of 19 state and federal MPs' electorate offices. LSC staff explain the role of the LSC to the electorate officers and provide brochures and other publications that can be provided to constituents who inquire about client-lawyer issues.

Community advocate organisations

Community legal centres, specialist legal services and Victoria Legal Aid are important stakeholders for the LSC because of their role in providing legal services and advocating for the rights of the community. In 2010-11, the LSC met with representatives from the following organisations:

Community legal centres

- Broadmeadows Community Legal Centre
- South West Community Legal Service, Warrnambool
- Fitzroy Legal Service
- Eastern Community Legal Service, Box Hill office, and
- the pilot Goulburn Valley Community Legal Service, Shepparton.

Specialist legal services

- Muslim Legal Service, supporting Muslim clients, mostly in family law matters
- First Step Legal Service, assisting clients dealing with drug and alcohol dependence
- Neighbourhood Justice Centre, offering holistic and therapeutic justice services to residents from the City of Yarra, and
- Consumer Action Law Centre, a service focusing on consumer issues for the vulnerable and disadvantaged.

Victoria Legal Aid

- Family Law Section, Melbourne office, and
- Shepparton office.

The LSC Education and Outreach Adviser also conducted Outreach visits to Knox and Pakenham in association with staff from the Fitzroy Legal Service.

Other community engagement activities

As part of Law Week 2011, the Commissioner and several of his staff visited Shepparton for a two-day Outreach event to personally meet with members of the legal profession and community support services.

The LSC also provided its information brochures for public displays at over 100 municipal libraries across Victoria.

Publications for consumers

The LSC produces a range of publications which outline the rights and obligations of consumers in the client-lawyer relationship as well as the process for lodging a complaint with the LSC. These publications include:

- Working with your lawyer (available in 10 other languages: Arabic, Chinese, Croatian, Greek, Italian, Macedonian, Serbian, Spanish, Turkish and Vietnamese)

- Do you have a problem with your lawyer?
- Are you making a complaint about legal costs?
- Have you suffered a financial loss because of your lawyer?
- Legal costs: your right to know
- Your right to challenge legal costs
- Dealing with cost disputes in family law matters
- Mediations
- Handling disciplinary complaints
- Negligence and complaints.

This information is regularly sent to 62 community and specialist legal services, 15 Victoria Legal Aid offices and 34 court houses across Victoria, as well as those local politicians and community support services engaged through the Outreach Program. Relevant information is also provided to consumers when they contact the LSC to make an enquiry.

Outreach visit to Shepparton

In May 2011, the Commissioner and several of his staff visited Shepparton in north central Victoria. On the first day, LSC staff met with the managing lawyer of the local Victoria Legal Aid office and the lawyer running the pilot Goulburn Valley Community Legal Centre to discuss consumer perspectives of the local legal profession. After meeting the President of Goulburn Valley Law Association, the Commissioner addressed a meeting of 43 local lawyers from Shepparton, Euroa, Tatura, Kyabram and Echuca. During the two hour meeting, a range of topics were discussed, including the changes to the way complaints are handled within the LSC's office, the development of the LSB policy relating to health assessment issues and the role of the LSC in educating consumers of legal services. The discussion also highlighted a series of relevant ethical conduct situations which local lawyers might experience, and advice for dealing with them. The format of the discussion enabled participants to ask questions and make comments about their observations and concerns relating to the legal profession. The following morning, the Commissioner and his staff met with the Registrar of the Shepparton Courthouse where the Registrar discussed a range of topics relevant to the administration of justice in the Goulburn Valley, including consumer access to lawyers, the importance of the Koori Court and service issues experienced by consumers.

The Commissioner later hosted a function for representatives of several local community support services, including the Family Relationship Centre, Odyssey Family Care, Mind Australia, Court Network, Uniting Care Cutting Edge, and the Aboriginal Liaison Officers and the mental health services from Goulburn Valley Health. These groups support the community in dealing with a variety of issues, including immigration, drug and alcohol abuse, homelessness, mental health and family disputes.

Key messages which the Commissioner imparted to the participants included the role which consumers can play in ensuring the relationship with their lawyer remained healthy and productive, and the importance of lawyers managing their clients' expectations. The LSC also sought feedback on the issues relating to lawyers and the justice system locally.

The Shepparton visit provided the Commissioner with a greater understanding of what consumers of legal services need and what their concerns are, and enabled the Commissioner to hear directly from local lawyers about the issues that are specific to legal practice in rural Victoria.

Projects and research

The LSC has a small team that undertakes research, prepares policies and procedures, assists with major projects, processes freedom of information applications, prepares delegations and supports the education and communications functions of the LSC. The team consists of a Senior Policy Officer, one research assistant and two law students who work 1.5 days each week.

A major focus of the office in 2010-11 was finalising the LSC's submission on the draft national legal profession law. A comprehensive submission was made in August 2010, and follow up consultations occurred in late 2010 with officers from the Department of Justice.

Key issues of concern for the LSC were the name of the National Ombudsman; the depth and breadth of powers bestowed on the National Ombudsman; and appeal and review mechanisms. The team continued to liaise with Department of Justice officers throughout 2010-11.

The LSC was asked to comment on the draft code of conduct for lawyers appearing in the Family Division of the Children's Courts of Melbourne and Moorabbin. The LSC made a submission in November 2010 and further comments were invited in January 2011. The LSC was concerned to ensure that the new code fitted within the current regulatory framework for lawyers.

During 2010-11, an internal focus was the creation of a staff policy on handling difficult behaviours and training on how to deal with them. This was initiated following Ombudsman Victoria's publication of the Managing Unreasonable Complainant Conduct Manual. The team also commenced a review of the Policy and Procedures Manual, a publication designed to assist complaint handling staff in carrying out their duties.

In-house research work

A number of research tasks were undertaken by the research and policy team in response to specific requests from complaint handlers. The research topics included the following:

- personal injury and costs disputes
- legal regulatory systems in the other states
- electronic records
- requirements under the *Public Records Act*
- professionals and fiduciary duties, and
- Fair Trading Act jurisdiction over lawyer-client disputes.

Students

In addition to the legal research assistant employed by the LSC, this year the LSC accepted student interns from the University of Melbourne as part of its internship program. Students completed 30 days (unpaid) as part of completing a university subject and were given the opportunity to experience working with a public regulatory authority. A significant task undertaken by one of the student interns was the creation of a new electronic legal research system for use by staff. The system includes summaries of relevant cases and internal advices.

Building and maintaining relationships

The LSC aims to build and maintain positive relationships with members of the legal profession, consumers of legal services and other interested groups.

Engagement with suburban and regional law associations

LSC staff met with representatives from nine law associations, including four suburban and five regional associations. Four of these meetings involved the delivery of ethics workshops, while the remaining five were informal presentations. In September 2010, the Commissioner presented to the members of the Australian Lawyers Alliance on issues involving non-lawyer cost consultants, a matter raised by Associate Justice Wood of the Supreme Court in the matter of *Mietto v G4S Custodial Services Pty Ltd*.

Meetings with interstate regulators

The LSC participated in monthly telephone conferences with the NSW Legal Services Commissioner, QLD Legal Services Commissioner and CEO of the WA Legal Practice Board. These meetings promote the sharing of information and ideas in relation to legal regulatory issues and complaints handling.

Engaging with staff of VCAT's Legal Practice List

In October 2010, LSC staff presented to the administration staff of VCAT's Legal Practice List. The presentation covered the functions of the LSC as well as the complaints handling process. This presentation was a reciprocal arrangement with VCAT which saw two Members and a Senior Member speak to LSC staff about the operation of the Legal Practice List. The presentations assisted in developing stronger relationships and more effective communication between the two organisations.

Ombudsman Victoria

In March 2011, LSC staff presented to the staff of Ombudsman Victoria. The presentation followed a similar format to the one delivered to VCAT staff. Ombudsman Victoria also provided two training sessions for

LSC staff on the topic of unreasonable complainant conduct. This training was based on the best practice model of handling unreasonable behaviour exhibited by complainants, as developed by the NSW Ombudsman, in association with Ombudsman Victoria.

Meetings with executive staff of large and mid-tier law firms

The Commissioner met with the executives of seven large law firms and nine mid-tier firms. Lawyers from large and mid-tier firms rarely feature in complaints to the LSC. This is because many of these firms have their own internal processes for dealing with client complaints. The LSC felt it was important to engage with these firms to learn about any issues affecting their lawyers. The LSC was also interested in hearing about how these firms deal with client dissatisfaction. Two of the meetings resulted in requests for follow-up presentations from LSC staff on the topic of legal ethics and complaints to the LSC.

Engagement with the professional associations

The Commissioner met regularly with the executive staff of the LIV and Bar, the professional associations representing solicitors and barristers in Victoria. The professional associations provide advice to the LSC on any issues affecting their members. The LSC also uses the meetings as an opportunity to provide feedback on issues of concern to legal consumers identified through the LSC's Outreach Program.

Meetings with the new Attorney-General, The Hon. Robert Clark MP

The Commissioner and Director, Regulatory Coordination, met with The Hon. Robert Clark MP, upon his appointment to the position of Attorney-General. The Commissioner discussed with the Attorney-General

some of the key issues in legal regulation and briefed him on the LSC's submission to COAG on the National Legal Profession Reform Project. The Commissioner and Chairperson of the LSB met with the Attorney-General on one other occasion during the reporting year.

Singapore Institute of Legal Education

In September 2011, the Commissioner met with Justice V K Rajah of the Supreme Court of Singapore and a delegation from the Singapore Institute of Legal Education. The meeting was organised by the LIV and was an opportunity for the LIV and LSC to discuss the requirements in place in Victoria for continuing legal education for lawyers, and what might need to be considered for the establishment of a mandatory continuing professional development scheme for Singapore.

Conference of Regulatory Officers (CORO) Conference

In August 2010, the LSC co-hosted the 2010 CORO Conference in collaboration with the LSB and LIV. CORO is an annual conference that provides legal regulators with an opportunity to meet to discuss legal regulation issues. The theme of the 2010 Conference was *Local, National, Global: Crossing Boundaries*. A range of topics were discussed during the two day conference including suitability and fitness to practise, the future of continuing legal education in Australia, implications for legal regulators in relation to the use of legal outsourcing by local law firms and the National Legal Profession Reform Project. The keynote speaker was The Hon. Justice Tony Pagone of the Supreme Court of Victoria, who presented on the topic, *What to prosecute: allocation and administration of scarce resources*. A total of 64 people attended CORO, with representatives attending from each state and territory. Representatives from New Zealand's legal regulator also attended.

Responding to emerging issues

The LSC believes it is important to identify and respond to any issues which are relevant to complaints handling and legal regulation.

National Legal Profession Reform Project

The LSC continued to participate in discussions regarding the proposed National Legal Profession Reform Project, which seeks to implement a national structure for the regulation of lawyers in Australia. During the reporting year, LSC staff prepared a detailed submission in response to the Council of Australian Governments (COAG) draft consultative package on the proposed laws.

The LSC's submission focused on a range of issues including policy considerations, legislative design, operational design, financial administration and consumer issues. Several LSC staff also met with policy officers from the Department of Justice on a number of occasions to discuss various aspects of the proposed laws. As at 30 June 2011, COAG had not yet made a decision on the commencement date or final details of the proposed national model.

Succession Law Round Table

In June 2010, the LSC hosted a round table discussion which focused on the number and types of complaints received in relation to succession law. Succession law includes probate and estate matters and wills. Probate and estate accounts for approximately 11% of all complaints made to the LSC, while wills make up just over 2% of complaints. The initial focus of the round table was specifically in relation to probate and estate issues, however the scope was widened to include wills as the discussions clearly indicated that the quality and accuracy of wills was an area of concern. The LSC released a summary of the round table discussions in early 2011.

The document outlines the key issues raised at the forum and identifies several opportunities for addressing the concerns held by consumers and lawyers in this area of law. Some of the issues identified included problems with executors not understanding their role in the probate and estate process, difficulties with home-made wills and the lack of understanding around the charging of executor commissions. As a result of the round table forum, LSC staff were invited to present to audiences of succession law practitioners, including the Leo Cussen Institute's Wills and Probate Conference and the LIV's Succession Law Conference. The Succession Law Round Table summary document can be downloaded from the Publications page of the LSC's website.

Issues in complaints about debt collection

During the year, the Commissioner became increasingly concerned with the number and types of complaints being made in relation to lawyers who practice in the area of debt collection. The complaints raised issues about the practices and procedures adopted by law firms and mercantile agents. Several advocacy organisations and other regulatory bodies also raised similar concerns with the LSC. To address this issue, the Commissioner wrote to the lawyers and law firms that featured in the complaints and reminded them of their professional obligations in relation to debt collection practices. LSC staff also drafted a fact sheet that outlines some of the common issues which feature in complaints about debt collection.

Costs consultants meeting

In 2010, the Chief Justice of the Supreme Court wrote to the Chairperson of the LSB to highlight possible implications for the legal regulators arising out of the *Mietto v G4S Custodial Services Pty Ltd* decision. This case was about a dispute over a fee that had been charged for a court appearance by a costs consultant who did not carry a practising certificate but who was retained to appear before a Taxing Registrar in the Costs Court.

The question for the Costs Court was whether allowing a fee encouraged the activity of unqualified practice. The Commissioner, in his capacity as Commissioner and LSB CEO, held a meeting with representatives from interested organisations to determine an appropriate course of action in response to this issue. The meeting was attended by the CEO of the LIV, a retired Taxing Master of the Supreme Court, the Chair of the LIV Costs Lawyers Group, the director of a costs consultants firm, the CEO of the Institute of Legal Executives and several LSC staff.

The group agreed that it would be appropriate for the LSC and LSB to continue educating lawyers and costs consultants on this issue through presentations to the profession and other costs specific seminars. The Commissioner accepted responsibility for ensuring the branding and service offering of costs consultants did not create any impression that legal services were being offered if no practising lawyers were involved. The LIV and the Institute of Legal Executives were asked to consider an accreditation scheme for costs consultants.

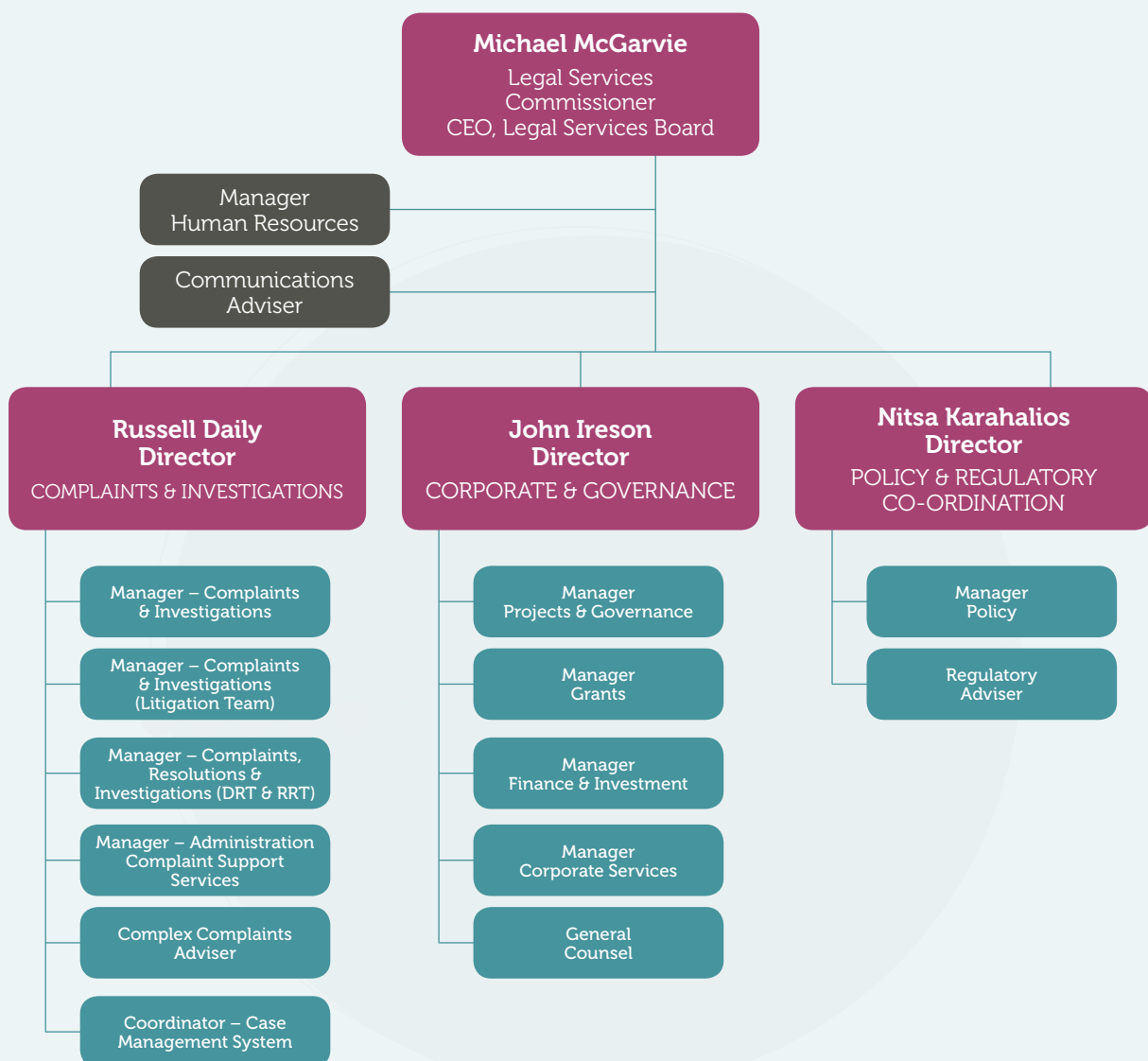
Human resources

Organisational structure of the LSC and the LSB

The Act prescribes that the LSC is the employer of staff for both the LSC and the LSB. As previously stated, the Commissioner, Michael McGarvie, is also the CEO of the LSB.

The organisational structure of the LSC and the LSB is illustrated below in Figure 13. Staff are employed under Part 3 of the *Public Administration Act 2004*.

Figure 13: Organisational structure and employment arrangements for the LSC and the LSB



Staffing arrangements of the Legal and Policy Unit, LSB

During the reporting year, some tasks and activities in the Legal and Policy unit of the LSB were reallocated, resulting in the movement of staff to different work locations. This reallocation of staff is part of a trial of working arrangements that closely fit with the proposed national model.

Workforce data and staffing trends

The following tables show the profile of the workforce (headcount) employed by the LSC for both the LSC and LSB as at 30 June 2011.

*Full time equivalent (FTE) numbers have been rounded to the nearest whole number. In some columns this rounding results in small inconsistencies between groupings. For example, the rounding of FTE numbers to the nearest whole number has resulted in slight variances between FTE numbers and FTE numbers dissected by gender, age, and classification.

Figure 14: Five-year staffing trend (headcount)

	2007	2008	2009	2010	2011
Total	52	63	63	77	83

Figure 15: Profile of ongoing employees and fixed term and casual

	ONGOING EMPLOYEES				FIXED TERM & CASUAL
	NUMBER (HEADCOUNT)	FULLTIME (HEADCOUNT)	PART TIME (HEADCOUNT)	FTE* (ROUNDED)	FTE* (ROUNDED)
June 2011	69	57	12	69	14
June 2010	66	54	10	61	11

Figure 16: Employees of the Legal Services Commissioner

	30 JUNE 2010			30 JUNE 2011		
	ONGOING		FIXED TERM & CASUAL	ONGOING		FIXED TERM & CASUAL
	NUMBER (HEADCOUNT)	FTE* (ROUNDED)	FTE* (ROUNDED)	NUMBER (HEADCOUNT)	FTE* (ROUNDED)	FTE* (ROUNDED)
Gender						
Male	11	10	4	15	15	9
Female	55	53	5	54	51	5
Total	66	63	9	69	66	14
Age						
Under 25	0	0	1	1	1	2
25-34	24	23	3	20	20	3
35-44	20	19	0	23	22	1
45-54	18	17	2	19	17	3
55-64	4	4	1	6	6	1
Over 64	0	0	2	0	0	4
Total	66	63	9	69	66	14
Classification						
VPS 1	0	0	0	0	0	0
VPS 2	3	3	2	4	4	0
VPS 3	15	14	1	11	11	3
VPS 4	8	8	1	12	12	3
VPS 5	23	21	4	27	21	4
VPS 6	14	14	1	13	13	1
STS	1	1	0	1	1	0
Executives	1	1	2	0	2	3
Other#	1	1	0	1	1	0
Total	66	63	11	69	65	14

#Employee reported as 'Other' is the Commissioner, Michael McGarvie, who is a statutory office holder.

Involvement in the Victorian Public Service Graduate Recruitment Scheme

In 2010-11, the LSC employed a graduate through the Victorian Public Service Graduate Recruitment Scheme. This program places graduates in positions within a number of departments and agencies across the public service. The graduate was placed in the Dispute Resolutions Team and given the opportunity to work on a variety of tasks within the Complaints and Investigations Unit.

Executive officer data

An executive officer is defined as a person employed by a public service body head or other executive under Part 3, Division 5 of the *Public Administration Act 2004*. All figures reflect employment levels as at 30 June 2011. 'Ongoing' executives are executives who are responsible for functions or outputs that are expected to be ongoing at the reporting date.

As at 30 June 2011 there were no vacant executive positions. There were no 'Special Projects' executives employed by the LSC during 2010-11. The following tables disclose details for the executive officers employed by the LSC for 2010-11.

Figure 17: Number of executive officers classified as 'ongoing'

CLASSIFICATION	2009-10		2010-11	
	MALE	FEMALE	MALE	FEMALE
EO-1	0	0	0	0
EO-2	1*	0	1*	0
EO-3	0	1	2	0

*This position is the Commissioner, Michael McGarvie, who is a statutory office holder.

The number of executives in this report of operations is based on the number of executive positions that are occupied at the end of the financial year. Note 18 in the Financial Report lists the actual number of and amount of remuneration paid to executive

officers over the course of the reporting period. The Financial Report Note 18 does not distinguish between executive levels, nor does it disclose separations, vacant positions or executives whose remuneration is below \$100,000. Separations are those

executives who received more than \$100,000 in the financial year and have left the employment of the LSC during the year. To assist readers, these two disclosures are reconciled below.

Figure 18: Reconciliation of executive numbers

CATEGORY		2009-10	2010-11
ADD	Executives with remuneration over \$100,000	1	2
	Vacancies	1	0
	Executives employed with a total remuneration below \$100,000	0	0
	Accountable Officer (Commissioner)	1	1
LESS	Separations	- 1	0
Total executive numbers as at 30 June 2011		2	3

Staff training and professional development

The LSC places a high value on strengthening staff knowledge and skills of its staff.

During 2010-11, staff received training on the following topics:

- common law duties owed by lawyers
- interviewing techniques
- unreasonable complainant conduct
- appeals from VCAT
- operations of the VCAT Legal Practice List
- *Civil Procedure Act 2010*
- decision making in relation to Administrative Law
- practice management
- collaborative family law, and
- the *Evidence Act 2008*.

People Matter Survey 2010

The LSC participated in the Victorian Public Service People Matter Survey in August 2010. The survey measures the perceptions of employees on the application of values and employment principles in the workplace. The LSC recorded a staff participation rate of 73%. The LSC is currently implementing a number of processes in response to the survey results.

Performance, Planning and Development (PDP) Plans

This year, staff completed their PDP plans via the new online PDP system that was developed in the previous reporting year. The online system helped reduce the time taken to complete the 2010-11 PDP cycle. Managers and staff were also able to track and edit PDP plans throughout the year.

Online module on workplace bullying

A new online module on bullying in the workplace is currently being developed for the LSC. This module will enable staff to complete an online training program on workplace bullying with an assessment outcome upon completion. This module will be a mandatory component as part of the learning and development standard in the PDP system.

Occupational Health and Safety

The LSC is committed to occupational health and safety compliance, as well as the general health and wellbeing of staff occupying the premises. Issues relating to the maintenance of a safe workplace and practices are reported and considered through an active Occupational Health and Safety (OH&S) Committee in accordance with the legislative requirements and internal procedures.

The Committee is comprised of representatives from each work area who actively communicate with staff and management to identify potential

issues relating to work processes and facilities, and respond to any safety concerns raised. The Committee met six times during 2010-11. The initiatives of the Committee include ergonomic assessments, lighting assessments, and improvements to the office and work areas. During the year, the OH&S Committee recommended an air quality inspection and temperature testing. The Committee organised OH&S week in October 2010, which coincided with OH&S week across Victoria.

The Committee organised a range of activities as part of OH&S week, including health checks, a guest speaker from the VPS Open Minds initiative speaking about mental health issues, a healthy breakfast and various exercises. There were no reported OH&S related incidents in the reporting year.

Fitness and Wellbeing Committee

During the year, the LSC formed a Fitness and Wellbeing Committee that is responsible for organising events and activities that promote the benefits of good health and fitness. The Committee seeks to support staff who currently maintain a healthy lifestyle and engage those who may be disengaged from health and fitness activities. The impact within the organisation has been very positive with over 80% of staff participating in at least one activity during the reporting year. Some of the activities that were organised during the year included:

- group fitness sessions
- a lawn bowls competition
- entering teams in running, netball and soccer competitions, and
- yoga.

Merit, equity and diversity principles for recruitment and conduct

The LSC is committed to applying merit and equity principles to ensure that applicants for employment

are assessed and evaluated fairly and equitably on the basis of the key selection criteria and other accountabilities without discrimination. The LSC recruited for a number of roles during the year applying the principles of merit and equity, ensuring that we attract and retain the best people and strive to be an employer of choice. During 2010-11, 24 positions were advertised in which selection was made on applying merit and equity principles in line with the standards of the State Services Authority. No selection grievances were lodged this year.

The LSC is focused on promoting workplace diversity. During the year, LSC staff attended training convened by Open Minds, which is a VPS initiative that supports VPS employees with a mental illness or those caring for someone with a mental illness. Staff also attended International Women's Day activities including a function organised by the Institute of Public Administration.

Public administration values and employment principles

The *Public Administration Act 2004* abolished the Office of Commissioner for Public Employment and established the State Services Authority.

The LSC continues to implement the previous directions of the Commissioner for Public Employment with respect to upholding public sector conduct, managing and valuing diversity, managing underperformance, reviewing personal grievances and selecting on merit. The LSC's compliance with the Public Sector Values and employment principles was demonstrated by active participation in the People Matter Survey and follow up action including refresher information sessions for all staff on Human Rights, Sexual Harassment and Discrimination.

Ongoing commitment to the Values is also demonstrated through a range of awareness programs and updates. Staff are required to consider these values when developing and finalising their PDPs.

Governance

Freedom of Information

The LSC is subject to the *Freedom of Information Act 1982* (the FOI Act). The FOI Act provides every person with a legally enforceable right to access documents in the possession of an agency, subject to certain exceptions. Because of the sensitive nature of the majority of documents held by the LSC, an exemption often applies to preclude access.

Requests received and requests processed during the year

During the period 1 July 2010 to 30 June 2011, the LSC received one new valid request under the FOI Act. This request was awaiting decision as at 30 June 2011.

Applications to VCAT during the year

Where the LSC refuses to provide access to a document requested under the FOI Act, a person may apply to VCAT for review of the decision. There was one VCAT appeal lodged in the period 2009-10 relating to access awaiting finalisation at 30 June 2010. This application was ultimately withdrawn by the applicant and did not proceed to hearing.

Making a request

A request for access to documents made pursuant to the FOI Act must be:

- in writing (and provide such information as is reasonably necessary to enable identification of the relevant documents); and
- accompanied by the prescribed application fee.

Requests for documents in the possession of the LSC should be addressed to:

**Freedom of Information Officer
Legal Services Commissioner
Level 9, 330 Collins Street
MELBOURNE VIC 3000**

Access charges may also apply once documents have been processed and a decision on access made; for example photocopying and search and retrieval charges.

Further information regarding Freedom of Information can be found on FOI Online at www.foi.vic.gov.au

Building Act 1993

The LSC does not own or control any government buildings and consequently is exempt from notifying its compliance with the building and maintenance provisions of the *Building Act 1993*.

Whistleblowers Protection Act 2001

The *Whistleblowers Protection Act 2001* encourages and assists people making disclosures of improper conduct by public service officers and public bodies. It provides protection to people who make disclosures in accordance with that Act and establishes a system for the matters disclosed to be investigated and rectifying action to be taken. Procedures have been developed to deal with disclosures made under the *Whistleblowers Protection Act 2001* to the LSC (consistent with Ombudsman Victoria's model procedures). The procedures can be obtained from the LSC's website. The LSC did not receive any disclosures under the *Whistleblowers Protection Act 2001* during the past year. There were no disclosures referred to the LSC by the Ombudsman.

Disclosures

Disclosures of improper conduct or detrimental action by the LSC may be made to the following officer:

**The Director
Complaints & Investigations
Tel: 9679 8001
Fax: 9679 8101
Email: admin@lsc.vic.gov.au**

Alternatively disclosures may be made directly to the Ombudsman:

**Ombudsman Victoria
Level 9, 459 Collins Street
(North tower)
Melbourne VIC 3000
Tel: 9613 6222
Toll Free: 1800 806 314
www.ombudsman.vic.gov.au
Email: ombudvic@ombudsman.vic.gov.au**

National Competition Policy

In 1996, all Australian Governments (Federal, State and Territory) agreed to review and, where appropriate, reform all existing legislative restrictions on competition. Under the National Competition Policy, the guiding legislative principle is that legislation, including future legislative proposals, should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

The LSC continues to comply with the requirements of the National Competition Policy.

Victorian Industry Participation Policy

In October 2003, the Victorian Parliament passed the *Victorian Industry Participation Policy Act 2003*, which requires public bodies and departments to report on the implementation of the Victorian Industry Participation Policy (VIPP). Departments and public bodies are required to apply VIPP in all tenders over \$3 million in metropolitan Melbourne, and \$1 million in regional Victoria. For the reporting period, the LSC did not commence any contracts to which the VIPP applies.

Consultancies

Details of consultancies over \$100,000

The LSC did not engage any consultancies where the cost of the engagement was \$100,000 or above during the reporting year.

Details of consultancies under \$100,000

In 2010-11, the LSC appointed 3 consultancies valued at less than \$100,000 each. The total value of these consultancies was \$113,792. Total approved project fees and expenditure for 2010-11 excludes GST.

Five year financial summary

The following table provides a summary of the LSC's financial activity for the past five years. Full details of the LSC's financial activity can be found on page 39 of this report.

Figure 19: Five year summary of financial operations

	2006-07	2007-08	2008-09	2009-10	2010-11
Revenue from Funding	\$5,350,000	\$6,576,200	\$6,330,360	\$7,000,805	\$7,553,259
Other Revenue	\$1,218,923	\$2,905,153	\$3,015,436	\$3,207,293	\$3,723,322
Total income from transactions	\$6,568,923	\$9,481,353	\$9,345,796	\$10,208,098	\$11,276,581
Total Expenditure	\$6,955,922	\$8,417,543	\$9,300,774	\$10,230,644	\$10,862,369
Net Result	-\$386,999	\$1,063,810	\$45,022	\$(22,546)	\$414,212
Net Cash Flow from operating activities	\$25,975	\$1,350,813	(\$295,312)	\$895,307	\$398,887
Total Assets	\$1,372,924	\$2,524,595	\$3,050,691	\$2,985,114	\$3,200,971
Total Liabilities	\$1,474,746	\$1,562,607	\$2,043,680	\$2,000,650	\$1,802,295

Explanation of results

During 2010-11, the LSC's financial result from ordinary activity was affected by the following:

- The net result of \$414,212 for 2010-11 when compared to the 2009-10 result of \$(22,546) represents a favourable variance of \$436,700. This is a pleasing outcome that was achieved by a combination of further funding and other additional income. The total income increase for the year was \$1.068 million, an increase of 10.4%. This generation of income was able to fund the expenditure increase of \$632,000 (6.1%). Each is explained in further detail below.

Increased contributions from the LSB

- The LSC received \$7.553 million in funding from the LSB, an additional \$553,000 from 2009-10. The increase reflects an additional budget increase which was based on a submission by the LSC to

increase its staff in areas such as RRT, consultancy and occupancy costs in relation to additional floor space. It is pleasing to note that the increases are providing positive efficiency and financial benefits. For example the increase in costs and fines (2010-11: \$179,000 compared to 2009-10: \$90,000) reflects process and staff improvements.

Increased expenditure

- The LSC incurred total expenditure of \$10.862 million in 2010-11 compared to \$10.231 million in 2009-10, an increase of \$652,000, or 6.1%. After taking into consideration the reimbursement of staff costs from the LSB the net expenditure was \$7.379 million compared to \$7.140 million, an increase of \$219,000 or 3.0%.

- While gross salary expenditure for 2010-11 was \$7.658 million compared to \$7.152 million (an increase of \$506,000), it is important to consider the funding recharge by the LSB for staff costs. With this taken into account the net salary costs were \$4.160 million compared to prior year of \$4.067 million, an increase of \$93,000 or 2.2%. The increase reflects general increases in salaries as well as additional staff associated with the RRT. Salaries costs were within budget. The process and efficiency improvements as a result of the increase has been significant.
- Depreciation costs for the year were \$281,000 in comparison to \$229,000, an increase of \$52,000 or 23%. The LSC is now amortising costs associated with the new CHAD computer system as well as the recent renovations of the LSC offices.

- As a result of management commitment and regular reviews of its financial results against budget, the LSC has demonstrated controls over its discretionary and operating expenditure. For other operating expenses, exclusive of ex-gratia payments, the LSC incurred costs of \$1.215 million in comparison to the prior year of \$1.191 million. This represents only a 2.0% increase, less than CPI. Cost savings were reported in a number of operating costs including motor vehicle, IT, and postage, printing and stationery.

Summary

The improvement in the financial performance in the year ending 30 June 2011 is pleasing and ensures that the LSC will retain a healthy surplus.

The positive financial results are a result of combined funding increases and a commitment to controlled operating costs.

Additional information available on request

The LSC maintains further information which is available to the relevant Ministers, the Members of Parliament and the public on request (subject to freedom of information requirements, if applicable). This includes:

- a statement that declarations of pecuniary interests have been duly completed by all relevant officers
- details of shares held by a senior officer as nominee or held beneficially in a statutory authority or subsidiary
- details of publications produced by the LSC about itself, and how these can be obtained
- details of any major external reviews carried out
- details of major research and development activities undertaken

- details of overseas visits undertaken including a summary of the objectives and outcomes of each visit
- details of major promotional, public relations and marketing activities undertaken to develop community awareness of services
- details of assessments and measures undertaken to improve the occupational health and safety of employees
- a general statement on industrial relations and details of time lost through industrial accidents and disputes, and
- a list of major committees sponsored, the purposes of each committee and the extent to which the purposes have been achieved.

Audit Committee

Chair

Mr John Coates

Members

Mr Nick Daicos
Ms Mary Beth Bauer

The membership of the LSC's Audit Committee is composed of three people from external organisations, each of which has extensive experience in financial management. The committee met five times in 2010-11.

The Committee reviews reports of audits conducted by the external and internal auditors, assesses the management of risk, and determines the adequacy of the LSC's financial and accounting controls and administrative processes.

June 2011 Attestation on compliance with the Australian/New Zealand Risk Management Standard

I, Michael McGarvie certify that the Legal Services Commissioner has risk management processes in place consistent with the *Australian/New Zealand Risk Management Standard (AS/NZS ISO 31000:2009)* and an internal control system is in place that enables the executive to understand, manage and satisfactorily control risk exposures. The Audit Committee verifies this assurance and that the risk profile of the Legal Services Commissioner has been critically reviewed within the last 12 months.

Michael McGarvie
Legal Services Commissioner

2 September 2011

Office Based Environmental Impacts

The LSC's environment committee, the 'Green Team' monitors the LSC's office-based environmental impacts and coordinates actions to address waste production, resource use and greenhouse gas generation across the business operations.

The Green Team involves both LSC and LSB staff. The 2010-11 year saw the launch of the LSC's inaugural Environmental Management Plan (EMP). The EMP identified the impacts of everyday business activities from both the LSC and LSB offices and established a series of targets for reducing these impacts. The targets were measured against a baseline dataset established in 2007-08, the first year the LSC reported environmental impacts in the annual report. The EMP also set out an action plan, listing a range of activities and initiatives to assist in achieving the adopted targets. The EMP was developed with assistance from Sustainability Victoria.

The EMP was launched in July 2010. To help promote the document, all staff were presented with a Keep Cup, a reusable sealable plastic container designed for hot beverages. The cups were provided in response to an earlier waste audit which identified disposable coffee cups as contributing to a substantial volume of daily waste sent to landfill. The introduction of the Keep Cups has led

to a 65% reduction in the number of disposable coffee cups thrown out by staff. A second two-year EMP was developed during 2010-11 to cover the 2011-13 timeframe. Future plans will be developed on a biennial basis.

Energy consumption

The LSC monitors the use of energy across its office space. Independent contractor, Great Forests Australia, was engaged to audit the LSC offices in March and April 2011, assessing all lighting and electronic equipment used throughout the office. The LSC uses this annual audit process to identify the areas of greatest energy use and where savings could be attained through improved practices or equipment upgrades. Overall electricity consumption increased by 8% in 2010-11 from the previous year, due in large part to a 10% increase in full time equivalent (FTE) staff numbers. The amount of electricity consumed per FTE actually decreased by 1%. Data on natural gas consumption is not available as gas usage is incorporated into the office lease.

2010-11 activities

The LSC has decreased its energy consumption FTE by 7% from the 2007-08 baseline measurement through improved efficiencies, energy saving policies and equipment upgrades. Greenhouse gas emissions from electricity consumption were 21% lower than in the previous year (representing more than 117 tonnes of carbon over the year), and have decreased by over impressive 43% from the baseline data, largely through the purchase of electricity from resources including solar and wind power. This figure more than surpasses the target for achieving a 20% reduction in greenhouse gas emissions from electricity use compared to the 2007-08 baseline data.

For 2010-11 the greatest single area of energy consumption (over 50%) was for the supplementary cooling of IT infrastructure in two server rooms, one on each building level occupied by the organisation. However in 2011-12 the two server rooms will be combined into a single room, reducing the demand for power for supplemental cooling to maintain optimum operating temperature. These energy savings will be captured in the energy usage figures for 2011-12.

2011-12 Target

To reduce greenhouse gas emissions from electricity usage to 50% of the 2007-08 baseline by June 2012.

Figure 20: LSC energy consumption

TOTAL ELECTRICITY USAGE	BASELINE 2007-08	2008-09	2009-10	2010-11
Total usage (MJ)	591,185	593,244	638,892	696,917
Total green power usage (MJ)	0	0	149,053	311,040
Greenhouse gas emissions associated with electricity use (tonnes)	217.65	215.87	182.26	145.59
Percentage of electricity purchased as Green Power	0	0	23.33	44.63
Electricity used per FTE* (MJ/FTE)	10,070	10,388	9,443	9,317
Electricity used per unit of office area (MJ/m ²)	398	400	431	385

* Full time equivalents as at 30 June each year

Waste generation

The LSC also monitors the levels of waste generated by its operations and staff. The 2010-11 waste assessment, also carried out by Great Forests Australia, identified an incidental increase in the total amount of daily waste generated. This increase was attributed to cardboard packaging material. When volumes of packaging cardboard from delivery supplies are too great to be handled by the secure recycling contractor, they are left out for collection by cleaners. This cardboard was included in the waste disposal figures. It should be noted that the waste assessments are a snapshot of the office waste generation at a single point in time, extrapolated to represent a typical year. The results may therefore be skewed by individual events captured on the date of assessment.

Figure 21: LSC waste generation

DAILY WASTE GENERATION	BASELINE 2007-08	2008-09	2009-10	2010-11
Total waste to landfill (kg)	10.9	9.5	12.3	12.5
Waste to landfill / FTE (kg)	0.19	0.17	0.18	0.17

2010-11 activities

Aside from secure document destruction, all waste management for the LSC is undertaken by cleaners appointed by the building manager. By the end of the reporting year no commingled recycling service had yet been made available within the building. However the building was recently sold to new owners and a new building manager has been appointed. The need for recycling facilities has been acknowledged by the building owner. The LSC continues to recycle small computer components and peripherals, CDs, DVDs, used printer cartridges, rechargeable batteries,

old mobile telephones and their batteries and corks through a not-for-profit recycling service, Green Collect. Staff are also encouraged to bring these items in from home to use this recycling facility. Despite the slight increase in waste sent to landfill, the LSC has recorded a 33% reduction in waste sent to landfill per FTE compared to the 2007-08 baseline, which surpasses the 2010-11 target of a 15% reduction.

2011-12 Targets

Reduce waste to landfill by 50% by June 2013, compared to the 2007-08 baseline.

Paper consumption

The LSC recorded a 5% decrease in total paper consumption across 2010-11 and a 14% reduction in consumption per FTE compared with the previous year. This is a significant achievement in light of the highly variable nature of the LSC's complaints handling activities. Several initiatives contributed to this reduction, including the increased use of double sided printing, providing certain documents online instead of in printed format, and a greater use of electronic document management for filing.

Figure 22: LSC paper consumption

TOTAL PAPER USAGE	BASELINE 2007-08	2008-09	2009-10	2010-11
Total units of copy paper used (A4 reams)	1,555	1,887	2,079	1,974
Units of copy paper used per FTE (A4 reams/FTE)*	26.5	33.0	30.7	26.4
Percentage of 75-100% recycled content copy paper purchased (%)	5.8	0.0	0.0	0.0
Percentage of 50-75% recycled content copy paper purchased# (%)	91.3	87.9	0.9	1.9
Percentage of 0-50% recycled content copy paper purchased# (%)	2.9	12.1	99.1	98.1

* Full time equivalents as at 30 June each year.

The significant decrease in 50-75% paper usage from 2008-09 to 2009-10 was not due to a change in product purchased, but the supplier changing information on recycled content for the same product.

2010-11 activities

Staff and management are currently exploring the feasibility of moving over to electronic documents for committee and Board meetings instead of using printed papers. A trial is underway to assess the usefulness of tablet and notebook computers for reading and marking up Board papers. If successful the shift away from printed papers will result in a significant saving of paper, energy and staff time.

2010-11 Targets

Reduce FTE paper consumption by 20% by June 2013, compared to the 2007-08 baseline.

Water consumption

The offices of the LSC are leased and water consumption for kitchens and bathrooms is included within the lease contract. Therefore no data on water consumption is available for reporting. However the office is able to gauge the rate of flow for running

taps. Peak flow has been measured at 7 litres per minute, which equates to a four star water efficiency labelling standards (WELS) rating. Additionally all taps have been fitted with aerators which allow a lower flow to have a greater volume when washing dishes and hands, thereby helping to reduce water use. Building management has also installed dual flush cisterns in the women's toilets throughout the building to help reduce water use in ancillary areas.

Transport use

The LSC does not operate a fleet of vehicles for business use. Instead, where transport is required for staff to attend meetings or events, public transport is the preferred option of travel. The LSC provides public transport tickets and taxi vouchers

for staff use. For areas beyond the normal reach of public transport or the use of taxis, vehicles are hired through the State Government Vehicle Pool. Hire charges includes the purchase of carbon offsets for each journey. Carbon offsets from the Vehicle Pool are managed by the Department of Sustainability and Environment.

Occasionally other short business trips are made using a car leased to a Director. Kilometres travelled for these trips are not recorded.

The LSC has a travel policy which includes the purchase of carbon credits for all air travel undertaken.

Figure 23: LSC transport use

BUSINESS RELATED TRAVEL	BASELINE 2007-08	2008-09	2009-10	2010-11
Total distance travelled by aeroplane (km)	57,370	29,320	31,836	19,816
Total distance travelled by car (km)*	Not recorded	Not recorded	2,799	2,780
Percentage of employees regularly (+75 per cent of work attendance days) using public transport, cycling, walking, or car pooling to and from work or working from home.	90.48	96.97	96.10	92.68

*Distances include vehicle hire from State Government vehicle pool hire cars and recorded trips using novated lease cars used for work purposes.

2010-11 activities

The LSC continued to promote the use of public transport to destinations throughout Victoria. In 2010-11 staff used public transport to travel between Melbourne and regional destinations including Warrnambool, Shepparton, Colac and Bendigo, and

to numerous suburban locations for meetings and presentations in metropolitan areas.

2011-12 Target

To continue to promote the use of public transport travel to destinations throughout Victoria.

Greenhouse gas emissions

Below is a summary of the greenhouse gas emissions of the LSC for the 2010-11 year, based on energy consumption, transport used and waste generated.

Figure 24: LSC greenhouse gas emissions

GREENHOUSE GAS EMISSIONS	BASELINE 2007-08	2008-09	2009-10	2010-11
Total greenhouse gas emissions associated with energy use (t CO2-e)	217.65	215.87	182.26	145.59
Total greenhouse gas emissions associated with vehicle hire* (t CO2-e)	Not recorded	Not recorded	Not recorded	Not recorded
Total greenhouse gas emissions associated with air travel (t CO2-e) (approximate)	17.36	9.05	9.80	4.38
Total greenhouse gas emissions associated with waste production (t CO2 e)	N/A	2.66	2.91	4.12
Greenhouse gas emissions offsets purchased (t CO2-e)*	Not available	Not available	Not available	Not available

*Offsets purchased through the hire of State Government pool vehicles are administered by the Department of Sustainability and Environment and not reported here.

2010-11 activities

The LSC has previously committed to reduce the greenhouse emissions of the LSC by 5% by 2011. Largely due to the purchase of green power, the LSC has reduced its greenhouse gas emissions by 21% compared to the 2009-10 figure, and by 35% compared to the 2007-08 baseline figure.

2010-11 Target

To reduce our greenhouse gas emissions by 50% by June 2013, compared to the 2007-08 baseline.

Financial report

For the year ended 30 June 2011

This financial report covers the Legal Services Commissioner (LSC) as an individual entity and is presented in Australian currency.

The LSC is a not-for-profit government agency of the state of Victoria. The LSC was established pursuant to the *Legal Profession Act 2004*. Its principal address is Level 9, 330 Collins Street Melbourne.

A description of the nature of the LSC's operations and its principal activities is included in the report of operations on pages 2 to 38 which does not form part of this financial report.

For queries in relation to our reporting please call 1300 796 344, e-mail admin@lsc.vic.gov.au or see our website www.lsc.vic.gov.au

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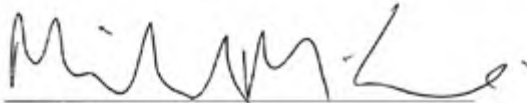
Accountable Officer's and Chief Finance and Accounting Officer's declaration

We certify that the attached financial report for the Legal Services Commissioner has been prepared in accordance with Standing Direction 4.2 of the *Financial Management Act 1994*, applicable Financial Reporting Directions, Australian Accounting Standards, including interpretations, and other mandatory professional reporting requirements.

We further state that, in our opinion, the information set out in the comprehensive operating statement, balance sheet, statement of changes in equity, cash flow statement and notes forming part of the financial statements, presents fairly the financial transactions during the year ended 30 June 2011 and financial position of the Legal Services Commissioner at 30 June 2011.

We are not aware of any circumstance which would render any particulars included in the financial report to be misleading or inaccurate.

We authorise the attached financial statements for issue on the 2nd September 2011.



M McGarvie
Commissioner

Legal Services Commissioner
Melbourne
2nd September 2011



J Ireson
Chief Finance and Accounting Officer
Legal Services Commissioner
Melbourne
2nd September 2011

Comprehensive operating statement

For the year ended 30 June 2011

		2011	2010
	Notes	\$	\$
Continuing operations			
Income from transactions			
Legal Services Board (LSB) contributions	2(a)	11,050,833	10,086,106
Interest	2(b)	37,066	24,163
Other income	2(c)	188,682	97,829
Total income from transactions		11,276,581	10,208,098
Expenses from transactions			
Depreciation and amortisation expense	3 (a)	(280,565)	(229,548)
Employee benefits	3 (b)	(7,657,900)	(7,151,859)
Consultants and legal expenses	3 (c)	(843,264)	(858,514)
Supplies and services	3 (d)	(843,149)	(794,087)
Other operating expenses	3 (e)	(1,241,356)	(1,191,228)
Total expenses from transactions		(10,866,234)	(10,225,236)
Net result from transactions (net operating balance)		410,347	(17,138)
Other economic flows included in net result			
Net gain/ (loss) from the revaluation of the long service leave provision due to changes in the present value of the discount rate		7,994	(12,159)
Net gain/ (loss) on disposal of assets		(4,129)	6,751
Total other economic flows included in net result		3,865	(5,408)
Net result for the year		414,212	(22,546)
Other economic flows- other non-owner changes in equity			
		-	-
Comprehensive result		414,212	(22,546)

The comprehensive operating statement should be read in conjunction with the accompanying notes included on pages 46 to 68.

Balance sheet

As at 30 June 2011

		2011	2010
	Notes	\$	\$
Assets			
Financial assets			
Cash and deposits	4,14	1,776,759	1,439,877
Receivables	5,14	498,494	407,778
Total financial assets		2,275,253	1,847,655
Non-financial assets			
Plant and equipment	6	172,063	139,981
Intangible assets	7	700,707	924,215
Prepayments		52,948	73,263
Total non-financial assets		925,718	1,137,459
Total assets		3,200,971	2,985,114
Liabilities			
Payables	8	606,984	893,698
Borrowings	9	81,347	50,084
Provisions	10	1,113,964	1,056,868
Total liabilities		1,802,295	2,000,650
Net assets		1,398,676	984,464
Equity			
Contributed capital		29,366	29,366
Accumulated surplus	15	1,369,310	955,098
Net worth		1,398,676	984,464

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The above balance sheet should be read in conjunction with the accompanying notes included on pages 46 to 68.

Statement of changes in equity

For the financial year ended 30 June 2011

CHANGES DUE TO				
2011	Equity at 1 July 2010	Total comprehensive results	Transactions with owners in their capacity as owners	Equity at 30 June 2011
	\$	\$	\$	\$
Accumulated surplus	955,098	414,212	-	1,369,310
Contributions by owners	29,366	-	-	29,366
Total equity at end of the financial year	984,464	414,212	-	1,398,676

CHANGES DUE TO				
2010	Equity at 1 July 2009	Total Comprehensive results	Transactions with owners in their capacity as owners	Equity at 30 June 2010
	\$	\$	\$	\$
Accumulated surplus	977,644	(22,546)	-	955,098
Contributions by owners	29,366	-	-	29,366
Total equity at end of the financial year	1,007,010	(22,546)	-	984,464

The statement of changes in equity should be read in conjunction with the accompanying notes included on pages 46 to 68.

Cash flow statement

For the financial year ended 30 June 2011

	2011	2010
Notes	\$	\$
Cash flows from operating activities		
Receipts from transactions with LSB	10,960,117	11,020,739
Other income	188,682	97,829
Goods and Services Tax recovered from ATO	403,997	135,692
Interest received	37,066	24,163
Total receipts	11,589,862	11,278,423
Payments		
Payments to suppliers and employees	(11,190,975)	(10,383,116)
Total payments	(11,190,975)	(10,383,116)
Net cash outflow (inflow) from operating activities	4	398,887
Cash flows from investing activities		
Payments for non-financial assets	(147,836)	(531,851)
Proceeds from sale of non-financial assets	58,567	32,642
Net cash (outflow) inflow from investing activities	(93,269)	(499,209)
Cash flows from financing activities		
Payments for financing lease	31,264	6,826
Net cash flows from/(used in) financing activities	31,264	6,826
Net increase (decrease) in cash and cash equivalents	336,882	402,924
Cash and cash equivalents at beginning of the financial year	1,439,877	1,036,953
Cash and cash equivalents at end of year	1,776,759	1,439,877

The cash flow statement should be read in conjunction with the accompanying notes included on pages 46 to 68.

1. Summary of significant accounting policies

The annual financial statements represent the audited general purpose financial statements for the LSC.

The purpose of the report is to provide users with information about the LSC's stewardship of resources entrusted to it.

To gain a better understanding of the terminology used in this report, a glossary of terms and style conventions can be found in note 22.

A. Statement of Compliance

These general purpose financial statements have been prepared in accordance with the *Financial Management Act 1994* and applicable Australian Accounting Standards (AAS), which includes interpretations issued by the Australian Accounting Standards Board (AASB). In particular, they are presented in a manner consistent with the requirements of the AASB 1049 *Whole of Government and General Government Sector Financial Reporting*.

Where applicable, those paragraphs of the AASs applicable to not-for-profit entities have been applied.

The annual financial statements were authorised for issue by the Legal Services Commissioner on the 2nd September 2011.

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

B. Basis of accounting preparation and measurement

The accrual basis of accounting has been applied in the preparation of these financial statements whereby assets, liabilities, equity, income and expenses are recognised in the reporting period to which they relate, regardless of when cash is received or paid.

These financial statements are presented in Australian dollars, the functional and presentation currency of the Legal Services Commissioner.

In the application of AASs, judgements, estimates and assumptions are required to be made about carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on professional judgements derived from historical experience and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates.

The estimates and associated assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised and also in future periods that are affected by the revision. Judgements made by management in the application of AASs that have significant effects on the financial statements and estimates, with a risk of material adjustments in the next year, are disclosed throughout the notes to the financial statements.

The report has been prepared in accordance with the historical cost convention. Historical cost is based on the fair values of the consideration given in exchange for assets.

Exceptions to the historical cost convention include:

- non-current physical assets which, subsequent to acquisition, are measured at a revalued amount being their fair value at the date of the revaluation less any subsequent impairment losses. Revaluations are made with sufficient regularity to ensure that the carrying amounts do not materially differ from their fair value; and
- the fair value of an asset is generally based on its depreciated replacement value.

The accounting policies set out below have been applied in preparing the financial statements for the year ended 30 June 2011 and the comparative information presented for the year ended 30 June 2010.

C. Reporting Entity

The financial statements cover the LSC as an individual reporting entity and additional disclosure has been included in the notes. The LSC commenced on 12 December 2005 following the proclamation of the *Legal Profession Act 2004*.

Its principal address is:

**Legal Services Commissioner
Level 9
330 Collins Street
MELBOURNE VIC 3000**

The LSC is funded from the LSB Public Purpose Fund as per Section 6.7.7 of the *Legal Profession Act 2004*

D. Scope and presentation of financial statements

Comprehensive operating statement

Income and expenses in the comprehensive operating statement are classified according to whether or not they arise from 'transactions' or 'other economic flows'. This classification is consistent with the whole of government reporting format and is allowed under AASB 101 *Presentation of financial statements*.

'Transactions' and 'other economic flows' are defined by the *Australian system of government finance statistics: concepts, sources and methods 2005* Cat. No. 5514.0 published by the Australian Bureau of Statistics.

'Transactions' are those economic flows that are considered to arise as a result of policy decisions, usually interactions between two entities by mutual agreement. Transactions also include flows within an entity, such as depreciation where the owner is simultaneously acting as the owner of the depreciating asset and as the consumer of the service provided by the asset. Taxation is regarded as mutually agreed interactions between the Government and taxpayers. Transactions can be in kind (e.g. assets provided/given free of charge or of nominal consideration) or where the final consideration is cash.

'Other economic flows' are changes arising from market re-measurements. They include:

- gains or losses from disposals, revaluations and impairments of non-financial physical and intangible assets; and
- fair value changes of financial assets.

The net result is equivalent to profit or loss derived in accordance with AASs.

Balance Sheet

Assets and liabilities are presented in liquidity order with assets aggregated into, financial assets and non-financial assets.

Current and non-current assets and liabilities (those expected to be recovered or settled beyond 12 months) are disclosed in the notes, where relevant.

Cash flow statement

Cash flows are classified according to whether or not they arise from operating, investing or financing activities. This classification is consistent with requirements under AASB 107 *Statement of cash flows*.

Statement of changes in equity

The statement of changes in equity presents reconciliations of each non-owner and owner equity opening balance at the beginning of the reporting period to the closing balance at the end of the reporting period. It also shows separately changes due to amounts recognised in the comprehensive result and amounts recognised in the comprehensive result and amounts recognised in other income related to other non-owner charges in equity.

E. Income from transactions

Income is recognised to the extent that it is probable that the economic benefits will flow to the entity and the income can be reliably measured.

Funding from the LSB

The Legal Profession Act 2004 section 6.7.7 states that the LSC must be paid such amount as determined by the LSB to meet the expenses of, and discharge the liabilities incurred by, the LSC in performing functions under this Act during the year.

All income received by the LSC is paid into the Operating Account with the exception of disputed costs which are paid into a separate account.

Interest income

Interest income includes interest received on deposits and other investments and the unwinding over time of discounts on financial assets.

Interest income is recognised on a time proportionate basis that takes into account the effective yield on the financial asset. Interest income is recognised using the effective interest method which allocates the interest over the relevant period.

Other income

Other income generally represents legal practitioner costs and fines received and payments from the LSB for the use of assets owned by the LSC.

Other gains/(losses) from other economic flows

Other gains/(losses) from other economic flows include the gains or losses from reclassifications of amounts from reserves and/or accumulated surplus to net result, and from the revaluation of the present value of the long service leave liability due to changes in the bond interest rates.

F. Expenses from transactions

Expenses are recognised as they are incurred and reported in the financial year to which they relate.

Employee expenses

These expenses include all costs related to employment (other than superannuation which is accounted for separately) including wages and salaries, fringe benefits tax, leave entitlements, redundancy payments and WorkCover premiums.

1. Summary of significant accounting policies

continued

Superannuation – State superannuation defined benefit plans

The amount recognised in the comprehensive operating statement in relation to employer contributions for members of defined benefit superannuation plans is simply the employer contributions that are paid or payable to these plans during the reporting period. The level of these contributions will vary depending upon the relevant rules of each plan, and is based upon actuarial advice.

The Department of Treasury and Finance (DTF) in their Annual Financial Statements, disclose on behalf of the State as the sponsoring employer, the net defined benefit cost related to members of these plans as an administered liability. Refer to DTF's Annual Financial Statements for more detailed disclosures in relation to these plans.

Depreciation and amortisation

All plant and equipment and other non-current physical assets that have finite useful lives are depreciated. Depreciation is generally calculated on a straight-line basis, at rates that allocate the asset's value, less any estimated residual value, over its estimated useful life. Refer to Note 1 (I) for the depreciation policy for leasehold improvements.

The following are typical estimated useful lives for the different asset classes for both current and prior years:

	2011	2010
Motor vehicles	3 years	3 years
Office furniture	5 to 10 years	5 to 10 years
Computer equipment	3 to 5 years	3 to 5 years
Intangible assets	5 years	5 years

Intangible assets with finite useful lives are depreciated as an expense from transactions on a systematic (typically straight line) basis over the asset's useful life. Depreciation begins when the asset is available for use, that is, when it is in the location and condition necessary for it to be capable of operating in the manner intended by management.

Intangible assets with indefinite useful lives are not depreciated or amortised, but are tested annually for impairment.

Supplies and services

Supplies and services generally represent the day-to-day running costs, including maintenance costs, and are incurred in the normal operation of the LSC. These items are recognised as an expense in the reporting period in which they are incurred.

Recharge of services

The LSB to the LSC

Expenses directly incurred by the LSB for occupancy, depreciation and other relevant operating costs have been proportioned before being expensed and are charged directly to the LSB and LSC. The LSC are charged its portion of overhead costs.

LSC to LSB

Under section 6.4.1 of the *Legal Profession Act 2004*, staff supporting the activities of the LSB are classified as employees of the LSC, who employs all staff under Part 3 of the *Public Administration Act 2004*.

The LSC recharges staff salaries and on costs to the LSB for those staff undertaking Board functions.

Other operating expenses

Other operating expenses generally represent the day-to-day running costs incurred in normal operations.

Bad and doubtful debts

Refer to Note 1 (H) *Impairment of financial assets*.

Other economic flows included in the net result

Other economic flows measure the change in volume or value of assets or liabilities that do not result from transactions.

Net gain/(loss) on financial instruments

Net gain/(loss) on financial instruments includes:

- impairment and reversal of impairment for financial instruments at amortised cost; and
- disposals of financial assets.

Other gains/(losses) from other economic flows

Other gains/(losses) from other economic flows include gains or losses from the revaluation of the present value of the long service liability due to changes in the bond interest rates.

G. Financial instruments

Financial instruments arise out of contractual agreements that give rise to a financial asset of one entity and a financial liability or equity instrument of another entity. Where relevant, for note disclosure purposes, a distinction is made between those financial assets and liabilities that meet the definition of financial instruments in accordance with AASB 132 and those that do not.

The following refers to financial instruments unless otherwise stated.

Loans and receivables

Loans and receivables are financial instrument assets with fixed and determinable payments that are not quoted on an active market. These assets are initially recognised at fair value plus any directly attributable transaction costs. Loans and receivables are measured at fair value.

Receivables category includes cash and deposits (refer to Note 1 (H)), term deposits with maturity greater than three months, trade receivables and other receivables.

Financial liabilities at amortised cost

Financial instrument liabilities are initially recognised on the date they are originated. They are initially measured at fair value plus any directly attributable transaction costs. Subsequent to initial recognition, these financial instruments are measured at amortised cost with any difference between the initial recognised amount and the redemption value being recognised in profit and loss over the period of the interest-bearing liability, using the effective interest rate method.

Financial instrument liabilities measured at amortised cost include all payables, deposits held and interest-bearing arrangements other than those designated at fair value through profit or loss.

H. Financial assets

Cash and deposits

Cash and deposits, including cash equivalents, comprise cash on hand and cash at bank, deposits at call and those highly liquid investments with an original maturity of three months or less, which are held for the purpose of meeting short term cash commitments rather than for investment purposes, and which are readily convertible to known amounts of cash and are subject to an insignificant risk of changes in value.

Receivables

Receivables consist of:

- trade debtors in relation to goods and services;
- accrued income; and
- GST input tax credits recoverable.

Receivables that are contractual are classified as financial instruments.

Receivables are recognised initially at fair value and subsequently measured at amortised cost, using the effective interest method, less an allowance for impairment.

A provision for doubtful receivables is made when there is objective evidence that the debts may not be collected and bad debts are written off when identified (refer to Note 1 (H) *Impairment of financial assets*).

Investments and other financial assets

Investments are classified in the following categories;

- financial assets at fair value through profit or loss, and
- receivables.

The classification depends on the purpose for which the investments were acquired. Management determines the classification of its investments at initial recognition.

Derecognition of financial assets

A financial asset (or, where applicable, a part of a financial asset or part of a group of similar financial assets) is derecognised when:

- the rights to receive cash flows from the assets have expired; or
- the LSC retains the right to receive cash flows from the asset, but has assumed an obligation to pay them in full without material delay to a third party under a 'pass through' arrangement; or
- the LSC has transferred its rights to receive cash flows from the asset and either:
 - (a) has transferred substantially all the risks and rewards of the asset, or
 - (b) has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control of the asset.

Where the LSC has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of the LSC's continuing involvement in the asset.

Impairment of financial assets

At the end of each reporting period the LSC assesses whether there is objective evidence that a financial asset or group of financial assets is impaired. All financial assets, except those measured at fair value through profit or loss, are subject to annual review for impairment.

Bad and doubtful debts for financial assets are assessed on a regular basis. Those bad debts considered as written off by mutual consent are classified as a transaction expense. Bad debts not written off by mutual consent and allowance for doubtful receivables are classified as 'other economic flows'.

In assessing impairment of statutory (non-contractual) financial assets, which are not financial instruments professional judgement is applied in assessing materiality and using estimates, averages and computational shortcuts in accordance with AASB 136 *Impairment of assets*.

I. Non-financial assets

Plant and equipment

All non-current physical assets are measured initially at cost and subsequently revalued at fair value less accumulated depreciation and impairment.

Where an asset is received for no nominal consideration, the cost is the asset's fair value at the date of acquisition.

Leasehold improvements

The cost of leasehold improvements is capitalised as an asset and depreciated over the remaining term of the lease or estimated useful life of the improvements, whichever is the shorter.

1. Summary of significant accounting policies

continued

Revaluations of non-current physical assets

Non-current physical assets are measured at fair value, in accordance with FRD 103D *Non-current physical assets issued by the Minister for Finance*.

Revaluation increases or decreases arise from differences between an asset's carrying value and fair value.

Net revaluation increases (where the carrying amount of a class of assets is increased as a result of a revaluation) are recognised in 'Other economic flows- other movements in equity' and accumulated in equity under the asset revaluation surplus. However, the net revaluation increase is recognised in the net result to the extent that it reverses a net revaluation decrease in respect of the same class of plant and equipment previously recognised as an expense (other economic flows) in the net result.

Net revaluation decreases are recognised immediately as other economic flows in the net result, except that the net revaluation decrease shall be recognised in 'Other economic flows - other movements in equity' to the extent that a credit balance exists in the asset revaluation surplus in respect of the same class of plant and equipment. The net revaluation decrease recognised in 'Other economic flows- other movements in equity' reduces the amount accumulated in equity under the asset revaluation surplus.

Net revaluation increases and decreases relating to individual assets within a class of plant and equipment, are offset against one another within the class but are not offset in respect of assets in different classes. Any revaluation surplus is not normally transferred to accumulated funds on de-recognition of the relevant asset.

Intangible assets

Purchased intangible assets are initially recognised at cost. Subsequently, intangible assets with finite useful lives are carried at cost

less accumulated amortisation and accumulated impairment losses. Costs incurred subsequent to initial acquisition are capitalised when it is expected that additional future economic benefits will flow to the LSC.

Where the recognition criteria in AASB 138 *Intangible Assets* are met, internally generated intangible assets are recognised and measured at cost less accumulated amortisation and impairment.

Other non-financial assets

Prepayments

Other non-financial assets include prepayments which represent payments in advance of receipt of goods and services or that part of expenditure made in one accounting period covering a term extending beyond that period.

J. Liabilities

Payables

Payables consist predominantly of accounts payable and other sundry liabilities. Accounts payable represent liabilities for goods and services provided to the LSC prior to the end of the financial year that are unpaid, and arise when the LSC becomes obliged to make future payments in respect of the purchase of these goods and services.

Other liabilities included in payables consist of disputed cost payables, accrued expenses, goods and services tax and income tax payables.

Payables are recognised at fair value.

Provisions

Provisions are recognised when the LSC has a present obligation, the future sacrifice of economic benefits is probable, and the amount of the provision can be measured reliably.

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

using discount rates that reflects the time value of money and risks specific to the provision.

Employee benefits

Provision is made for benefits accruing to employees in respect of wages and salaries, annual leave and long service leave for services rendered to the reporting date.

(i) *Wages and salaries, annual leave and sick leave*

Liabilities for wages and salaries, annual leave and accumulating sick leave are recognised in the provision for employee benefits, classified as a current liability. Those liabilities which are expected to be settled within 12 months of the reporting period, are measured at their nominal values.

Those liabilities that are not expected to be settled within 12 months are also recognised in the provision for employee benefits as current liabilities but are measured at present value of the amounts expected to be paid when the liabilities are settled using the remuneration rate expected to apply at the time of settlement.

(ii) *Long service leave*

Liability for long service leave (LSL) is recognised in the provision for employee benefits.

Unconditional LSL

is disclosed in the notes to the financial statements as a current liability even where the LSC does not expect to settle the liability within 12 months because it will not have the unconditional right to defer the settlement of the entitlement should an employee take leave within 12 months.

The components of this current LSL liability are measured at:

- nominal value- component that the LSC expects to settle within 12 months; and
- present value- component that the LSC does not expect to settle within 12 months.

Conditional LSL

is disclosed as a non-current liability. There is an unconditional right to defer the settlement of the entitlement until the employee has completed the requisite years of service.

This non-current LSL liability is measured at present value. Any gain or loss following revaluation of the present value of non-current LSL liability is recognised as a transaction, except to the extent that a gain or loss arises due to changes in bond interest rates for which it is then recognised as an 'Other economic flow' refer to Note 1 (E).

(iii) Termination benefits

Termination benefits are payable when employment is terminated before the normal retirement date, or when an employee accepts voluntary redundancy in exchange for these benefits. The LSC recognises termination benefits when it is demonstrably committed to either terminating the employment of current employees according to a detailed formal plan without possibility of withdrawal or providing termination benefits as a result of an offer made to encourage voluntary redundancy. Benefits falling due more than 12 months after balance sheet date are discounted to present value.

Employee benefits on-costs

Employee benefits on-costs such as payroll tax, workers compensation and superannuation are recognised separately from the provision for employee benefits.

K. Leases

A lease is a right to use an asset for an agreed period of time in exchange for payment.

Leases are classified at their inception as either operating or finance leases based on the economic substance of the agreement so as to reflect the risks and rewards incidental to ownership. Leases of plant and equipment are classified as finance infrastructure leases whenever the terms of the lease transfer substantially all the risks and rewards of ownership from the lessor to the lessee. All other leases are classified as operating leases.

Operating leases

LSC as lessee

Operating lease payments, including and contingent rentals, are recognised as an expense in the comprehensive operating statement on a straight-line basis over the lease term, except where another systematic basis is more representative of the time pattern of the benefits derived from the use of the leased asset. The leased asset is not recognised in the balance sheet.

L. Equity

Contributions by owners

Additions to net assets which have been designated as contributions by owners are recognised as contributed capital. Other transfers that are in the nature of contributions or distributions have also been designated as contributions by owners.

Transfers of net assets arising from administrative restructurings are treated as distributions to or contributions by owners.

M. Commitments

Commitments are disclosed at their nominal value and inclusive of the goods and services tax (GST) payable. In addition, where it is considered appropriate and provides additional relevant information to users, the net present values of significant individual projects are stated.

N. Contingent assets and contingent liabilities

Contingent assets and contingent liabilities are not recognised in the balance sheet, but are disclosed by way of a note and, if quantifiable, are measured at nominal value. Contingent assets and liabilities are presented inclusive of GST receivables and payables respectively.

O. Accounting for the Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the taxation authority. In this case it is recognised as part of the cost

of acquisition of the asset or as part of the expense.

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from, or payable to, the taxation authority is included with other receivables or payables in the balance sheet.

Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which are recoverable from, or payable to the taxation authority, are presented as operating cash flow.

P. Events after the reporting period

Assets, liabilities, income or expenses arise from past transactions or other past events. Where the transactions result from an agreement between the LSC and other parties, the transactions are only recognised where the agreement is irrevocable at or before the end of the reporting period. Adjustments are made to amounts recognised in the financial statements for events which occur after the reporting period and before the date the financial statements are authorised for issue, where those events provide information about conditions which existed at the reporting period. Note disclosure is made about events between the end of the reporting period and the date the financial statements are authorised for issue where the events relate to conditions which arose after the reporting period and which may have a material impact on the results of subsequent reporting periods.

Q. Rounding of amounts

Amounts in the financial statements have been rounded to the nearest dollar, unless otherwise stated. All totals are rounded additions of unrounded amounts; discrepancies between totals and sums of components are due to rounding. Figures in the financial statements may not equate due to rounding.

1. Summary of significant accounting policies *continued*

R. AASs issued that are not yet effective

Certain new AASs have been published that are not mandatory for 30 June 2011 reporting period. Department of Treasury and Finance assesses the impact of these new standards and advises the LSC of their applicability and early adoption where applicable.

As at 30 June 2011, the following standards and interpretations that are applicable to the LSC had been issued but were not mandatory for the financial year ending 30 June 2011. Standards and Interpretations that are not applicable to the LSC have been omitted. The LSC has not early adopted these standards.

STANDARD/ INTERPRETATION	SUMMARY	APPLICABLE FOR ANNUAL REPORTING PERIODS BEGINNING ON	IMPACT FINANCIAL STATEMENTS
<i>AASB 9 Financial instruments</i>	This standard simplifies requirements for the classification and measurement of financial assets resulting from Phase 1 of the IASB's project to replace IAS 39 <i>Financial Instruments: Recognition and Measurement</i> (AASB 139 <i>Financial Instruments: Recognition and Measurement</i>).	Beginning 1 January 2013.	Detail of impact is still being assessed.
<i>AASB 124 Related Party Disclosures (Dec 2009)</i>	Government related entities have been granted partial exemption with certain disclosure requirements.	Beginning 1 January 2011	Preliminary assessment suggests that impact is insignificant. However, the LSC is still assessing the detailed impact and whether to early adopt.
<i>AASB 1053 Application of Tiers of Australian Accounting Standards</i>	This standard establishes a differential financial reporting framework consisting of two tiers of reporting requirements for preparing general purpose financial statements.	Beginning 1 July 2013	The Victorian Government is currently considering the impact of Reduced Disclosure Requirements (RDRs) for certain public sector entities and has not decided if RDRs will be implemented to the Victorian Public Sector.
<i>AASB 2009-11 Amendments to Australian Accounting Standards arising from AASB 9 [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 121, 127, 128, 131, 132, 136, 139, 1023 and 1038 and Interpretations 10 and 12]</i>	This gives rise to consequential changes arising from the issuance of AASB 9.	Beginning 1 January 2013	Details of impact still being assessed.
<i>AASB 2010-2 Amendments to Australian Accounting Standards arising from Reduced Disclosure Requirements</i>	This standard makes amendments to many Australian Accounting Standards, including Interpretations, to introduce reduced disclosure requirements to the pronouncements for application by certain types of entities.	Beginning 1 July 2013	Does not affect financial measurement or recognition, so is not expected to have any impact on financial result or position. May reduce some note disclosures in financial statements.

STANDARD/ INTERPRETATION	SUMMARY	APPLICABLE FOR ANNUAL REPORTING PERIODS BEGINNING ON	IMPACT FINANCIAL STATEMENTS
AASB 2010-4 <i>Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project [AASB 1, AASB 7, AASB 101 & AASB 134 and Interpretation 13]</i>	This standard makes numerous improvements designed to enhance the clarity of standards.	Beginning 1 January 2011	No significant impact on the financial statements.
AASB 2010-5 <i>Amendments to Australian Accounting Standards [AASB 1, 3, 4, 5, 101, 107, 112, 118, 119, 121, 132, 133, 134, 137, 139, 140, 1023 & 1038 and Interpretations 112, 115, 127, 132 & 1042]</i>	This amendment contains editorial corrections to a range of Australian Accounting Standards and Interpretations, which includes amendments to reflect changes made to the text of IFRSs by the IASB.	Beginning 1 July 2011	No significant impact on the financial statements.
AASB 2010-7 <i>Amendments to Australian Accounting Standards arising from AASB 9 (December 2010) [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 120, 121, 127, 128, 131, 132, 136, 137, 139, 1023 & 1038 and Interpretations 2, 5, 10, 12, 19 & 127]</i>	These amendments are in relation to the introduction of AASB 9.	Beginning 1 Jan 2013	The amendment may have an impact on departments and public sector bodies as AASB 9 is a new standard and it changes the requirements of numerous standards. Detail of impact is still being assessed.
AASB 2011-2 <i>Amendments to Australian Accounting Standards arising from the Trans-Tasman Convergence Project- Reduced Disclosure Requirements [AASB 101 & AASB 1054]</i>	The objective of this amendment is to include some additional disclosure from the Trans-Tasman Convergence Project and to reduce disclosure requirements for entities preparing general purpose financial statements under Australian Accounting Standards- Reduced Disclosure Requirements.	Beginning 1 July 2013	The Victorian Government is currently considering the impact of Reduced Disclosure Requirements (RDRs) and has not decided if RDRs will be implemented to the Victorian Public Sector.
AASB 2011-3 <i>Amendments to Australian Accounting Standards- Orderly Adoption of Changes to the ABS GFS Manual and Related Amendments [AASB 1049]</i>	This amends AASB 1049 to clarify the definition of the ABS GFS Manual, and to facilitate the adoption of changes to the ABS GFS Manual and related disclosures.	Beginning 1 July 2012	This amendment provides clarification to users on the version of the ABS GFS Manual to be used and what to disclose if the latest ABS GFS Manual is not used. No impact on performance measurements will occur.

2. Income from transactions

	2011	2010
	\$	\$
(a) Legal Services Board (LSB) contributions		
LSB funding (section 6.7.7)	7,553,259	7,000,805
Employee benefits (see note 3b)	3,497,574	3,085,301
Total Legal Services Board (LSB) contributions	11,050,833	10,086,106
(b) Interest		
<i>Interest from financial assets not at fair value through profit and loss:</i>		
Interest on bank deposits	37,066	24,163
Total interest	37,066	24,163
(c) Other income		
<i>Other revenue</i>		
Costs and fines	179,958	90,057
Charge for assets	8,724	7,772
Total other income	188,682	97,829
Total income from transactions	11,276,581	10,208,098

3. Expenses from transactions

(a) Depreciation and amortisation expense		
Motor vehicle	17,394	16,248
Plant and equipment	39,663	26,593
Intangible assets	223,508	186,707
	280,565	229,548
(b) Employee benefits		
Salaries	6,459,160	5,889,382
Superannuation	580,487	505,647
Temporary staff	94,263	173,382
Provisions	65,090	173,964
Payroll and Workcover	362,932	321,510
Training	74,001	61,626
Other	21,967	26,349
	7,657,900	7,151,859
<i>Less:</i>		
Recharge of services to the Legal Services Board relating to salaries, wages and other employee benefits	(3,497,574)	(3,085,301)
other employee benefits		
Net employee benefits expense	4,160,326	(3,085,301)

3. Expenses from transactions *continued*

	2011	2010
	\$	\$
(c) Consultants and legal expenses		
Investigations	781,180	800,045
Legal other	34,981	40,832
Consultants	27,103	17,637
Total consultants and legal expenses	843,264	858,514
(d) Supplies and Services		
Cost of supplies Law Institute of Victoria	755,000	735,000
Cost of supplies Victorian Bar Inc.	88,149	59,087
Total supplies and services	843,149	794,087
(e) Other operating expenses		
Motor vehicle	30,043	54,926
Community and education	16,483	19,068
Telephone and fax	20,596	21,410
Information technology	180,253	243,113
General administration	137,672	128,129
Occupancy	592,330	475,679
Travel and accommodation	9,783	9,689
Audit fees	76,241	61,848
Bank fees	2,666	2,658
Insurance	65,422	64,734
Postage, printing and stationery	83,367	109,973
Ex-gratia payments	26,500	-
Total other operating expenses	1,241,356	1,191,228

4. Cash and deposits

(a) Reconciliation of cash and cash equivalents

	2011	2010
	\$	\$
Total cash and deposits disclosed in the balance sheet	1,551,692	1,034,088
LSB bank account held for disputed costs	225,066	405,789
Balances per statement of cash flows	1,776,759	1,439,877

(b) Reconciliation of net cash result for the period to net cashflows from operating activities

Comprehensive result	414,212	(22,546)
Non cash movements:		
Depreciation and amortisation	280,566	229,548
(Gain)/loss in disposal of fixed assets	4,129	(6,751)
(Gain)/ loss from the revaluation of the long service leave provision due to changes in the present value of the discount rate	(7,994)	12,159
Movements in assets and liabilities		
(Increase)/decrease in receivables	(76,924)	779,691
(Increase)/decrease in prepayments	20,315	(41,029)
Increase/(decrease) in payables	(300,507)	(235,980)
Increase/(decrease) in provisions	65,090	180,214
Net cash inflow (outflow) from operating activities	398,887	895,306

5. Receivables

Current contractual receivables

Trade receivables	85	2,667
Accrued income	429,654	361,450
Total contractual receivables	429,739	364,117
GST recoverable	68,755	43,661
Total statutory receivables	68,755	43,661
Total receivables	498,494	407,778

6. Plant and equipment

Plant and equipment are classified primarily by the purpose for which the assets are used according to one of the five 'Purpose Groups' based upon Government Classification (GPC). All assets within a 'Purposes Group' are further sub-categorised to the asset's nature, with each sub-category being classified as a separate class of asset for financial reporting purposes.

(a) Classification by 'Purpose Groups'- Carrying amounts	Public safety and environment	
Nature based classification	2011	2010
	\$	\$
Computer equipment		
At cost	121,407	97,451
Less: accumulated depreciation	(68,162)	(32,431)
	53,245	65,020
Office furniture		
At cost	43,032	27,961
Less: accumulated depreciation	(5,843)	(2,293)
	37,189	25,668
Motor vehicle		
At cost	103,345	62,532
Less: accumulated depreciation	(22,758)	(13,239)
	80,587	49,293
Office equipment		
At cost	1,174	-
Less: accumulated depreciation	(132)	-
	1,042	-
Net carrying amount of plant and equipment	172,063	139,981

b) Movements in carrying amounts - classification by 'Public Safety and Environment' purpose group				
LEASED MOTOR VEHICLES			COMPUTER EQUIPMENT	
	2011	2010	2011	2010
	\$	\$	\$	\$
Opening balance	49,293	35,652	65,020	72,818
Additions	107,104	62,531	24,487	10,511
Disposals	(58,416)	(32,642)	(280)	-
Adjustments	-	-	-	6,611
Depreciation	(17,394)	(16,248)	(35,982)	(24,920)
Closing balance	80,587	49,293	53,245	65,020
OFFICE EQUIPMENT			OFFICE FURNITURE	
	2011	2010	2011	2010
	\$	\$	\$	\$
Opening balance	-	-	25,668	11,397
Additions	1,174	-	15,071	15,944
Disposals	-	-	-	-
Adjustments	-	-	-	-
Depreciation	(132)	-	(3,550)	(1,673)
Closing balance	1,042	-	37,189	25,668
Total				
	2011		2010	
	\$		\$	
Opening balance			139,981	119,867
Additions			147,836	88,986
Disposals			(58,696)	(32,642)
Adjustments			-	6,611
Depreciation			(57,058)	(42,841)
Closing balance			172,063	139,981

7. Intangible assets

	COMPUTER SOFTWARE	COMPUTER SOFTWARE
	2011	2010
	\$	\$
Gross carrying amount		
Opening balance	1,110,922	666,638
Additions	-	444,284
Closing balance	1,110,922	1,110,922
Accumulated amortisation and impairment		
Opening balance	(186,707)	-
Amortisation expense	(223,508)	(186,707)
Closing balance	(410,215)	(186,707)
Net book value at end of financial year	700,707	924,215

8. Payables

Contractual		
Accrued expenses	261,993	379,141
PAYG tax and GST payable	119,845	106,053
Disputed costs	225,146	408,504
Total contractual payables	606,984	893,698

Maturity analysis of contractual payables

Please refer to Table 14.6 in Note 14 for the maturity analysis of payables.

9. Borrowings

Borrowings		
Lease liabilities (note 12)	81,347	50,084
Total Borrowings	81,347	50,084

Secured by the assets leased. Finance leases are effectively secured as the rights to the leased assets revert to the lessor in the event of the default.

(a) Maturity analysis of borrowings

Please refer to table 14.7 in Note 14 for the maturity analysis of borrowings.

(b) Defaults and breaches

During the current and prior year, there were no defaults and breaches of any of the borrowings.

10. Provisions

	2011	2010
	\$	\$
(a) Current provisions		
Employee benefits - annual leave		
Unconditional and expected to be settled within 12 months	385,615	534,414
Employee benefits - long service leave		
Unconditional and expected to be settled within 12 months	22,035	17,516
Unconditional and expected to be settled after 12 months	342,339	232,538
	749,989	784,468
Provisions related to employee benefit on-costs		
Unconditional and expected to be settled within 12 months	59,865	80,835
Unconditional and expected to be settled after 12 months	51,923	35,198
	111,788	116,033
Total current provisions	861,777	900,501
Non-current provisions		
Employee benefits	218,975	135,810
Provisions relating to employee benefit on costs	33,212	20,557
Total non-current provisions	252,187	156,367
Total provisions	1,113,964	1,056,868

Employee benefits and related on-costs		
Current employee benefits		
Annual leave entitlements	385,615	534,415
Long service leave entitlements after long service leave	364,374	250,053
	749,989	784,468
Non-current employee benefits		
Long service leave entitlements	218,975	135,810
	218,975	135,810
Total employee benefits	968,964	920,278
Current on-costs	111,788	116,033
Non-current on-costs	33,212	20,557
Total on costs	145,000	136,590
Total employee benefits and related on-costs	1,113,964	1,056,868

(b) Movements in provisions

Movements in each class of provision during the financial year, other than employee benefits, are set out below:

2011		
Opening balance	136,590	112,388
Unwind of discount and effect of changes in the discount rate	(3,442)	914
Additional provisions recognised	11,852	23,288
Closing balance	145,000	136,590

11. Superannuation

Employees of the LSC are entitled to receive superannuation benefits and the LSC contributes to both defined benefits and defined contribution plans. The defined benefits plan(s) provides benefits based on years of service and final average salary.

The LSC does not recognise any defined benefit liability in respect of the plan(s) because the entity has no legal or constructive obligation to pay future benefits relating to its employees; its only obligation is to pay superannuation contributions as they fall due. The Department of Treasury and Finance discloses the State's defined benefit liabilities in its disclosure for administered items.

However, the superannuation contributions paid or payable for the reporting period are included as part of employee benefits in the comprehensive operating statement of the LSC.

The name, details and amounts expensed in relation to major employee superannuation funds and contributions made by the LSC are as follows:

	CONTRIBUTION	CONTRIBUTION	OUTSTANDING	OUTSTANDING
	2011	2010	2011	2010
	\$	\$	\$	\$
Defined benefit plans				
State Superannuation Fund				
- revised and new	18,512	8,447	2,271	1,443
Defined contribution plans				
Vic Super	240,861	211,070	38,981	20,743
Legal Super	65,783	64,363	10,443	6,709
Care	26,292	25,588	2,101	2,360
Australian Super	19,035	9,865	6,242	3,846
MLC Masterkey	18,226	10,049	2,809	1,438
Other Superannuation funds	121,757	124,804	7,174	14,922
Total	510,466	454,186	70,021	51,461

12. Leases

(i) Finance leases

The LSC leases motor vehicles with a carrying amount of \$81,347 (2010- \$50,084) under finance leases expiring within 9 to 28 months. Under the terms of the leases, the LSC is not entitled to acquire the leased assets for a discount of the agreed fair value on expiry of the leases.

	2011	2010
	\$	\$
Commitments in relation to finance leases are payable as follows:		
Not longer than one year	41,535	17,412
Longer than one year and not longer than five years	46,233	37,199
Minimum lease payments	87,768	54,611
Less future finance charges	(6,421)	(4,527)
Recognised as a liability	81,347	50,084
Representing lease liabilities		
Current borrowings lease liabilities (note 9)	37,223	14,535
Non-current borrowings lease liabilities (note 9)	44,124	35,549
Minimum lease payments	81,347	50,084

13. Contingent assets and contingent liabilities

There were no contingent assets or contingent liabilities at balance date (2010: Nil)

14. Financial instruments

14.1 Financial risk management objectives and policies

The LSC's principal financial instruments comprise of:

- cash assets;
- term deposits;
- receivables (excluding statutory receivables)
- payables (excluding statutory payables); and
- finance lease payables

Details of the significant accounting policies and methods adopted, including the criteria for recognition, the basis of measurement, and the basis on which income and expenses are recognised, with respect to each class of financial asset, financial liability and equity instrument above are disclosed in Note 1 to the financial statements.

The main purpose in holding financial instruments is to prudentially manage the LSC's financial risks within the LSC's policy parameters.

The LSC's main financial risks include credit risk, liquidity risk and interest rate risk. The LSC manages these financial risk in accordance with its financial risk management policy.

The LSC uses different methods to measure and manage the different risks to which it is exposed. Primary responsibility for the identification and management of financial risk rests with the LSC and is monitored by the Audit Committee of the LSC.

14.2. Categorisation of financial instruments

The carrying amounts of the LSC's contractual financial assets and financial liabilities are disclosed below.

2011	Contractual financial assets - loans and receivables	Contractual financial liabilities at amortised cost	Total
	\$	\$	\$
Contractual financial assets			
Cash and deposits	1,776,758	-	1,776,758
Receivables:			
Sale of goods and services	429,739	-	429,739
Total contractual financial assets	2,206,497	-	2,206,497
Contractual financial liabilities			
Supplies and services	-	261,993	261,993
Disputed costs	-	225,146	225,146
Borrowings:			
Lease liabilities	-	81,347	81,347
Total contractual financial liabilities	-	568,486	568,486

2010			
Contractual financial assets			
Cash and deposits	1,439,876	-	1,439,876
Receivables			
Sale of goods and services	364,117	-	364,117
Total contractual financial assets	1,803,993	-	1,803,993
Contractual financial liabilities			
Supplies and services	-	379,141	379,141
Disputed costs	-	408,504	408,504
Borrowings			
Lease liabilities	-	50,084	50,084
Total contractual financial liabilities	-	837,729	837,729

14.3. Credit risk

Credit risk arises from the contractual financial assets of the LSC, which comprise cash and cash deposits and receivables. The LSC's exposure to credit risk arises from the potential default of counter party on their contractual obligations resulting in financial loss to the LSC. Credit risk is measured at fair value and is monitored on a regular basis.

Credit risk associated with the LSC's financial assets is minimal because the amounts are held by Westpac Banking Corporation. The Commissioner pay a premium to ensure its accounts are covered by the government guarantee. Also, management has assessed the risk associated with the receivables as minimal because they are made up of income from the service agreement in place with the LSB.

In addition the LSC does not engage in hedging for its contractual financial assets and mainly obtains contractual financial assets that are fixed interest except for cash assets, which are mainly cash at bank. The LSC's policy is to only deal with banks with high credit ratings.

Provisions of impairment for contractual financial assets is recognised when there is objective evidence that the LSC will not be able to collect a receivable. Objective evidence includes financial difficulties of the debtor, default payments, debt which are more than 60 days overdue, and changes in debtor credit ratings.

Except as otherwise detailed in the following table, the carrying amount of contractual financial assets recorded in the financial statements, net of any allowances for losses, represent the LSC's maximum exposure to credit risk without taking account of the value of any collateral obtained.

14.4. Credit quality of contractual financial assets that are neither past due nor impaired

2011	FINANCIAL INSTITUTIONS	TOTAL
DOUBLE-A CREDIT RATING		
	\$	\$
Cash and deposits:	1,776,758	1,776,758
Total contractual financial assets	1,776,758	1,776,758
2010		
Cash and deposits:	1,439,876	1,439,876
Total contractual financial assets	1,439,876	1,439,876

14.5. Ageing analysis of contractual financial assets and interest rate exposure of financial assets

2011	WEIGHTED AVERAGE EFFECTIVE INTEREST RATE %	CARRYING AMOUNT	VARIABLE INTEREST RATE	NON-INTEREST BEARING	NOT PAST DUE AND NOT IMPAIRED
	\$	\$	\$	\$	\$
Receivables					
Accrued income	- %	429,654	-	429,654	429,654
Trade receivables	- %	85	-	85	85
Investments and other contractual financial assets					
Cash and deposits	4.77%	1,776,758	1,776,758	-	-
Total		2,206,497	1,776,758	429,739	429,739

2010	WEIGHTED AVERAGE EFFECTIVE INTEREST RATE %	CARRYING AMOUNT	VARIABLE INTEREST RATE	NON-INTEREST BEARING	NOT PAST DUE AND NOT IMPAIRED
Receivables:					
Accrued income	- %	361,450	-	361,450	361,450
Trade receivables	- %	2,667	-	2,667	2,667
Investments and other contractual financial assets					
Cash and deposits	3.61%	1,439,877	1,439,877	-	-
Total contractual financial assets		1,803,994	1,439,877	364,117	364,117

There are no material financial assets which are individually determined to be impaired. Currently the LSC does not hold any collateral as security nor credit enhancements relating to any of its financial assets.

There are no financial assets that have had their terms renegotiated so as to prevent them from being past due or impaired, and they are stated at their carrying amounts as indicated. The ageing analysis table above discloses the ageing only of contractual financial assets that are past due but not impaired.

14.6. Liquidity risk

Liquidity risk is the risk that the LSC would be unable to meet its financial obligations as and when they fall due. The LSC operates under the governments fair payment policy of settling financial obligations within 30 days and in the event of a dispute, making payments within 30 days from the date of resolution.

The LSC's maximum exposure to liquidity risk is the carrying amounts of financial liabilities as disclosed on the face of the balance sheet. The LSC manages its liquidity risk via:

- maintaining an adequate level of uncommitted funds that can be drawn at short notice to meet its short term obligations;
- holding investments and other contractual financial assets that are readily tradeable in the financial markets; and
- careful maturity planning of its financial obligations based on forecasts of future cash flows.

The LSC's exposure to liquidity risk is deemed insignificant based on prior period's date and current assessment of risk. Cash for unexpected events is generally sourced from liquidation of available for sale financial investments.

14.7. Maturity analysis of contractual financial liabilities and interest rate exposure

2011	Weighted average effective interest rate %	Carrying amount	INTEREST RATE EXPOSURE		Nominal amount	MATURITY DATES			
			Non-interest bearing	Variable interest rate		Less than 1 month	1 - 3 Months	3 Months - 1 year	1 - 5 Years
	\$	\$	\$	\$	\$	\$	\$	\$	\$
Contractual financial liabilities									
Interest bearing liabilities	6.54%	81,347	-	81,347	81,347	2,669	5,338	29,217	44,123
Payables	-%	606,984	606,984	-	606,984	261,993	344,991	-	-
		688,331	606,984	87,768	688,331	264,662	350,329	29,217	44,123

2011	Weighted average effective interest rate %	Carrying amount	INTEREST RATE EXPOSURE		Nominal amount	MATURITY DATES			
			Non-interest bearing	Variable interest rate		Less than 1 month	1 - 3 Months	3 Months - 1 year	1 - 5 Years
	\$	\$	\$	\$	\$	\$	\$	\$	\$
Contractual financial liabilities									
Interest bearing liabilities	6.62%	50,054	-	50,054	50,054	-	11,839	14,535	23,680
Payables	-%	893,698	893,698	-	893,698	379,140	514,558	-	-
		943,752	893,698	50,054	943,752	379,140	526,397	14,535	23,680

The above amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities.

14.8. Market risk

The LSC has insignificant exposure to market risk, currency risk and other price risk. Objectives, policies and processes used to manage each of these risks are disclosed below:

Foreign currency risk

The LSC is not exposed to foreign currency risk as it does not hold any foreign financial instrument.

Interest rate risk

Fair value interest rate risk is the risk that the fair value of a financial instrument will fluctuate because of changes in market interest rates. The LSC does not hold any interest bearing instruments that are measured at fair value, therefore has nil exposure to fair value interest rate risk.

The LSC has minimal exposure to cash flow interest rate risks through its cash and deposits that are at floating rates.

The LSC manages this risk by mainly undertaking fixed rate on non-interest bearing financial instruments with relatively even liquidity profiles, with only insignificant amounts of financial instruments at floating rate. Cash at bank, as financial assets can be left at floating rate without necessarily exposing the LSC to significant bad risk. Management monitors movement in interest rates on a daily basis.

Other price risk

The LSC does not believe it has any exposure to other price risk.

15. Reserves and retained earnings

	2011	2010
	\$	\$
Balance at beginning of financial year	955,098	977,644
Net result from transactions (net operating balance)	410,347	(17,138)
Gain (loss) on disposal of asset	(4,129)	6,751
Gains from revaluation of the LSL provision	7,994	(12,159)
Balance at end of financial year	1,369,310	955,098

16. Ex-gratia payments

<i>The Legal Services Commissioner has made the following ex-gratia payments</i>		
Payments made under section 4.2.16 of the <i>Legal Profession Act 2004</i>	26,500	-
	26,500	-

17. Responsible persons

In accordance with the Ministerial Directions issued by the Minister for Finance under the *Financial Management Act 1994*, the following disclosures are made regarding responsible persons for the reporting period.

(a) Names

The persons who held the positions of Ministers and Accountable Officer in the Legal Services Commissioner are as follows:

MINISTER		
Attorney-General	The Hon Rob Hulls, MP	01 July 2010 to 1 December 2010
	The Hon. Robert Clark, MP	2 December 2010 to 30 June 2011
Accountable Officer		
Accountable Officer	Mr Michael McGarvie	1 July 2010 to 30 June 2011

Remuneration

Remuneration received or receivable by the Accountable Officer in connection with the management of the Commissioner during the reporting period was in the range: \$260,000 to \$270,000 (2010: \$220,000 to \$230,000).

Amounts relating to Ministers are reported in the financial statements of the Department of Premier and Cabinet.

18. Remuneration of executives

The number of executive officers, other than Ministers and Accountable Officers, and their total remuneration during the reporting period are shown in the first two columns in the table below in their relevant income bands. The base remuneration of executive officers is shown in the third and fourth columns. Base remuneration is exclusive of bonus payments, long-service leave payments, redundancy payments and retirement benefits.

	TOTAL REMUNERATION		BASE REMUNERATION	
	2011	2010	2011	2010
Income Band				
less than \$100,000	1	-	1	-
\$150,000 - \$159,999	-	-	-	-
\$160,000 - \$169,999	-	-	-	-
\$170,000 - \$179,999	1	-	1	1
\$180,000 - \$189,999	-	1	1	-
\$190,000 - \$199,999	1	-	-	-
\$310,000 - \$319,999	-	-	-	1
\$350,000 - \$359,999	-	1	-	-
Total numbers	3	2	3	2
Total amount	420,205	537,028	407,096	511,388

19. Related party transactions

(a) Related party transactions

During the period the following related party transactions occurred:

	2011	2010
	\$	\$
As set out in note 1 E there are recharges between the Legal Services Commissioner and Legal Services Board	11,050,833	10,086,106
Total related party transactions	11,050,833	10,086,106

The LSC does share costs and services with the LSB. All transactions are at arms length. Shared costs are recharged on agreed rates.

20. Remuneration of auditors

	2011	2010
	\$	\$
(a) Victorian Auditor-General's Office		
Audit of financial statements	13,500	13,000
Total remuneration for audit and other assurance services	13,500	13,000

21. Subsequent events

There were no subsequent events to report.

22. Glossary of terms and style conventions

Commitments

Commitments include those operating, capital and other outsourcing commitments arising from non-cancellable contractual or statutory sources.

Comprehensive result

Total net result of all items of income and expense recognised for the period. It is the aggregate of operating result and other non-owner movements in equity.

Depreciation

Depreciation is an expense that arises from the consumption through wear and tear of time of a produced physical or intangible asset. This expense is classified as a 'transaction' and so reduces the 'net result from transactions'.

Employee benefits expenses

Employee benefits expenses include all costs related to employment including wages and salaries, leave entitlements, redundancy payments and superannuation contributions.

Financial asset

A financial asset is any asset that is:

- (a) cash;
- (b) an equity instrument of another entity;
- (c) a contractual right;
 - to receive cash or another financial asset from another entity; or
 - to exchange financial assets or financial liabilities with another entity under conditions that are potentially favourable to the entity; or
- (d) a contract that will or may be settled in the entity's own equity instruments and is:
 - a non-derivative for which the entity is or may be obliged to receive a variable number of the entity's own equity instruments; or
 - a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments.

Financial instrument

A financial instrument is any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity.

Financial assets or liabilities that are not contractual are not financial instruments.

Financial liability

A financial liability is any liability that is:

A contractual or statutory obligation;

- to deliver cash or another financial asset to another entity; or
- to exchange financial assets or financial liabilities with another entity under conditions that are potentially unfavourable to the entity.

Financial statements

Depending on the context of the sentence where the term 'financial statements' is used, it may include only the main financial statements (i.e. comprehensive operating statement, balance sheet, cash flow statements, and statement of changes in equity); or it may also be used to replace the old term 'financial report' used in the revised AASB 101 (September 2007), which means it may include the main financial statements and the notes.

Intangible assets

Intangible assets represent identifiable non-monetary assets without physical substance.

Interest income

Interest income includes interest received on bank term deposits, interest from investments, and other interest received.

Net result

Net result is a measure of financial performance of the operations for the period. It is the net result of items of revenue, gains and expenses (including losses) recognised for the period, excluding those that are classified as 'other non-owner changes in equity'.

Net result from transactions/ net operating balance

A net result from transactions or net operating balance is a key fiscal aggregate and is revenue from transactions minus expenses from transactions. It is a summary measure of the ongoing sustainability of operations. It excludes gains or losses resulting from changes in price levels and other changes in the volume of assets. It is the component of the change in net worth that is due to transactions and can be attributed directly to government policies.

Net worth

Assets less liabilities, which is an economic measure of wealth.

Non-financial assets

Non-financial assets are all assets that are not 'financial assets'.

Other economic flows

Other economic flows are changes in the volume or value of an asset or liability that do not result from transactions. It includes gains and losses from disposals, revaluations and impairments of non-current physical and intangible assets, fair value changes in financial instruments and depletion of natural assets (non-produced) from their use or removal. In simple terms, other economic flows are changes arising from market re-measurements.

Payables

Includes short and long term trade debt and accounts payable, grants and interest payable.

Receivables

Includes short and long term credit and accounts receivable, grants, taxes and interest receivable.

Transactions

Transactions are those economic flows that are considered to arise as a result of policy decisions, usually an interaction between two entities by mutual agreement. They also include flows within an entity such as depreciation where the owner is simultaneously acting as the owner of the depreciating asset and as the consumer of the service provided by the asset. Transactions can be in kind (e.g. assets provided/ given free of charge or for nominal consideration) or where the final consideration is cash. In simple terms, transactions arise from the policy decisions of the government.

Style conventions

Figures in the tables and in the text have been rounded. Discrepancies in tables between totals and sums of components reflect rounding.

The notation used in the tables is as follows:

-	zero, or rounded to zero
(XXX)	negative numbers
20XX	year period
20XX-XX	year period

The financial statements and notes are presented based on the illustration for a government department in the 2011-12 *Model report for Victorian Government departments*. The presentation of other disclosures is generally consistent with the other disclosures made in earlier publications of the LSC's annual reports.

VAGO

Victorian Auditor-General's Office

INDEPENDENT AUDITOR'S REPORT

To the Legal Services Commissioner

The Financial Report

The accompanying financial report for the year ended 30 June 2011 of Legal Services Commissioner which comprises the comprehensive operating statement, balance sheet, statement of changes in equity, cash flow statement, notes comprising a summary of significant accounting policies and other explanatory information, and the accountable officer's and chief finance and accounting officer's declaration has been audited.

The Commissioners' Responsibility for the Financial Report

The Legal Services Commissioner is responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards, including the Australian Accounting Interpretations, and the financial reporting requirements of the *Financial Management Act 1994*, and for such internal control as the Commissioner determine is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

As required by the *Audit Act 1994*, my responsibility is to express an opinion on the financial report based on the audit, which has been conducted in accordance with Australian Auditing Standards. Those Standards require compliance with relevant ethical requirements relating to audit engagements and that the audit be planned and performed to obtain reasonable assurance about 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 audit procedures selected depend on judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, consideration is given to the internal control 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 control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Commissioner, as well as evaluating the overall presentation of the financial report.

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

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Auditing in the Public Interest

VAGO

Victorian Auditor-General's Office

Independent Auditor's Report (continued)

Independence

The Auditor-General's independence is established by the *Constitution Act 1975*. The Auditor-General is not subject to direction by any person about the way in which his powers and responsibilities are to be exercised. In conducting the audit, the Auditor-General, his staff and delegates complied with all applicable independence requirements of the Australian accounting profession.

Opinion

In my opinion, the financial report presents fairly, in all material respects, the financial position of the Legal Services Commissioner as at 30 June 2011 and of its financial performance and its cash flows for the year then ended in accordance with applicable Australian Accounting Standards, including the Australian Accounting Interpretations, and the financial reporting requirements of the *Financial Management Act 1994*.

Matters Relating to the Electronic Publication of the Audited Financial Report

This auditor's report relates to the financial report of the Legal Services Commissioner for the year ended 30 June 2011 included both in the Legal Services Commissioner's annual report and on the website. The Legal Services Commissioner is responsible for the integrity of the Legal Services Commissioner's website. I have not been engaged to report on the integrity of the Legal Services Commissioner's website. The auditor's report refers only to the subject matter described above. It does not provide an opinion on any other information which may have been hyperlinked to/from these statements. If users of the financial report are concerned with the inherent risks arising from publication on a website, they are advised to refer to the hard copy of the audited financial report to confirm the information contained in the website version of the financial report.

MELBOURNE
2 September 2011



for D D R Pearson
Auditor-General

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Auditing in the Public Interest

Complaints data

This chapter provides information about complaints handled by the LSC in the period 1 July 2010 to 30 June 2011.

It covers complaints handled under the *Legal Profession Act 2004* as well as outstanding complaints and disputes inherited under the *Legal Practice Act 1996* (the old Act).

The data is presented in two parts:

Part 1

Covers complaints handled in 2010-11 under the *Legal Profession Act 2004*.

Part 2

Covers complaints and disputes outstanding under the old Act.

Reason for complaints data in two parts

The complaints data is in two separate parts because the definition of complaint under the *Legal Profession Act 2004* includes a complaint about the conduct of a lawyer as well as a civil (costs) dispute whereas under the old Act a complaint was confined to disciplinary conduct. Accordingly, it is not possible to merge data from the old Act files with data under the current regime.

How to read the complaints section

As the complaints data is presented in two parts, it is necessary to consider the data in both parts to best understand the workload and outcomes of the LSC. For example, the total number of complaints finalised by the LSC during 2010-11 can be obtained by adding the figures in Figure 33 (Part 1) and Figure 44 (Part 2). That is, 2,609 'new Act' plus 4 'old Act' matters equals 2,613 finalisations.

Complaints and disputes under the *Legal Profession Act 2004*

Figure 25: Enquiries received

The following table shows the number of enquiries received including the outcomes.

YEAR	COMPLAINT FORM SENT	INFORMATION PROVIDED – NO FURTHER ACTION TAKEN	REFERRAL TO OTHER BODY	NO JURISDICTION	TOTAL ENQUIRIES RECEIVED
2010-11	2,270 (50%)	1,635 (35%)	597 (13%)	70 (2%)	4,572
2009-10	2,590 (50%)	1,666 (32%)	899 (17%)	47 (1%)	5,202
2008-09	2,142 (40%)	2,450 (44%)	853 (15%)	11 (1%)	5,456

Figure 26: New complaints received

The following table shows the number of new complaints received by complaint type.

YEAR	CIVIL ONLY	DISCIPLINARY ONLY	MIXED	ALL CIVIL	ALL DISCIPLINARY	TOTAL COMPLAINTS
2010-11	812 (41%)	992 (50%)	180 (9%)	992 (41%)	1,172 (59%)	1,984
2009-10	568 (25%)	1,094 (50%)	549 (25%)	1,117 (51%)	1,643 (74%)	2,211
2008-09	539 (26%)	1,196 (58%)	322 (16%)	861 (42%)	1,518 (74%)	2,057

Figure 27: New complaints by lawyer type

The following table shows the number of new complaints received by lawyer type.

	CIVIL	DISCIPLINARY	MIXED	TOTAL 2010-11
Solicitors	794 (42%)	914 (48%)	171 (10%)	1,879 (95%)
Barristers	18 (17%)	78 (74%)	9 (9%)	105 (5%)
Total	812	992	180	1,984

Figure 28: Investigations commenced

The following table shows the number of investigations commenced by the LSC and those referred to the Prescribed Investigatory Bodies (PIBs).

INVESTIGATIONS	2008-09	2009-10	2010-11
Investigations by LSC	528 (81%)	581 (77%)	333* (74%)
Investigations referred to PIBs	124 (19%)	168 (23%)	116 (26%)
Total investigations	652	749	449

*The decrease in the number of 'investigations' is as a result of the way in which new complaints are now assessed and allocated. If complaints were assessed as in previous years this number would be 597.

Figure 29: Investigations referred to PIBs

The following table shows the number of investigations referred to the PIBs.

INVESTIGATIONS REFERRED TO PIBs	2008-09	2009-10	2010-11
Investigations referred to LIV	105	126*	86#
Investigations referred to BAR	19	15**	30#
Total	124	141	116

*The LIV was referred an additional 25 investigations relating to complaints received in 2009-10.

**The Bar was referred an additional 2 investigations relating to complaints received in 2009-10.

In 2010-11, a further 144 complaints containing a civil dispute were delegated to the LIV and the Bar were delegated a further four complaints containing civil disputes.

Figure 30: Own motion investigations

The following table shows the number of own motion investigations commenced by the LSC.

BASIS FOR OWN MOTION INVESTIGATION	PRELIMINARY INVESTIGATION		OWN MOTION INVESTIGATION		TOTAL	
	2009-10	2010-11	2009-10	2010-11	2009-10	2010-11
Trust account report	5	5	4	11	9	16
Referral from other agency (including a court)	3	8	22	26	25	34
LSC complaint file	2	3	9	12	11	15
Media	0	2	2	2	2	4
Other	0	1	0	1	0	2
Total	10	19	37	52	47	71

Figure 31: Allegations featured in new complaints

The following table shows the type of allegations featured in new complaints. A complaint may contain a number of allegations. This means there are more allegations than complaints.

NATURE OF ALLEGATION	2008-09	2009-10	2010-11
Costs/Bills	938	1,030	838
Negligence – including bad case handling	444	623	369
Trust money – including failure to account, mismanagement of funds	134	169	133
Dishonest/Misled	137	152	131
Documents – including retention and lost	90	134	108
Communication with client – including failure to return calls, give progress reports	192	171	102
Instructions – including failure to comply	107	145	92
Conflict of interest	87	125	86
Delays	109	76	81
Duress/Pressure/Intimidation	62	73	66
Breach of Act, rules, court order or undertaking	94	139	65
Abusive/Rude	89	88	60
Costs communication – including failure to comply with s3.3.9 of the Act	97	88	33
Debts – including practitioner’s failure to pay	25	26	33
Gross overcharging	No data	26	17
Communication with other party	20	21	14
Confidentiality breach	14	20	11
Court system	4	9	5
Advertising	7	3	4
Sexual impropriety	2	1	0
Other disciplinary issues	285	162	162

Figure 32: Areas of law featured in new complaints

The following table shows the areas of law that featured in new complaints. As with previous years, the areas of law that affect individuals in their private capacity continued to attract the highest number of complaints: namely, family law and probate and estate. Conveyancing also remains a high volume area.

AREA OF LAW	2008-09	2009-10	2010-11
Family/Defacto	464 (23%)	512 (23%)	443 (22%)
Conveyancing	184 (9%)	197 (9%)	240 (12%)
Probate & Estate	232 (11%)	214 (10%)	201 (10%)
Commercial	188 (9%)	217 (10%)	171 (9%)
Criminal	145 (7%)	115 (5%)	138 (6%)
Debt Collection	95 (5%)	85 (4%)	74 (3%)
Workers Compensation	73 (4%)	87 (4%)	69 (3%)
Personal Injury*	49 (2%)	76 (4%)	63 (3%)
Wills	44 (2%)	59 (3%)	57 (2%)
Building#	43 (2%)	50 (2%)	48 (2%)
Industrial Relations	37 (2%)	39 (2%)	47 (2%)
Leasing	46 (2%)	45 (2%)	46 (2%)
Motor Vehicle Repairs/Claims	29 (1%)	18 (1%)	35 (2%)
Company	12 (1%)	22 (1%)	34 (2%)
Mortgages	46 (2%)	36 (2%)	33 (2%)
Breach of Legal Practice Act/Regs	No data	26 (1%)	27 (1%)
Administrative	45 (2%)	33 (2%)	21 (1%)
Defamation	11 (1%)	5 (1%)	20 (1%)
Insolvency	10 (1%)	6 (1%)	13 (1%)
Planning	13 (1%)	12 (1%)	12 (1%)
Crimes Compensation	5 (1%)	22 (1%)	10 (1%)
Immigration	11 (1%)	17 (1%)	10 (1%)
Personal Injury – Motor Vehicle Accident	30 (2%)	14 (1%)	9 (1%)
Equal Opportunity	10 (1%)	11 (1%)	9 (1%)
Intellectual Property	11 (1%)	7 (1%)	7 (1%)
Banking	4 (1%)	7 (1%)	6 (1%)
Civil Liberties	11 (1%)	11 (1%)	4 (1%)
Taxation	6 (1%)	9 (1%)	4 (1%)
Trade Practices	3 (1%)	5 (1%)	2 (1%)
Environmental	5 (1%)	0 (1%)	1 (1%)
Other/Unsure	195 (10%)	254 (12%)	130 (7%)
Total	2,057	2,211	1,984

*In previous reporting periods this area of law was separated into Personal Injury – Industrial (6 complaints in 2009-10; 5 in 2008-09) and Personal Injury – Other (70 complaints in 2009-10; 40 in 2008-09).

#In previous reporting periods this area of law was separated into Residential (41 complaints in 2009-10; 34 in 2008-09) or Commercial Building Law (9 complaints in 2009-10; 9 in 2008-09).

Figure 33: Complaints finalised

The following table shows the number of complaints finalised by the LSC in 2010-11 by complaint type.

YEAR	CIVIL	DISCIPLINARY	MIXED (CIVIL & DISCIPLINARY)	TOTAL
2010-11	836 (32%)	1,322 (51%)	451 (17%)	2,609
2009-10	455 (26%)	923 (51%)	418 (23%)	1,796
2008-09	534 (28%)	1,101 (58%)	258 (14%)	1,893

Figure 34: Time taken to finalise complaints

The following table shows the time taken to finalise complaints in 2010-11 compared with the time taken to close complaints in previous years.

DAYS SINCE RECEIPT OF COMPLAINT	<30	31-60	61-90	91- 120	+120	TOTAL
CIVIL DISPUTE						
2010-11	217	152	119	94	254	836
2009-10	119	76	51	57	152	455
2008-09	117	102	81	60	174	534
DISCIPLINARY						
2010-11	265	147	121	94	695	1,322
2009-10	155	112	97	81	478	923
2008-09	242	140	106	88	525	1,101
MIXED (CIVIL & DISCIPLINARY)						
2010-11	23	19	24	23	362	451
2009-10	37	26	37	47	271	418
2008-09	34	34	33	20	137	258
Total						
2010-11	505	318	264	211	1,311	2,609
2009-10	311	214	185	185	901	1,796
2008-09	393	276	220	168	836	1,893

Figure 35: Outcomes of closed civil complaints

The following table shows the outcomes of the closed civil complaints.

CIVIL COMPLAINT OUTCOMES	2008-09	2009-10	2010-11
LSC settled the civil dispute between lawyer and client (includes where client satisfied with lawyer's response and withdrew complaint)	234 (44%)	218 (48%)	473 (56%)
LSC was unable to settle the civil dispute and parties were advised of their right to apply to VCAT	87 (16%)	60 (13%)	132 (16%)
Complainant failed to lodge unpaid disputed costs	49 (9%)	53 (11%)	48 (6%)
Complaint made out of time	16 (3%)	27 (6%)	28 (3%)
Complaint involved costs dispute which exceeded \$25,000	13 (2%)	27 (6%)	38 (5%)
Complaint about Family Court costs (and referred to Family Court)	24 (5%)	1 (1%)	0
Complainant failed to provide further information when requested	17 (3%)	9 (2%)	12 (2%)
Complaint made before (or subject of another complaint)	11 (2%)	5 (1%)	1 (1%)
Complaint not one that the LSC has power to deal with (eg. matter has already been dealt with/should be dealt with by a court)	46 (9%)	18 (4%)	24 (3%)
Complaint lacked legal substance (eg. dispute already settled)	16 (3%)	11 (2%)	38 (5%)
Lawyer had already issued debt collection proceedings	21 (4%)	26 (6%)	40 (5%)
Practitioner deceased	0	0	1 (1%)
Practitioner ill health or not able to be located	0	0	1 (1%)
Total	534	455	836

Figure 36: Outcomes of closed disciplinary complaints

The following table shows the outcomes of the closed disciplinary complaints.

DISCIPLINARY COMPLAINT OUTCOMES	2008-09	2009-10	2010-11
LSC formed view that VCAT likely to find lawyer guilty of a disciplinary breach	77 (7%)	64 (7%)	152 (11%)
LSC formed view that VCAT unlikely to find lawyer guilty of a disciplinary breach	345 (31%)	254 (28%)	338 (26%)
Complainant satisfied with lawyer's explanation and withdrew complaint	161 (15%)	211 (23%)	333 (25%)
Complaint made out of time	16 (2%)	5 (1%)	14 (1%)
Complaint made before (or subject of another complaint)	23 (2%)	18 (2%)	15 (1%)
Complaint did not contain enough information (eg. did not include complainant's details)	1 (1%)	0	0
Complainant failed to provide further information when requested	108 (10%)	75 (8%)	48 (4%)
Complaint lacked legal substance etc (eg. alleged conduct was not inappropriate)	170 (15%)	104 (11%)	157 (12%)
Complaint about practitioner/client relationship and duties but made by third party (eg. not the client)	30 (3%)	26 (3%)	36 (3%)
LSC formed the view that complaint required no further investigation (eg. practitioner not obliged to accept instructions from complainant)	43 (4%)	67 (7%)	172 (13%)
Complaint not one that the LSC has power to deal with (eg. involves question of law and better dealt with by a court)	115 (10%)	89 (10%)	47 (4%)
Practitioner deceased	1 (1%)	2 (1%)	1 (1%)
Practitioner ill health or not located	11 (1%)	8 (1%)	2 (1%)
Closed due to ongoing proceedings	No data	No data	7 (1%)
Total	1,101	923	1,322

Figure 37: Outcomes of closed mixed complaints – two outcomes

The following tables show the outcomes of the closed mixed complaints. Most mixed complaints have two outcomes – a disciplinary outcome and a civil outcome. However, some mixed complaints have only one outcome because, for example, the practitioner could not be located.

DISCIPLINARY OUTCOME	CIVIL OUTCOME		WITHDRAWN	SUMMARY DISMISSAL	OTHER	TOTAL
	DISPUTE RESOLVED	DISPUTE NOT RESOLVED				
LSC formed view that VCAT likely to find practitioner guilty of a disciplinary breach	10	22	0	15	4	51
LSC formed view that VCAT unlikely to find practitioner guilty of a disciplinary breach	12	65	5	89	11	182
Withdrawn	81	10	29	9	5	134
Summary Dismissal	7	20	5	15	4	51
Total	110	117	39	128	24	418

In the above table the items identified as 'other' are mixed complaints where the complainant has failed to lodge the outstanding costs in dispute and therefore that aspect of the complaint has been dismissed.

Figure 38: Outcomes of closed mixed complaints – one outcome

GENERIC OUTCOME	2008-09	2009-10	2010-11
Practitioner ill health or not located	1	1	2
Complaint made before (or subject of another complaint)	5	2	4
Complaint did not contain enough information	0	0	0
Complainant failed to provide further information when requested	30	16	9
Complaint made out of time (exceeded 6 years)	2	4	3
Legal proceedings already on foot	22	18	9
Complaint not one that the LSC has power to deal with	14	17	4
Closed due to ongoing proceedings	0	0	2
Total	74	58	33

Figure 39: Alternative disciplinary actions

The following table shows the number of alternative disciplinary actions taken by the LSC. (See page 16 for an explanation of alternative disciplinary actions).

ALTERNATIVE DISCIPLINARY ACTION	2008-09	2009-10	2010-11
LSC reprimanded practitioner	37	30	67
Practitioner found generally competent and diligent so no further action	28	27	44
LSC cautioned practitioner	13	9	9
Practitioner pays compensation as a condition of LSC not making a disciplinary application to VCAT	3	2	9
Total	81	68	129

Figure 40: Disciplinary applications to VCAT

The following table shows the number of disciplinary applications made to VCAT in 2010-11. During 2010-11, the LSC made 38 new applications to VCAT. This number represents the 36 applications made under the *Legal Profession Act 2004* plus the two applications made under the *Legal Practice Act 1996* (see Figure 44).

DISCIPLINARY APPLICATIONS UNDER LEGAL PROFESSION ACT 2004	HEARD BY VCAT DURING 2010-11	FILED AND YET TO BE HEARD AND/OR AWAITING ORDERS BY VCAT AS AT 30 JUNE 11	TOTAL
Disciplinary applications made in 2010-11	9	27	36
Disciplinary applications made in previous years	8	0	8
Total	17	27	44

Figure 41 : Complaints outstanding

The following table shows the number of outstanding complaints by complaint type.

DAYS SINCE RECEIPT OF COMPLAINT	<30	31-60	61-90	91- 120	+120	TOTAL
CIVIL DISPUTE						
2010-11	61	48	21	17	53	200
2009-10	69	64	31	31	46	241
2008-09	28	15	26	13	21	103
DISCIPLINARY						
2010-11	59	46	38	40	334	517
2009-10	73	69	64	59	628	893
2008-09	69	73	67	51	420	680
MIXED (CIVIL & DISCIPLINARY)						
2010-11	7	6	8	7	103	131
2009-10	14	5	13	20	329	381
2008-09	35	28	28	26	138	255
Total						
2010-11	127	100	67	64	490	848
2009-10	156	138	108	110	1,003	1,515
2008-09	132	116	121	90	579	1,038

Figure 42: Disciplinary applications heard and determined in the reporting period

NO.	VCAT REF.	DATE CHARGE REFERRED	HEARING DATE(S)	NAME OF LEGAL PRACTITIONER	TYPE OF CHARGES	FINDING OF VCAT	DATE AND ORDERS MADE
1	J39/2009	10/03/2009	15/05/2009; 18/9/09; 22/10/2009; 4/11/2009; 25/8/2010	SHULSINGER, Zvi	Misconduct at common law: failure to take sufficient care to ascertain the accuracy of the content of an affidavit (x2); Unsatisfactory professional conduct: failure to take sufficient care to ensure information and instructions conveyed were accurate and complete and not liable to mislead	(Note: The finding in this matter occurred in the 2009-10 period, with the penalty yet to be determined) Misconduct at common law ; Unsatisfactory professional conduct.	25/8/2010 – (Order re penalty only) reprimanded; fined \$6,000; pay LSC costs fixed at \$36,000
2	J22/2010	11/03/2010	2&16/03/2010; 3/05/2010; 18&19/08/2010; 5/4/2011	OWENS, Suzann	Professional misconduct: contravention of s2.2.2(1) - engaging in legal practice whilst not an Australian legal practitioner (x7); further and alternatively professional misconduct as defined at common law (x7); attempting to engage in legal practice whilst not an Australian legal practitioner. (18/08/2010: LSC withdrew 7 charges in the alternative)	Professional misconduct; Misconduct at common law - in relation to this application and J297/2007 (an Application made under the '1996 Act' - see Part 2 - Figure 46)	14/10/ 2010 - not to apply for any practising certificate that comes into operation before 24/02/2015; pay LSC costs fixed at \$29,074.70
3	J37/2010	6/05/2010	8/07/2010	BLAZEVIC, Maria	Professional misconduct: contravention s4.4.11(1) (a) - failure to comply with a request to provide full written explanation of conduct regarding a disciplinary complaint	Professional misconduct	9/07/2010 - Local practicing certificate suspended for four months from 30/07/2010; attend course 'Ethics and Professional Responsibility'; must provide proof of attendance - if not provided period of suspension extended to 4/02/2011; pay LSC costs fixed at \$3,517.80
4	J38/2010	6/05/2010	8/07/2010	BLAZEVIC, Maria	Professional misconduct: contravention s4.4.11(1) (a) - failure to comply with a request to provide full written explanation of conduct regarding a disciplinary complaint	Professional misconduct - see J37/2010	9/07/2010
5	J36/2010	7/05/2010	2&3/08/2010	MORGAN, Stuart	Professional misconduct: contravention s4.4.11(1) (a) - failure to comply with a request to provide full written explanation of conduct regarding a disciplinary complaint	Professional misconduct in relation to this application, J56/2010, J57/2010 and J74/2010	3/08/2010 - Provide full written explanation of conduct; not apply for local practising certificate to practice on his own account that comes into operation prior to 1/01/2013, and as an employee prior to 1/07/2011; pay LSC costs fixed at \$3,764.70

NO.	VCAT REF.	DATE CHARGE REFERRED	HEARING DATE(S)	NAME OF LEGAL PRACTITIONER	TYPE OF CHARGES	FINDING OF VCAT	DATE AND ORDERS MADE
6	J50/2010	27/05/2010	8/07/2010	BLAZEVIC, Maria	Professional misconduct: contravention s4.4.11(1) (b)- failure to comply with a request to provide copies of files regarding a disciplinary complaint	Professional misconduct - see J37/2010	9/07/2010
7	J46/2010	22/05/2010	12&13/7/2010	HESSION, Robert Anthony Brendon	Professional misconduct: engaging in conduct that justifies finding that practitioner is not a fit and proper person to engage in legal practice namely charging executor's commission on estate of deceased when no entitlement to do so; dishonest and misleading some beneficiaries of an estate in relation to charging of executor's commission and failing in duties to beneficiaries of an estate; further and alternative misconduct at common law (x2)	Professional misconduct being misconduct at common law; Unsatisfactory professional conduct	5/10/2010 - Practitioner gave undertaking to Tribunal to - participate in workshops or courses re probate and administration of deceased estates; not act as executor of a Will or administrator of deceased estate until participated in workshops or courses (with one exception); ensure familiar with practice rules re probate and administration of deceased estates; fined \$30,000; pay LSC costs fixed at \$38,161.90
8	J56/2010	28/06/2010	2&3/8/2010	MORGAN, Stuart	Professional misconduct or alternatively misconduct at common law: engaging in a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence and engaging in gross delay in returning documents after being requested to do so by a solicitor acting for the plaintiff in a matter, the Legal Services Commissioner and others, and being ordered to do so by the Supreme Court	Professional misconduct - see J36/2010	3/08/2010
9	J57/2010	28/06/2010	2&3/8/2010	MORGAN, Stuart	Professional misconduct: contravention of s4.4.11(1) (a) - failure to comply with a request to provide a full written explanation of conduct regarding a disciplinary complaint	Professional misconduct - see J36/2010	3/08/2010
10	J58/2010	2/07/2010	3/08/2010; 23/09/2010; 22/10/2010	MORGAN, Stuart	Unsatisfactory professional conduct: failure to reach or maintain a reasonable standard of competence and diligence; failure to use best endeavours to complete legal work as soon as reasonably possible (x2); failure to communicate effectively and promptly (x2); delay.	Unsatisfactory professional conduct; Charges 1 and 4 dismissed	22/10/2010 Not to apply for practising certificate that comes into operation before 1/07/2013 to practice on his own account, as an employee before 1/10/2010; pay LSC costs fixed at \$2,730.20

NO.	VCAT REF.	DATE CHARGE REFERRED	HEARING DATE(S)	NAME OF LEGAL PRACTITIONER	TYPE OF CHARGES	FINDING OF VCAT	DATE AND ORDERS MADE
11	J74/2010	20/07/2010	3/08/2010	MORGAN, Stuart	Professional misconduct: contravention s4.4.11(1)(a) - failure to comply at the required or at any time with a request of the LSC to provide a full written explanation of conduct regarding a disciplinary complaint	Professional misconduct - see J36/2010	3/08/2010
12	J78/2010	4/08/2010	25/08/2010; 4/10/2010; 24/05/2011	NOWICKI, Harry	Professional misconduct: swearing an affidavit knowing that it contained false statements; alternatively to charge 1 sought to file in Court and rely upon an affidavit he swore that contained false statements; causing a letter to be sent enclosing false and/or backdated documents purporting to be documents pursuant to s86 of the 1996 Act; Further and/or in the alternative to charges 1, 2 & 3, Unsatisfactory professional conduct: contravention s86 of the 1996 Act; In the alternative to charge 4 Unsatisfactory conduct: contravention s86 of the 1996 Act	Professional misconduct being misconduct at common law; Unsatisfactory professional conduct	24/5/2011: reprimanded; fined \$15,000; pay LSC costs fixed at \$15,000
13	J80/2010	5/08/2010	25/08/2010; 18/02/2011; 11/04/2011; 1/4/2011	LAWRENCE, John	Professional misconduct: engaging in legal practice when not entitled to do so (x4); representing or advertising entitled to engage in legal practice when not entitled to do so; Misconduct at common law - deliberately or recklessly misleading the Tribunal	Professional misconduct	11/04/2011 - Upon giving an undertaking not to make application to renew his practising certificate at any time subsequent to the expiration of his current PC, and upon the basis such undertaking may be used as a complete bar to any such application - fined \$5,000; pay LSC costs fixed at \$11,429.30
14	J88/2010	6/09/2010	22/10/1020; 1/03/2011; 14/04/2011	JOHAL, Sharon Jeet	Professional misconduct at common law: deliberately forging a medical certificate and giving it to her employer; further and in the alternative, Professional misconduct: not a fit and proper person; further and in the alternative contravention rule 30.1.1 PC&PR 2005	Professional misconduct	14/04/2011 - reprimanded; fined \$3,500; pay LSC costs to be taxed in default of agreement

NO.	VCAT REF.	DATE CHARGE REFERRED	HEARING DATE(S)	NAME OF LEGAL PRACTITIONER	TYPE OF CHARGES	FINDING OF VCAT	DATE AND ORDERS MADE
15	J92/2010	30/09/2010	10/02/2011	McCRISTAL, John Hugh	Professional misconduct: failure to deposit trust money into Trust Account (x2); without reasonable excuse causing a deficiency in Trust Account (x2); Misconduct at common law: breach of fiduciary duty in relation to implementing a scheme which had the effect that disbursement amounts were appropriated for own use and benefit (x2)	Professional misconduct; Misconduct at common law	10/02/2011 - reprimanded; fined \$25,000.00; pay LSC costs fixed at \$6,715.
16	J101/2010	14/10/2010	22/12/2010 ; 24/03/2011	COMITO, Anthony	Professional misconduct at common law: the legal practitioner certified that he was instructed and employed by an individual and had explained effect of a guarantee and indemnity to that individual when was not a legal practitioner instructed and employed by that individual, nor had he explained effect of guarantee and indemnity to that individual; purporting to witness signing of a guarantee and indemnity when did not in fact do so; purported to witness signing of an original facility agreement when did not in fact do so; purported to witness a mortgage of land when did not in fact do so; in the alternative professional misconduct (x4)	Misconduct at common law	24/03/2011: reprimanded; fined of \$10,000; pay LSC costs fixed at \$5,519
17	J123/2010	30/11/2010	21/01/2011; 27/04/2011	HORSLEY, Bernard	Professional misconduct: misleading client and/ or nominee in relation to an application to VOCAT - alternatively, acting contrary to rule 1.1 of the Professional Conduct & Practice Rules 2005; breach r 1.2 - failure to use best endeavours to complete legal work as soon as reasonably possible; breach r 39.1 - failure to communicate effectively and promptly with client or nominee; Unsatisfactory professional conduct - breach of r 23.2 of PCPR 2005 - failure to deliver clients file promptly to fellow legal practitioner	Professional misconduct and Unsatisfactory professional conduct. Charges 2,3 & 4 fall away	27/04/2011- reprimanded; fined \$2,500; pay LSC costs fixed at \$5,500

Figure 43: Disciplinary applications referred to VCAT in the reporting period in which the application was awaiting hearing and/or determination as at 30 June 11

NO.	DATE CHARGE REFERRED	TYPE OF CHARGES	STATUS
Case 1	26/07/2010	Misconduct at common law: acting in a position of conflict of interest; further or alternatively Professional misconduct	Awaiting decision
Case 2	27/09/2010	Professional misconduct and Unsatisfactory professional conduct: breach s3.3.14(1)(a) & (b) - without reasonable excuse causing a deficiency in trust account; failure to pay or deliver trust money (x3); breach s3.3.28(6) of the regulations and s3.3.14(3) of the Act - failure to furnish trust account statement; breach s3.3.25(1) & (2) of the Act - failure to keep trust records in accordance with the regulations; breach Professional Conduct & Practice Rules 2005 [r39.1] - failure to communicate effectively and promptly, and delay in attending to stamping of transfers; breach s86(1) and (3) of the 1996 Act - failing to make any costs disclosure	Listed for hearing 7 July 2011
Case 3	8/11/2010	Professional misconduct: unauthorised withdrawal of trust money (x3); failure to deposit trust money as soon as practical (x2); without reasonable excuse causing a deficiency in a trust account (x3); Common law misconduct: breach of fiduciary duty in relation to appropriation of disbursement amounts for own use and benefit (x3); gross breach of professional duty by engaging or participating in a scheme designed to withhold payment of disbursement amounts (x3)	Awaiting hearing date
Case 4	8/11/2010	Professional misconduct: unauthorised withdrawal of trust money (x3); failure to deposit trust money as soon as practical (x2); without reasonable excuse caused a deficiency in a trust account (x3); Common law misconduct: breach of fiduciary duty in relation to engaging or participating in a scheme which had the effect that disbursement amounts were appropriated for own use and benefit (x3); withholding payment of disbursement amounts thereby systemically and, or alternatively, persistently acting in gross breach of profession duty (x3)	Awaiting hearing date
Case 5	8/11/2010	Professional misconduct: unauthorised withdrawal of trust money (x3); failure to deposit trust money as soon as practical (x2); causing a deficiency in a trust account without reasonable excuse (x3); Common law misconduct: breach of fiduciary duty in relation to appropriation of disbursement amounts for own use and benefit (x3); gross breach of professional duty by engaging or participating in a scheme designed to withhold payment of disbursement amounts (x3)	Awaiting hearing date
Case 6	12/11/2010	Misconduct at common law: practitioner acted in breach of his obligations under the Professional Conduct & Practice Rules 2005 [r8.2 and/or r8.4]; breach of paragraph 28.1 of rules - representing to others OBO a client as true, things where he knew were untrue and or reasonably believed, were untrue; further or alternatively professional misconduct (x2)	Listed for hearing 1 August 2011
Case 7	11/01/2011	Professional misconduct: contravention of the Professional Conduct & Practice Rules 2005 [r22.1] - releasing money in breach of an undertaking given; Unsatisfactory professional conduct - contravention rule 32.1A - obtaining a loan without written acknowledgement being obtained from executor in form in schedule to the rules	Listed for hearing 11 July 2011
Case 8	11/01/2011	Professional misconduct: unauthorised receipt of trust money; breach of rule 1.2 of the Professional Conduct and Practice Rules 2005 - failure to use best endeavours to complete legal work; failure to provide file and further information as requested by Legal Services Commissioner	Listed for hearing 22 September 2011
Case 9	1/02/2011	Professional misconduct: failure to lodge a genuine document - creating and lodging a false document - failure to pay an amount to State Revenue Office for stamp duty, instead using amount for own use and benefit; alternatively professional misconduct as defined at common law.	Awaiting hearing date
Case 10	1/02/2011	Professional misconduct: failure to lodge a genuine document - creating and lodging a false document - failure to pay an amount to State Revenue Office for stamp duty (x3); alternatively professional misconduct at common law (x3);	Awaiting hearing date
Case 11	2/03/2011	Common law misconduct: dishonestly preparing and acting upon a notice of rescission knowing it to be without foundation; preparing and acting upon a notice of rescission knowing it to be without foundation; applying money held in his trust account as stakeholder where no basis to do so.	Listed for hearing on 25 August 2011
Case 12	4/03/2011	Professional misconduct: failure to use best endeavours to finalise the administration of an estate as soon as reasonably possible	Listed for hearing 4 October 2011
Case 13	4/03/2011	Professional misconduct: engaging in legal practice when not an Australian legal practitioner (x2)	Listed for hearing 4 October 2011
Case 14	40623	Professional misconduct: engaging in conduct that led to conviction for a tax offence; falsely and misleadingly stating in the context of disclosing a show cause event, that legal practitioner had diligently attended to lodgement of returns when in fact returns were not lodged on time and penalty notices were issued; further and alternatively, misconduct at common law	Awaiting hearing date

NO.	DATE CHARGE REFERRED	TYPE OF CHARGES	STATUS
Case 15	5/04/2011	Professional misconduct at common law: purporting to act for a person and commence legal proceedings on behalf of that person without any or any proper instructions; purporting to act as legal practitioner for a person and commence legal proceedings for that person without - clarifying her instructions - permitting her to obtain alternative legal advice or engage her choice of lawyer - obtaining full instructions from her - advising her about the litigation process, likely costs and likely period of time - advising her in any way of consequences of embarking upon litigation, especially as to her rights and obligations to her insurer - advising her of her possible liability for costs and risk to pay costs to other parties; Misconduct at common law by carrying on his practice with deliberate or reckless disregard for the rights and obligations of the person; breach of Professional Conduct and Practice Rules 2005 (r39.1) - failing to communicate effectively and promptly with clients; Unsatisfactory professional conduct: failure to give a concise written statement setting out matters required to be provided under ss 86(1) and (3) of the 1996 Act	Listed for hearing 17 August 2011
Case 16	15/04/2011	Professional misconduct: Unauthorised withdrawal of trust money in contravention of section 174(3) of the 1996 Act (x2); failure to notify auditor of deficiency in contravention of rule 32 of the Trust Account Practice Rules; having a deficiency in a trust account in contravention of section 188(1) of the 1996 Act (x2), failure to keep a register of investments and securities in contravention of rule 22, unauthorised depositing of trust money held for more than one person in a common account in contravention of rule 45 and section 3.3.14(1) of the 2004 Act; failure to notify of an irregularity in a trust account in contravention of section 3.3.22(1) of the 2004 Act, failure to maintain a register of investment of trust money required by regulation 3.3.30 of the Legal Profession Regulations; failure to keep trust account records adequately, failure to keep trust account records in a way that enabled records to be investigated and/or audited in contravention of section 182(2) of the 1996 Act and section 3.3.25(2)(c) of the 2004 Act (x2); failure to respond and produce documents to a trust account inspector in contravention of section 3.3.45(1) of the 2004 Act.	Listed for hearing 4 October 2011
Case 17	29/04/2011	Professional misconduct: engaging in conduct that led to conviction for tax offences, becoming an insolvent under administration; further and alternatively, professional misconduct at common law	Listed for hearing on 2 August 2011
Case 18	12/05/2011	Professional misconduct: failure to comply with a condition to which practising certificate subject to (x2); contravention s 3.3.13(1) - failure to deposit trust money into Trust Account as soon as practicable; contravention of regulations 3.3.9(4) & (5) & (6) of Legal Profession Regulations 2005	Awaiting hearing date
Case 19	24/05/2011	Professional misconduct and Unsatisfactory professional conduct: charging a contingency fee; charging grossly excessive legal costs (x2); failure to deposit trust monies in a trust account and failure to discharge the law practice's obligations in relation to trust money (x2); misappropriating trust funds in breach of the Act and regulation 3.3.34 Legal Profession Regulations 2005; wilfully and/or recklessly breaching a condition of the practising certificate (x2).	Listed for hearing 5 August 2011
Case 20	24/05/2011	Professional misconduct: unauthorised receipt of trust money; breach of rule 3.3.34(3) Legal Profession Regulations 2005 - co-signing cheques and consequential misappropriation of trust money; breach s3.4.29 - entering into a contingency fee agreement and exacerbated by the resultant charging of grossly excessive legal costs	Listed for hearing 5 August 2011
Case 21	28/06/2011	Professional misconduct being misconduct at common law: making representations knowing them to be false or materially misleading as to the true position; making threats during the course of telephone call; Unsatisfactory professional conduct: failure to take reasonable care to avoid provocative language or conduct when dealing with another legal practitioner	Awaiting hearing date
Case 22	29/06/2011	Unsatisfactory professional conduct: lodging and/or refusing to withdraw a caveat over land where legal practitioner knew and/or ought to have known no caveatable interest, and providing information to the Registrar of Titles that legal practitioner ought to have known was false; contravention Professional Conduct & Practice Rules 2005 (r18.4.2) - dealing directly with opponent's client	Awaiting hearing date
Case 23	30/06/2011	Professional misconduct being misconduct at common law: failure to account for trust money; failure to comply with an Order of the Tribunal made under the 1996 Act	Awaiting hearing date
Case 24	30/06/2011	Professional misconduct: engaging in legal practice or representing qualified to engage in legal practice when not entitled to; receiving trust money after ceasing to hold a practising certificate; contravention s182 of 1996 Act and/or r 18 and/or 19 of Trust Account Practice Rules 2003 - failure to maintain trust records; contravention s184(1) of 1996 Act - failure to lodge trust account audit reports; contravention s185(1) of 1996 Act - failure to have records kept under s192 audited by an approved auditor; contravention s185(3) of 1996 Act - failure to lodge audit reports 60 days after end of period to which audit relates; contravention r21 TAPR 2003 - failure to reconcile trust records; contravention s4.4.11(1)(a) of the Act - failure to comply with a request for a full written explanation of conduct	Awaiting hearing date
Case 25	30/06/2011	Professional misconduct: contravention s188(1)(a) of 1996 Act - having a deficiency in trust account; contravention s174(3) of 1996 Act - unauthorised transfer of trust money; contravention s4.4.11(1)(a) of the Act - failure to provide a full written explanation of conduct subject of a disciplinary complaint	Awaiting hearing date

Complaints and disputes under the *Legal Practice Act 1996* (the old Act)

On 12 December 2005, the LSC inherited 719 complaints which had been opened under the *Legal Practice Act 1996* (the old Act). The finalisation of these old Act complaints has been a key focus of the LSC.

2.1 Old Act complaints closed during 2010-11

As at 1 July 2010, there were four complaints open under the old Act. Each of these four complaints raised disciplinary issues about the conduct of a solicitor. All of these complaints were closed by the LSC during 2010-11. There were no open complaints under the old Act about barristers at 1 July 2010. Included in the four complaints that were finalised in the period, there was one complaint that was an 'own motion' investigation commenced by the LIV under section 145(2) of the old Act.

2.2 Outcomes of old Act complaints finalised during 2010-11

The following table shows the outcomes of the four old Act complaints finalised during 2010-11.

Figure 44: Outcomes of old Act complaints finalised during 2010-11

OUTCOME	TOTAL
LSC formed view that VCAT likely to find practitioner or firm guilty of a disciplinary breach and filed charges at VCAT	2
LSC formed view that VCAT likely to find practitioner or firm guilty of a disciplinary breach and took alternative disciplinary action	1
LSC closed the investigation due to ongoing proceedings	1
Total	4

2.3 Investigations outstanding under the old Act

As at 30 June 2011 all complaints made under the old Act had been determined and closed.

2.4 LSC alternative disciplinary actions

There was one alternative disciplinary action taken in 2010-11. In this matter, the LSC was satisfied that there was a reasonable likelihood that VCAT would find the practitioner guilty of unsatisfactory conduct. The practitioner consented to a reprimand.

2.5 Charges filed at VCAT

The following table shows the number of charges filed at VCAT in 2010-11.

Figure 45: Charges filed at VCAT

	HEARD BY VCAT DURING 2010-11	AWAITING HEARING AND/OR ORDERS BY VCAT AS AT 30 JUNE 20-11	TOTAL
Charges filed in 2010-11	0	2	2
Charges filed in previous years	3*	0	3
Total	3	2	5

* At 30 June 2011 the charges in relation to one of these three matters was not finalised. In that matter 3 parties were charged. Charges concerning two parties have been finalised however charges about the other party remain outstanding (refer to Figure 46 for details).

Other disciplinary matters

Court of Appeal of the Supreme Court

This matter was outstanding as at 30 June 2010 as it was on Appeal before the Supreme Court of Victoria. A decision was made on 25 August 2010. The LSC sought leave to Appeal this decision to the Court of Appeal of the Supreme Court. Although a hearing took place on 9 June 2011, a decision by the Court of Appeal was pending at 30 June 2011.

Supreme Court of Victoria

On 25 March 2011 an order was made that the name of Issac Alexander Brott be struck off the roll of practitioners kept by the Court. See page 19 for further details.

Rehearing application to VCAT

The LSC made an application to VCAT for a rehearing of a matter determined on 10 June 2011. The LSC is currently awaiting a hearing date.

Figure 46: Disciplinary applications referred to VCAT under the *Legal Practice Act 1996* (old Act) in which the application was heard and determined in the period 1/7/10 to 30/6/11

NO.	VCAT REF.	DATE CHARGE REFERRED	HEARING DATE(S)	NAME OF LEGAL PRACTITIONER	TYPE OF CHARGES	FINDING OF VCAT	DATE AND ORDERS MADE
1	J297/2007	12/06/2003	18/12/2007; 26/2/2009; 6/8/2009; 6/09/2009; 22,24& 26/02/2010; 2&16/03/2010; 3/05/2010; 18&19/08/2010; 5/4/2011	OWENS, Suzann	Misconduct - unauthorised entry and sale of clients property for legal costs.	Heard and determined with J22/2010 [See Part 1 – Figure 42]	14/10/2010 - not to apply for any practising certificate that comes into operation before 24/02/2015; pay LSC costs fixed at \$29,074.70
2	J106/2009	12/06/2009	31/01/2011 & 7/02/2011	BROTT, Issac	Misconduct: purporting to act for a client without any or any proper instructions (x 2); purporting to act as legal practitioner for a person without instructions and without advising of litigation process, costs and time (x 2); carrying on practice with deliberate or reckless disregard for rights and obligations of a person; professional responsibilities and duties to a person as his supposed legal adviser and solely for the purpose of generating profit for himself (x 2) - at hearing LSC withdrew two statutory Misconduct charges	Misconduct at common law	7/02/2011: not to apply for practising certificate before 4/01/2019; referred to Supreme Court with a recommendation that his name be struck off the roll of practitioners. Costs reserved.
3	J47/2010	25/05/2010	13/8/2010	DIAKOU FAIGEN (the firm) DIAKOU, Dimitrios, FAIGEN, Daniel	Misconduct: breach Professional Conduct & Practice Rules 2003 - r 8.2, r 8.5.1, r 2.1 (x2) - conflict of interest and failing to act in clients' best interests; further or alternatively Misconduct at common law	Charges dismissed against Dimitrios Diakou; Misconduct found against the firm	13/8/2010: firm fined \$15,000; pay LSC costs to be determined; charges against Dimitrios Diakou are dismissed with no order for costs. Awaiting further hearing date for Daniel Faigen

Figure 47: Applications referred to VCAT in the period 1/07/10 to 30/06/11 pursuant to the *Legal Practice Act 1996* which were awaiting hearing and/or final orders as at 30 June 2011

NO.	DATE SENT TO VCAT	TYPE OF CHARGES	STATUS
1	13/8/2010	Misconduct: breach Professional Conduct & Practice Rules 2003 - r 8.2, r 8.5.1, r 2.1 (x2) - conflict of interest and failing to act in clients' best interests; further or alternatively Misconduct at common law	Refer to J47/2010. Charges in relation to the practitioner only were yet to be determined at 30 June 2011
2	30/06/2011	Misconduct: contravention r 23.2 of Professional Conduct & Practice Rules 2003 - failure to hand over files despite valid authorities being provided and no lien being claimed; contravention r 30 Trust Account Practice Rules 2003 - failure to account for trust moneys; contravention r 31 TAPR 2003 and s174 of 1996 Act - deducted money for costs from trust without first rendering a bill of costs; Professional misconduct: failure to comply with an Order of the Tribunal made under the 1996 Act	Awaiting hearing date
3	30/06/2011	Misconduct: contravention s188(1)(b) of 1996 Act - failure, without reasonable excuse, to account for trust money; contravention r 30 Trust Account Practice Rules 2003 - failure to furnish a statement of account; Professional misconduct: failure to comply with an Order of the Tribunal made under the 1996 Act	Awaiting hearing date

Delegations

Under section 6.3.12 of the *Legal Profession Act 2004*, the LSC may delegate some of the functions of his office to an employee or to a prescribed person. The LIV and the Bar are prescribed persons, as are the members of the Ethics Committee of the Bar.

Current delegations

The following Table lists all of the delegations made by the LSC as in force at the end of 2010-11. The following Table includes delegations to internal and external persons.

Figure 48: Delegations made under the *Legal Profession Act 2004*

DATE OF DELEGATION	DELEGATE	FUNCTIONS
30 July 2010	Director, Complaints and Investigations	<p>Section 3.3.44(2) Comply with request from trust account inspector</p> <p>Part 4.1 – Introduction and Application Section 4.1.4(3) – power to consent to conduct being dealt with under a corresponding law Section 4.1.4 (5) – power to consent may be given conditionally or unconditionally</p> <p>Part 4.2 – Making a Complaint Section 4.2.7 – time limits for complaints Section 4.2.8 – notification of a complaint to a law practice or an Australian legal practitioner Section 4.2.9 – requirement for further information from complainant Section 4.2.10 – power to summarily dismiss a complaint</p> <p>Part 4.3, Division 2 – Dealing with Civil Complaints Section 4.3.3 – lodgement of disputed costs Section 4.3.4 – dealing with lodged costs Section 4.3.5 – attempt to resolve civil dispute Section 4.3.5A(1) – prepare, certify and distribute settlement agreement Section 4.3.6 – notice where civil dispute is not likely to be resolved, or is unsuitable for resolution Section 4.3.7 – notice where dispute resolution fails</p> <p>Part 4.3, Division 3 - Mediation Section 4.3.9 – appointment of mediator Section 4.3.13 – power to dismiss complaint where complainant fails to attend mediation, and requirement to provide notice to complainant where law practice or Australian legal practitioner fails to attend mediation</p> <p>Part 4.3, Division 4 – Resolution of Civil Disputes by the Tribunal Section 4.3.15 – notice about unresolved disputes</p> <p>Part 4.4, Division 3 - Investigations Section 4.4.7 – investigation of disciplinary complaint Section 4.4.8 – investigation without complaint Section 4.4.9 – referral of disciplinary complaint to prescribed investigatory body for investigation Section 4.4.10(3) – powers following receipt of a report from a prescribed investigatory body Section 4.4.11 – power to require practitioner, law practice and others to provide information and documents Section 4.4.12 – investigation to be conducted expeditiously Section 4.4.13 – powers following investigation, including in relation to professional misconduct, unsatisfactory professional conduct Section 4.4.14 – notice of decision</p> <p>Part 4.4, Division 7 – Inter-jurisdictional provisions Section 4.4.33 – request to another jurisdiction to investigate complaint or conduct Section 4.4.34 – request from another jurisdiction to investigate complaint or conduct Section 4.4.36 – co-operation with corresponding authorities Part 7.2 – General Provisions Section 7.2.14 – disclosure of information by local regulatory authorities</p> <p>Schedule 2, Part 6 – Disputes and Discipline Clause 6.1 – current disputes to continue to be dealt with in accordance with the Legal Practice Act 1996 Clauses 6.2 – current complaints to be dealt with in accordance with the Legal Practice Act 1996 Clause 6.3 – current investigations to be conducted in accordance with the Legal Practice Act 1996</p>

DATE OF DELEGATION	DELEGATE	FUNCTIONS
23 February 2011	Manager, Complaints and Investigations	<p>Part 3.3- Trust Money and Trust Accounts Section 3.3.44(2) – comply with request from trust account inspector</p> <p>Part 4.1 – Introduction and Application Section 4.1.4(3) – power to consent to conduct being dealt with under a corresponding law Section 4.1.4 (5) – power to consent may be given conditionally or unconditionally</p> <p>Part 4.2 – Making a Complaint Section 4.2.7 – accept a complaint made out of time Section 4.2.8 – notification of a complaint to a law practice or an Australian legal practitioner Section 4.2.9 – requirement for further information from complainant Section 4.2.10 – power to summarily dismiss a complaint</p> <p>Part 4.3, Division 2 – Dealing with Civil Complaints Section 4.3.3 – lodgement of disputed costs Section 4.3.4 – dealing with lodged costs Section 4.3.5 – attempt to resolve civil dispute Section 4.3.5A(1) – prepare, certify and distribute settlement agreement. Section 4.3.6 – notice where civil dispute is not likely to be resolved, or is unsuitable for resolution Section 4.3.7 – notice where dispute resolution fails</p> <p>Part 4.3, Division 3 - Mediation Section 4.3.9 – appointment of mediator Section 4.3.13 – power to dismiss complaint where complainant fails to attend mediation, and requirement to provide notice to complainant where law practice or Australian legal practitioner fails to attend mediation</p> <p>Part 4.3, Division 4 – Resolution of Civil Disputes by the Tribunal Section 4.3.15 – notice about unresolved disputes</p> <p>Part 4.4, Division 3 - Investigations Section 4.4.7 – investigation of disciplinary complaint Section 4.4.8 – investigation without complaint Section 4.4.9 – referral of disciplinary complaint to prescribed investigatory body for investigation Section 4.4.10(3) – powers following receipt of a report from a prescribed investigatory body Section 4.4.11 – power to require practitioner, law practice and others to provide information and documents Section 4.4.12 – investigation to be conducted expeditiously Section 4.4.13(1) – powers following investigation Section 4.4.13(3)(b) – power to reprimand or caution practitioner Section 4.4.13(3)(c) – power to take no further action Section 4.4.13(4) – power to require compensation Section 4.4.13(5) – obligation to take no further action Section 4.4.13(6) – power to rely on recommendation in a report of a prescribed investigatory body Section 4.4.14 – notice of decision</p> <p>Part 4.4, Division 7 – Inter-jurisdictional provisions Section 4.4.33 – request to another jurisdiction to investigate complaint or conduct Section 4.4.34 – request from another jurisdiction to investigate complaint or conduct Section 4.4.36 – co-operation with corresponding authorities</p> <p>Part 7.2 – General Provisions Section 7.2.14 – disclosure of information by local regulatory authorities</p> <p>Schedule 2, Part 6 – Disputes and Discipline Clause 6.1 – current disputes to continue to be dealt with in accordance with the Legal Practice Act 1996 Clauses 6.2 – current complaints to be dealt with in accordance with the Legal Practice Act 1996 Clause 6.3 – current investigations to be conducted in accordance with the Legal Practice Act 1996</p>

DATE OF DELEGATION	DELEGATE	FUNCTIONS
22 September 2010	Manager, Complaints Resolution and Investigations	<p>Part 3.3- Trust Money and Trust Accounts Section 3.3.44(2) – comply with request from trust account inspector</p> <p>Part 4.1 – Introduction and Application Section 4.1.4(3) – power to consent to conduct being dealt with under a corresponding law Section 4.1.4 (5) – power to consent may be given conditionally or unconditionally</p> <p>Part 4.2 – Making a Complaint Section 4.2.7 – accept a complaint made out of time Section 4.2.8 – notification of a complaint to a law practice or an Australian legal practitioner Section 4.2.9 – requirement for further information from complainant Section 4.2.10 – power to summarily dismiss a complaint</p> <p>Part 4.3, Division 2 – Dealing with Civil Complaints Section 4.3.3 – lodgement of disputed costs Section 4.3.4 – dealing with lodged costs Section 4.3.5 – attempt to resolve civil dispute Section 4.3.5A(1) – prepare, certify and distribute settlement agreement. Section 4.3.6 – notice where civil dispute is not likely to be resolved, or is unsuitable for resolution Section 4.3.7 – notice where dispute resolution fails</p> <p>Part 4.3, Division 3 - Mediation Section 4.3.9 – appointment of mediator Section 4.3.13 – power to dismiss complaint where complainant fails to attend mediation, and requirement to provide notice to complainant where law practice or Australian legal practitioner fails to attend mediation</p> <p>Part 4.3, Division 4 – Resolution of Civil Disputes by the Tribunal Section 4.3.15 – notice about unresolved disputes</p> <p>Part 4.4, Division 3 - Investigations Section 4.4.7 – investigation of disciplinary complaint Section 4.4.8 – investigation without complaint Section 4.4.9 – referral of disciplinary complaint to prescribed investigatory body for investigation Section 4.4.10(3) – powers following receipt of a report from a prescribed investigatory body Section 4.4.11 – power to require practitioner, law practice and others to provide information and documents Section 4.4.12 – investigation to be conducted expeditiously Section 4.4.13(1) – powers following investigation Section 4.4.13(3)(b) – power to reprimand or caution practitioner Section 4.4.13(3)(c) – power to take no further action Section 4.4.13(4) – power to require compensation Section 4.4.13(5) – obligation to take no further action Section 4.4.13(6) – power to rely on recommendation in a report of a prescribed investigatory body Section 4.4.14 – notice of decision</p> <p>Part 4.4, Division 7 – Inter-jurisdictional provisions Section 4.4.33 – request to another jurisdiction to investigate complaint or conduct Section 4.4.34 – request from another jurisdiction to investigate complaint or conduct Section 4.4.36 – co-operation with corresponding authorities</p> <p>Part 7.2 – General Provisions Section 7.2.14 – disclosure of information by local regulatory authorities</p> <p>Schedule 2, Part 6 – Disputes and Discipline Clause 6.1 – current disputes to continue to be dealt with in accordance with the Legal Practice Act 1996 Clauses 6.2 – current complaints to be dealt with in accordance with the Legal Practice Act 1996 Clause 6.3 – current investigations to be conducted in accordance with the Legal Practice Act 1996</p>

DATE OF DELEGATION	DELEGATE	FUNCTIONS
3 March 2010	Complex Complaints Adviser	<p>Part 3.3 – Trust Money and Trust Accounts Section 3.3.44(2) – comply with request from trust account inspector</p> <p>Part 4.2 – Making a Complaint Section 4.2.7 – accept a complaint made out of time Section 4.2.8 – notification of a complaint to a law practice or an Australian legal practitioner Section 4.2.9 – requirement for further information from complainant Section 4.2.10 – power to summarily dismiss a complaint</p> <p>Part 4.3, Division 2 – Dealing with Civil Complaints Section 4.3.3 – lodgement of disputed costs Section 4.3.4 – dealing with lodged costs Section 4.3.5 – attempt to resolve civil dispute Section 4.3.5A(1) – prepare, certify and distribute settlement agreement. Section 4.3.6 – notice where civil dispute is not likely to be resolved, or is unsuitable for resolution Section 4.3.7 – notice where dispute resolution fails</p> <p>Part 4.3, Division 3 – Mediation Section 4.3.9 – appointment of mediator Section 4.3.13 – power to dismiss complaint where complainant fails to attend mediation, and requirement to provide notice to complainant where law practice or Australian legal practitioner fails to attend mediation</p> <p>Part 4.3, Division 4 – Resolution of Civil Disputes by the Tribunal Section 4.3.15 – notice about unresolved disputes</p> <p>Part 4.4, Division 3 – Investigations Section 4.4.7 – investigation of disciplinary complaint Section 4.4.8 – investigation without complaint Section 4.4.9 – referral of disciplinary complaint to prescribed investigatory body for investigation Section 4.4.10(3) – powers following receipt of a report from a prescribed investigatory body Section 4.4.11 – power to require practitioner, law practice and others to provide information and documents Section 4.4.12 – investigation to be conducted expeditiously Section 4.4.13(1) – powers following investigation Section 4.4.13(3)(b) – power to reprimand or caution practitioner Section 4.4.13(3)(c) – power to take no further action Section 4.4.13(4) – power to require compensation Section 4.4.13(5) – obligation to take no further action Section 4.4.13(6) – power to rely on recommendation in a report of a prescribed investigatory body Section 4.4.14 – notice of decision</p> <p>Part 4.4, Division 7 – Inter-jurisdictional provisions Section 4.4.33 – request to another jurisdiction to investigate complaint or conduct Section 4.4.34 – request from another jurisdiction to investigate complaint or conduct Section 4.4.36 – co-operation with corresponding authorities</p> <p>Schedule 2, Part 6 – Disputes and Discipline Clause 6.1 – current disputes to continue to be dealt with in accordance with the Legal Practice Act 1996 Clauses 6.2 – current complaints to be dealt with in accordance with the Legal Practice Act 1996 Clause 6.3 – current investigations to be conducted in accordance with the Legal Practice Act 1996</p>
3 March 2010	Team Leader, Complaints and Investigations	<p>Part 3.3 – Trust Money and Trust Accounts Section 3.3.44(2) – comply with request from trust account inspector</p> <p>Part 4.2 – Making a Complaint Section 4.2.7(4) – accept costs dispute out of time Section 4.2.8 – notification of a complaint Section 4.2.9 – requirement for further information from complainant</p> <p>Part 4.3 – Civil Complaints and Disputes Section 4.3.3(2) – may waive requirement to lodge disputed costs Section 4.3.3(3) – dismiss costs dispute where costs not lodged Section 4.3.5(1) – attempt to resolve a civil dispute Section 4.3.5(3) – may require legal practitioner or law practice to provide relevant documents Section 4.3.5A(1) – prepare, certify and distribute settlement agreement Section 4.3.7 – notice where dispute resolution fails</p> <p>Part 4.4 – Disciplinary Complaints and Discipline Section 4.4.7 – investigation of disciplinary complaint Section 4.4.9(3) – extend date for report by PIB</p>

DATE OF DELEGATION	DELEGATE	FUNCTIONS
3 March 2010	Team Leader, Dispute Resolution	Part 3.3 – Trust Money and Trust Accounts Section 3.3.44(2) – comply with request from trust account inspector Part 4.2 – Making a Complaint Section 4.2.7(4) – accept costs dispute outside of time Section 4.2.8 – notification of a complaint Section 4.2.9 – requirement for further information from complainant Part 4.3 – Civil Complaints and Disputes Section 4.3.3(2) – may waive requirement to lodge disputed costs Section 4.3.3(3) – dismiss costs dispute where costs not lodged Section 4.3.5(1) – attempt to resolve a civil dispute Section 4.3.5(3) – may require legal practitioner or law practice to provide relevant documents Section 4.3.5A(1) – prepare, certify and distribute settlement agreement Section 4.3.7 – notice where dispute resolution fails Part 4.4 – Disciplinary Complaints and Discipline Section 4.4.7 – investigation of disciplinary complaint Section 4.4.9(3) – extend date for report by PIB
3 March 2010	Complaints Officer	Part 4.3 – Civil Complaints and Disputes 4.3.5(1) – attempt to resolve civil dispute Part 4.4 – Disciplinary Complaints and Discipline 4.4.7 – investigate disciplinary complaint
3 March 2010	Dispute Resolution Officer	Part 4.3 – Civil Complaints and Disputes 4.3.5(1) – attempt to resolve civil dispute Part 4.4 – Disciplinary Complaints and Discipline 4.4.7 – investigate disciplinary complaint
3 March 2010	Senior Policy Officer	Section 3.3.44(2) Comply with request from trust account inspector Section 7.2.14 Disclosure of information by local regulatory authorities
3 March 2010	Manager, Administration and Complaints Support Services	Section 3.3.44(2) Comply with request from trust account inspector Section 7.2.14 Disclosure of information by local regulatory authorities
24 March 2010	Team Leader, Complaints and Investigations	Section 7.2.14 Disclosure of information by local regulatory authorities
24 March 2010	Complex Complaints Adviser	Section 7.2.14 Disclosure of information by local regulatory authorities
24 March 2010	Team Leader, Complaints and Investigations	Section 4.4.11 Power to require practitioner, law practice and others to provide information and documents
7 March 2011	Assistant Complaints Officer	Part 4.3 – Dealing with Civil Complaints Section 4.3.5(1) – attempt to resolve civil dispute Part 4.4 – Disciplinary Complaints and Discipline Section 4.4.7 – investigation of disciplinary complaint
20 April 2010	Law Institute of Victoria Ltd	Part 4.3, Division 2 – Dealing with Civil Complaints Section 4.3.5(1) – must attempt to resolve civil dispute Section 4.3.5(3) – may require law practice or legal practitioner to provide relevant documents or information Section 4.3.5A(1)(a) – prepare settlement agreement
20 April 2010	Victorian Bar Inc	Part 4.3, Division 2 – Dealing with Civil Complaints Section 4.3.5(1) – must attempt to resolve civil dispute Section 4.3.5(3) – may require law practice or legal practitioner to provide relevant documents or information Section 4.3.5A(1)(a) – prepare settlement agreement
20 April 2010	Members of the Ethics Committee of the Victorian Bar Inc	Part 4.3, Division 2 – Dealing with Civil Complaints Section 4.3.5(1) – must attempt to resolve civil dispute Section 4.3.5(3) – may require law practice or legal practitioner to provide relevant documents or information Section 4.3.5A(1)(a) – prepare settlement agreement

Delegations revoked or made redundant

There were five delegations revoked in 2010-11. The main reasons the delegations were revoked was to consolidate and update the delegations. The revoked delegations are detailed in the following Table.

Figure 49: Delegations that have become redundant under the *Legal Profession Act 2004*

DATE OF REVOCATION	DATE OF DELEGATION	DELEGATE	FUNCTIONS DELEGATED (AND REVOKED)	REASON FOR REVOCATION
30 July 2010	3 March 2010	Director, Complaints and Investigations	<p>Section 3.3.44(2) Comply with request from trust account inspector</p> <p>Part 4.2 – Making a Complaint Section 4.2.7 – time limits for complaints Section 4.2.8 – notification of a complaint to a law practice or an Australian legal practitioner Section 4.2.9 – requirement for further information from complainant Section 4.2.10 – power to summarily dismiss a complaint</p> <p>Part 4.3, Division 2 – Dealing with Civil Complaints Section 4.3.3 – lodgement of disputed costs Section 4.3.4 – dealing with lodged costs Section 4.3.5 – attempt to resolve civil dispute Section 4.3.5A(1) – prepare, certify and distribute settlement agreement Section 4.3.6 – notice where civil dispute is not likely to be resolved, or is unsuitable for resolution Section 4.3.7 – notice where dispute resolution fails</p> <p>Part 4.3, Division 3 – Mediation Section 4.3.9 – appointment of mediator Section 4.3.13 – power to dismiss complaint where complainant fails to attend mediation, and requirement to provide notice to complainant where law practice or Australian legal practitioner fails to attend mediation</p> <p>Part 4.3, Division 4 – Resolution of Civil Disputes by the Tribunal Section 4.3.15 – notice about unresolved disputes</p> <p>Part 4.4, Division 3 – Investigations Section 4.4.7 – investigation of disciplinary complaint Section 4.4.8 – investigation without complaint Section 4.4.9 – referral of disciplinary complaint to prescribed investigatory body for investigation Section 4.4.10(3) – powers following receipt of a report from a prescribed investigatory body Section 4.4.11 – power to require practitioner, law practice and others to provide information and documents Section 4.4.12 – investigation to be conducted expeditiously Section 4.4.13(1), (3), (4), (5) and (6) – powers following investigation, including in relation to professional misconduct, unsatisfactory professional conduct Section 4.4.14 – notice of decision</p> <p>Part 4.4, Division 7 – Inter-jurisdictional provisions Section 4.4.33 – request to another jurisdiction to investigate complaint or conduct Section 4.4.34 – request from another jurisdiction to investigate complaint or conduct Section 4.4.36 – co-operation with corresponding authorities</p> <p>Schedule 2, Part 6 – Disputes and Discipline Clause 6.1 – current disputes to continue to be dealt with in accordance with the Legal Practice Act 1996 Clauses 6.2 – current complaints to be dealt with in accordance with the Legal Practice Act 1996 Clause 6.3 – current investigations to be conducted in accordance with the Legal Practice Act 1996</p>	Consolidate functions into one instrument

DATE OF REVOCATION	DATE OF DELEGATION	DELEGATE	FUNCTIONS DELEGATED (AND REVOKED)	REASON FOR REVOCATION
30 July 2010	24 March 2010	Director, Complaints and Investigations	Part 7.2 – General Provisions Section 7.2.14 – disclosure of information by local regulatory authorities	Consolidate functions into one instrument
30 July 2010	28 June 2010	Director, Complaints and Investigations	Section 4.4.13(2) – powers following investigation, including in relation to professional misconduct, unsatisfactory professional conduct	Consolidate functions into one instrument
2 March 2011	3 March 2010	Manager, Complaints and Investigations	<p>Part 3.3- Trust Money and Trust Accounts Section 3.3.44(2) – comply with request from trust account inspector</p> <p>Part 4.2 – Making a Complaint Section 4.2.7 – accept a complaint made out of time Section 4.2.8 – notification of a complaint to a law practice or an Australian legal practitioner Section 4.2.9 – requirement for further information from complainant Section 4.2.10 – power to summarily dismiss a complaint</p> <p>Part 4.3, Division 2 – Dealing with Civil Complaints Section 4.3.3 – lodgement of disputed costs Section 4.3.4 – dealing with lodged costs Section 4.3.5 – attempt to resolve civil dispute Section 4.3.5A(1) – prepare, certify and distribute settlement agreement. Section 4.3.6 – notice where civil dispute is not likely to be resolved, or is unsuitable for resolution Section 4.3.7 – notice where dispute resolution fails</p> <p>Part 4.3, Division 3 - Mediation Section 4.3.9 – appointment of mediator Section 4.3.13 – power to dismiss complaint where complainant fails to attend mediation, and requirement to provide notice to complainant where law practice or Australian legal practitioner fails to attend mediation</p> <p>Part 4.3, Division 4 – Resolution of Civil Disputes by the Tribunal Section 4.3.15 – notice about unresolved disputes</p> <p>Part 4.4, Division 3 - Investigations Section 4.4.7 – investigation of disciplinary complaint Section 4.4.8 – investigation without complaint Section 4.4.9 – referral of disciplinary complaint to prescribed investigatory body for investigation Section 4.4.10(3) – powers following receipt of a report from a prescribed investigatory body Section 4.4.11 – power to require practitioner, law practice and others to provide information and documents Section 4.4.12 – investigation to be conducted expeditiously Section 4.4.13(1) – powers following investigation Section 4.4.13(3)(b) – power to reprimand or caution practitioner Section 4.4.13(3)(c) – power to take no further action Section 4.4.13(4) – power to require compensation Section 4.4.13(5) – obligation to take no further action Section 4.4.13(6) – power to rely on recommendation in a report of a prescribed investigatory body Section 4.4.14 – notice of decision</p> <p>Part 4.4, Division 7 – Inter-jurisdictional provisions Section 4.4.33 – request to another jurisdiction to investigate complaint or conduct Section 4.4.34 – request from another jurisdiction to investigate complaint or conduct Section 4.4.36 – co-operation with corresponding authorities</p> <p>Schedule 2, Part 6 – Disputes and Discipline Clause 6.1 – current disputes to continue to be dealt with in accordance with the Legal Practice Act 1996 Clauses 6.2 – current complaints to be dealt with in accordance with the Legal Practice Act 1996 Clause 6.3 – current investigations to be conducted in accordance with the Legal Practice Act 1996</p>	Consolidate functions into one instrument
2 March 2011	24 March 2010	Manager, Complaints and Investigations	Part 7.2 – General Provisions Section 7.2.14 – disclosure of information by local regulatory authorities	Consolidate functions into one instrument

Disclosure index

The Annual Report of the LSC is prepared in accordance with all relevant Victorian legislation. This index has been prepared to facilitate identification of the Commissioner's compliance with the statutory disclosure requirements.

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