

# Legal Services **COMMISSIONER**



Report for the period 12 December 2005 – 30 June 2006

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Legal Services Commissioner  
Report for the period  
12 December 05 to 30 June 06

This report presents the  
activities of the Legal Services  
Commissioner over the period  
12 December 2005 to 30  
June 2006, together with the  
audited financial statements.

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Ordered to be printed  
VICTORIAN GOVERNMENT  
PRINTER December 2006  
No. 2 Session 2006

## Commissioner's Report

*The establishment of a single gateway for the fair, independent and efficient handling of complaints against lawyers has been an exciting, if challenging, task.*



When the Attorney General offered me the opportunity to become Victoria's first Legal Services Commissioner last year, I accepted it with enthusiasm.

Victorians should be served by a vibrant, consumer-focused legal profession. I believe the manner in which complaints against lawyers are managed and the profession is regulated are vital to consumer confidence in the system and to its effective operation.

Six months after opening our doors we are making strong progress towards the achievement of our objectives.

One of our earliest priorities was to inform stakeholders of the existence of the new system. My experience as Deputy Telecommunications Industry Ombudsman taught me that if consumers can't find your agency, or don't fully understand what they need to do to make a complaint, you can't help them and may even heighten their sense of grievance.

While complaints need to be made in writing, we have introduced a 1300 number and website to ensure information to help consumers make a complaint is easily accessible.

We are also working closely with the Law Institute of Victoria and Victorian Bar, to whom some complaints investigation and dispute resolution functions have been referred or delegated, and I am grateful for their co-operation and support of the scheme.

I believe that high quality case management underpins the best complaint resolution schemes. After six months we now have systems in place to make real progress in resolving the complaints we have inherited from agencies under the old system and in managing incoming complaints against lawyers under the new system.

As the employer of all staff - who either work exclusively on complaint-handling functions for the Legal Services Commissioner or on Legal Services Board matters or are employed across both organisations in shared administrative functions - I would like to thank the staff who joined me from the offices of the Legal Ombudsman and the Legal Practice Board. They have been a fantastic source of practical and strategic advice, knowledge and morale in our hectic first six months. I am also delighted that we have appointed seven new staff to ensure that the Legal Services Commissioner and the Legal Services Board have the right skills sets for the future.

I look forward to continuing to working hard to develop and maintain an independent, impartial and accessible system for managing complaints about legal practitioners and to working with the legal profession to ensure legal services in Victoria meet the highest standards of excellence.

**Victoria Marles**  
Legal Services Commissioner

## Our Approach

### OUR MISSION

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

### OUR BUSINESS OBJECTIVES

The Legal Services Commissioner aims to:

- develop and maintain an independent, impartial and accessible system for managing complaints against legal practitioners;
- be accountable to and transparent in dealing with our stakeholders;
- enhance community and consumer understanding of legal practice;
- work with the legal profession to ensure that legal services in Victoria meet the highest standards of excellence;
- assist practitioners in understanding, managing and meeting consumer expectations; and
- continually identify best practices in the provision of legal services.

### OUR CUSTOMER APPROACH

Within the Legal Services Commissioner's jurisdiction, powers and resources, we will:

- assist parties with their complaints or enquiries;
- give careful consideration to any complaint made about a legal practitioner;
- investigate the matters we undertake fairly, impartially and in a timely manner; and
- clearly and promptly communicate to both the complainant and legal practitioner the decision and reasons for it at the conclusion of our investigation.

## What is the Legal Services Commissioner?

*The Legal Services Commissioner is the single gateway for the fair, independent and efficient handling of complaints against lawyers.*

The Commissioner is responsible for the receipt, investigation and resolution of complaints about lawyers in Victoria, as well as the mediation of disputes between lawyers and their clients.

Established on 12 December 2005 under the *Legal Profession Act 2004*, the Legal Services Commissioner replaces the Legal Ombudsman and three other bodies which dealt with complaints about lawyers.

All regulatory power and critical decision-making for the investigation and prosecution of complaints is now vested in this one independent agency.

This new scheme streamlines complaint resolution by eliminating confusion associated with the old, multiple-entry system, to the benefit of both consumers and the legal profession.

The new legislation governing the legal profession also advances Victoria's commitment to a national legal profession by introducing many uniform rules.

Victoria Marles is the first Legal Services Commissioner. She is a former Deputy Telecommunications Industry Ombudsman. Ms Marles is also the CEO of the Legal Services Board, which replaced the Legal Practice Board on 12 December 2005 as the peak regulator of the legal profession in Victoria.

## Achievements to date

### 4

In the first six months of operation, the Legal Services Commissioner has:

- identified all new functions under the Act and created new role designations and an organisational structure to meet them;
- relocated all staff and equipment to central, consumer-friendly offices at 330 Collins Street;
- recruited seven new staff (6 FTE and one casual) to meet both complaints-handling and administrative needs;
- developed key communication tools - including a website, brochures and a 1300 number - to create consumer access to, awareness and understanding of the Commissioner's role;
- established effective working relationships with key stakeholders;
- arranged appropriate systems for referral of investigation of complaints management to the Law Institute of Victoria and Victoria Bar;
- developed a Service Level Agreement with the Law Institute of Victoria to guide service delivery and facilitate monitoring of and reporting on complaints management;
- established a panel of mediators for the mediation of disputes;
- begun professional training and profile-raising activities including an ethics workshop, and speeches for the opening of the Legal Year and Arts Law Week;
- assumed responsibility for and progressed 767 outstanding complaints and reviews from the Legal Ombudsman, the Law Institute and the Victorian Bar under the old system; and
- accepted and commenced management of 1,218 new complaints under the new system.

## Our Plans for the Future

*The Legal Services Commissioner is strongly committed in our first full financial year of operation to the following initiatives.*

### COMMUNITY OUTREACH PROGRAM

- Community speaking program to increase awareness and understanding of the scheme and the complaint-handling process.
- Develop relationships with key complaint referral organisations e.g. community legal centres.
- Rural and regional visits to raise consumer awareness of the scheme outside metropolitan areas and to raise the scheme's profile via local and regional media.
- Distribute information kits about the scheme, establish reciprocal websites links and contribute articles to community publications.

### ESTABLISH A REFERENCE GROUP

- To provide input on emerging issues and trends
- To inform community outreach activities.

### EDUCATION OF THE LEGAL PROFESSION

Practitioner and student training sessions and seminars including;

- Ethics workshops
- Law student and Bar reader seminars
- Law Week and Arts Law Week presentations.

### GREATER LIAISON WITH THE LEGAL PROFESSION

- Visits to and ongoing communication with regional and suburban law groups
- Regular meetings with the Law Institute of Victoria and Victorian Bar representatives.

### GREATER LIAISON WITH OTHER REGULATORY AND COMPLAINTS BODIES

Sharing ideas and best practice with:

- Interstate and overseas bodies handling complaints against lawyers
- Complaints handling bodies in other sectors and industries.

### STAKEHOLDER ENGAGEMENT STRATEGY

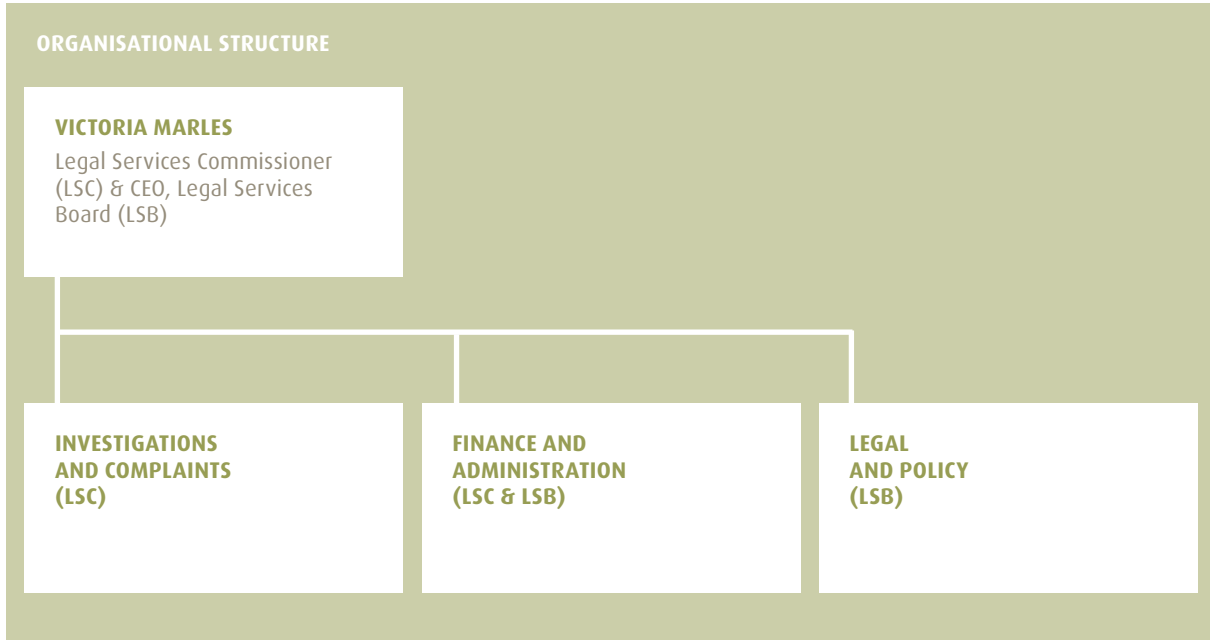
- To inform and provide strategic guidance for implementation of all the activities outlined above
- To inform relationship-building with other key stakeholders including government, the judiciary, police and the media.

### CONTINUOUS IMPROVEMENT

- Analysis of complaint data to inform improvement in legal practice and regulation
- Establish complaints-handling benchmarks for compilation and dissemination of future trend data
- Establish the Legal Services Commissioner as a leader in legal regulatory matters through submissions to government enquiries, industry research etc.

### INFORMATION TECHNOLOGY

- Build and customise a new IT complaints system.



**MERIT AND EQUITY PRINCIPLES**

The Commissioner is committed to applying merit and equity principles to ensure that applicants are assessed and evaluated fairly and equitably on the basis of the key selection criteria and other accountabilities without discrimination.

**WORKFORCE DATA**

Under the requirements of s.6.4.1 of the Act, the Legal Services Commissioner employs staff for the purposes of the Board and for the Commissioner. Staff are employed by the Commissioner under Part 3 of the *Public Sector Management and Employment Act 1998*.

A study has been undertaken to determine the percentage of time spent by employees on both Commissioner and Board functions. The findings have been translated into a recharge, from the Commissioner to the Board, for time spent on Board work.

Staff profile by position	Male	Female	Total
Statutory Appointments		1	1
Executive Officers	1	2	3
Legal Officers	1	9 (2)	10 (2)
Administration staff, VPS 1 – 6	2	17 (1)	19 (1)
<b>Total</b>	<b>4</b>	<b>29 (3)</b>	<b>33 (3)</b>

Figures in brackets represents part-time staff.

**OCCUPATIONAL HEALTH AND SAFETY**

The Commissioner is committed to Occupational Health and Safety compliance, as well as the general health and well being of those persons occupying the premises.

Issues relating to the maintenance of a safe working environment and safe working practices are also considered and reported.



## COMPLAINTS DATA

For the period: 12 December 2005 to 30 June 2006

The Legal Services Commissioner was established on 12 December 2005 pursuant to the provisions of the *Legal Profession Act 2004* (“the new Act”).

All complaints and disputes which had been made under the *Legal Practice Act 1996* (“the old Act”) and which were not finalised on 12 December 2005 were taken over by the Legal Services Commissioner.

The statistical information in this report covers complaints and disputes dealt with in the period 12 December 2005 to 30 June 2006 (“the period under review”) pursuant to both the new Act and the old Act.

Part A deals with complaints which are made pursuant to the new Act.

Part B deals with complaints which were made pursuant to the old Act.

### DEFINITIONS/ABBREVIATIONS USED IN THE TABLES

BAR	Victorian Bar Incorporated
LIV	Law Institute of Victoria Limited
LOV	Legal Ombudsman
LPT	Legal Profession Tribunal
LSC	Legal Services Commissioner
VCAT	Victorian Civil & Administrative Tribunal

## PART A

The following statistical information covers the complaints received by the Legal Services Commissioner during the period 12 December 2005 to 30 June 2006 pursuant to the *Legal Profession Act 2004*.

### 1. ENQUIRIES

The following table (Table 1) shows the total number of enquiries made to the Legal Services Commissioner during the period 12 December 2005 to 30 June 2006, and the outcome of those enquiries.

Not all enquiries to the Legal Services Commissioner fell within her jurisdiction. For example, callers may have complained about prisons or the court system.

Enquiries were made by telephone, in writing or in person.

**Table 1: Action taken by LSC on Enquiries**

	Complaint Form sent	Information provided to complainant – No further action	Referral to other body	No jurisdiction	Total
Total	865 (41.2%)	1006 (47.9%)	224 (10.7%)	5 (0.2%)	2100 (100%)

### 2. COMPLAINTS AND DISPUTES

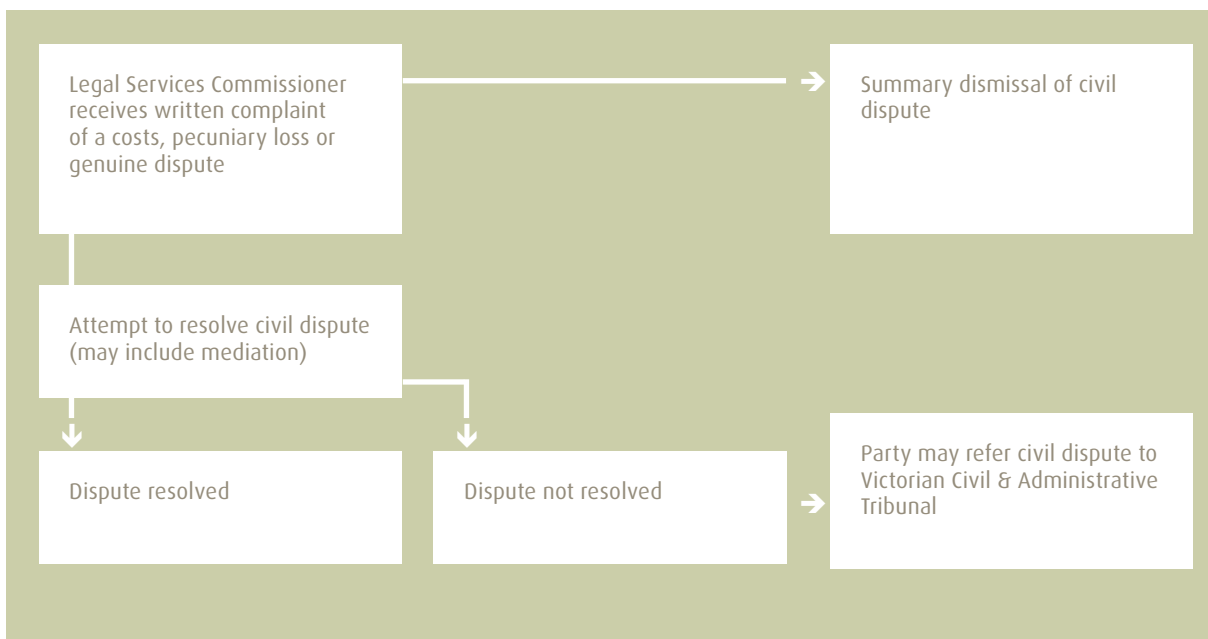
In compliance with section 6.3.13(1)(a) of the *Legal Profession Act 2004*, the following tables (Tables 2, 3, 4 and 5) deal with the number and type of complaints received by the Legal Services Commissioner in the period 12 December 2005 to 30 June 2006.

Under the *Legal Profession Act 2004*, the Legal Services Commissioner may receive a complaint that involves a civil complaint, a disciplinary complaint or both.

A **civil complaint** is a complaint about conduct to the extent that it involves a civil dispute. A civil dispute is any one of the following:

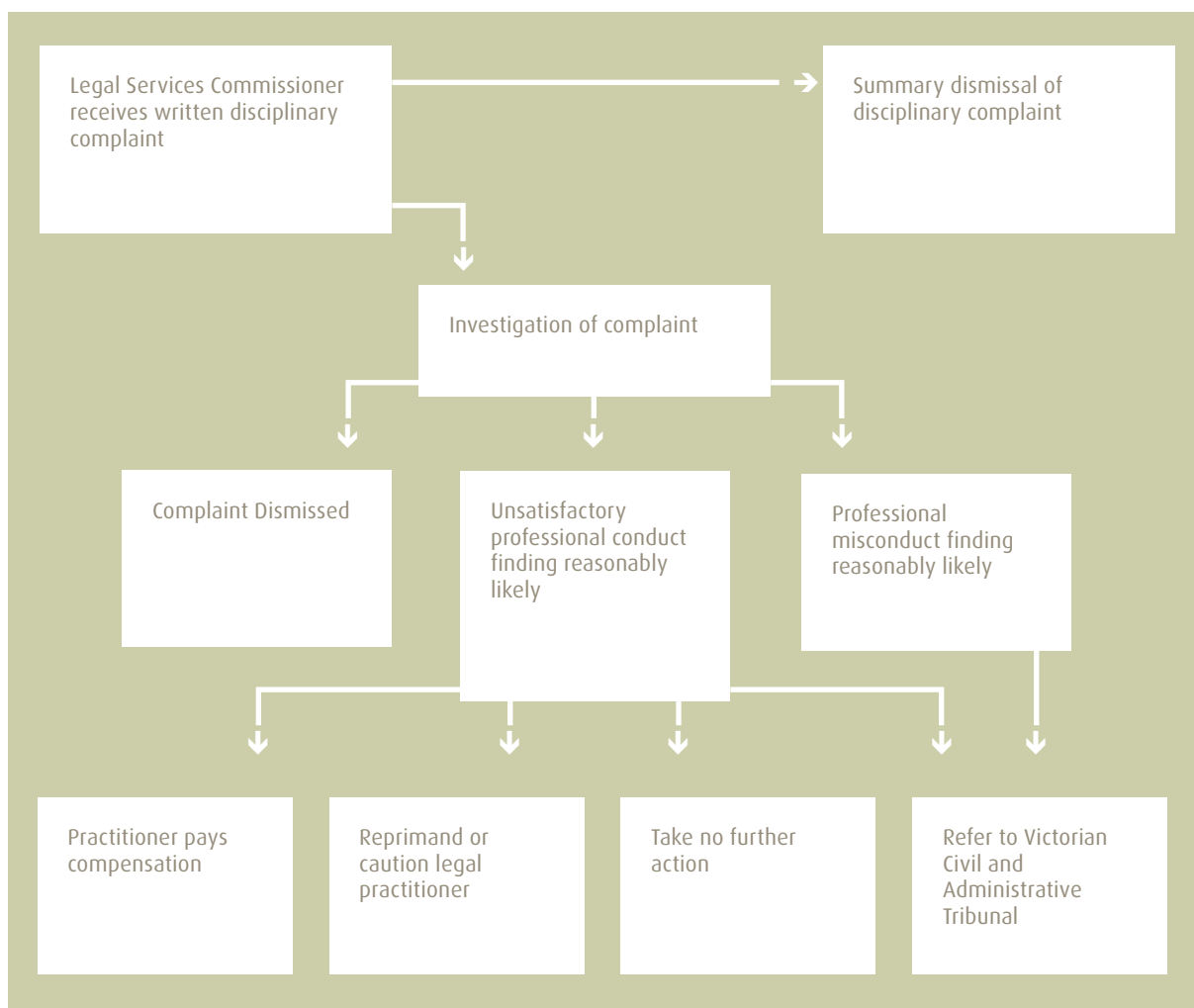
- a “costs dispute” in relation to legal costs not exceeding \$25,000 in respect of any one matter;
- a claim that a person has suffered pecuniary losses as a result of an act or omission by a lawyer; or
- any other genuine dispute between a person and a law practice or a legal practitioner.

The way a civil dispute is handled is demonstrated in this flow chart.



A **disciplinary complaint** is a complaint about conduct to the extent that the conduct, if established, would amount to unsatisfactory professional conduct or professional misconduct.

The way a disciplinary complaint is handled is demonstrated in this flow chart.



**Table 2: Files Opened**

Table 2 shows the total number of complaint files opened by the Legal Services Commissioner from 12 December 2005 to 30 June 2006 by the type of complaint raised.

**Table 2: Files Opened**

	Disciplinary only	Civil Dispute only	Disciplinary and Civil Dispute	Total
Total	664	310	244	1218

**Table 3: Files opened against solicitors by type of complaint**

Table 3 shows the total number of complaint files opened by the Legal Services Commissioner against solicitors in the period under review by the type of complaint raised.

**Table 3: files opened against solicitors by type of complaint**

	<b>Total</b>
Disciplinary complaint only	646
Disciplinary complaint & costs dispute	149
Disciplinary complaint & pecuniary loss dispute	62
Disciplinary complaint, costs & pecuniary loss dispute	27
Costs & pecuniary loss dispute	21
Costs dispute only	247
Pecuniary loss dispute only	33
<b>Total complaints against solicitors</b>	<b>1185</b>

**Table 4: Files opened against barristers by type of complaint**

Table 4 shows the total number of complaint files opened by the Legal Services Commissioner against barristers in the period under review by the type of complaint raised.

**Table 4: Files opened against barristers by type of complaint**

	<b>Total</b>
Disciplinary complaint only	18
Disciplinary complaint & costs dispute	1
Disciplinary complaint & pecuniary loss dispute	5
Disciplinary complaint, costs & pecuniary loss	0
Costs & pecuniary loss	0
Costs dispute only	7
Pecuniary loss dispute only	2
<b>Total complaints against barristers</b>	<b>33</b>

**Table 5: Files opened against solicitors and barristers**

Table 5 shows the total number of complaint files opened against solicitors and barristers during the period under review by the type of complaint raised.

**Table 5: Files opened against solicitors and barristers**

	<b>Disciplinary only</b>	<b>Civil Dispute only</b>	<b>Disciplinary and Civil Dispute</b>	<b>Total</b>
Complaints about solicitors	646	301	238	1185
Complaints about barristers	18	9	6	33
<b>Total</b>	<b>664</b>	<b>310</b>	<b>244</b>	<b>1218</b>

### 3. WHICH BODY HANDLED THE COMPLAINTS?

In compliance with section 6.3.13(1)(b) of the *Legal Profession Act 2004*, the following tables (Tables 6, 7, 8 and 9) deal with who handled complaints received by the Legal Services Commissioner during the period 12 December 2005 to 30 June 2006.

The *Legal Profession Act 2004* empowers the Legal Services Commissioner to delegate or refer parts of complaints to the Law Institute of Victoria Limited (**Law Institute**) or the Victorian Bar Incorporated (**Victorian Bar**). This will not occur where a complaint has been summarily dismissed (see Table 15 for statistics about complaints summarily dismissed). All final decisions on complaints are made by the Legal Services Commissioner.

#### Table 6: Who handled what?

Table 6 shows how many of the complaints received by the Legal Services Commissioner during the period 12 December 2005 to 30 June 2006 were handled in their entirety by the Legal Services Commissioner, and how many were referred and/or delegated to the Law Institute or the Victorian Bar for partial handling.

Table 6: Who handled what?

	Number of files handled in their entirety by the LSC	Number of files delegated/referred to the LIV for partial handling	Number of files delegated/referred to the BAR for partial handling	Total
Total	712	497	9	1218

#### Table 7: Complaints delegated/referred to the Law Institute about solicitors

Table 7 shows the number and type of complaints against solicitors that were delegated or referred to the Law Institute.

Table 7: Complaints delegated/referred to the LIV about solicitors

	Total
Disciplinary complaint only	161
Disciplinary complaint & costs dispute	105
Disciplinary complaint & pecuniary loss dispute	46
Disciplinary complaint, costs & pecuniary loss dispute	22
Costs & pecuniary loss dispute	14
Costs dispute only	129
Pecuniary loss dispute only	20
Total complaints delegated/referred to the LIV	497

#### Table 8: Complaints delegated/referred to the Victorian Bar about barristers

Table 8 shows the number and type of complaints against barristers that were delegated or referred to the Victorian Bar.

Table 8: Complaints delegated/referred to the Bar about barristers

Disciplinary complaint only	3
Disciplinary complaint & costs dispute	0
Disciplinary complaint & pecuniary loss dispute	3
Disciplinary complaint, costs & pecuniary loss dispute	0
Costs & pecuniary loss dispute	0
Costs dispute only	1
Pecuniary loss dispute only	2
Total complaints delegated/referred to the bar	9

**Table 9: Delegated/Referred disciplinary complaints and civil disputes**

Table 9 shows how many of the 506 new complaints that were partially handled by the Law Institute or the Victorian Bar, were disciplinary complaints, civil disputes or both.

**Table 9: Delegated/Referred disciplinary complaints and civil disputes**

	Disciplinary only	Civil Dispute only	Disciplinary and Civil Dispute	Total
Delegated / referred to LIV	161	163	173	497
Delegated / referred to BAR	3	3	3	9
Total	164	166	176	506

**4. WHAT AREAS OF LAW FEATURED IN COMPLAINTS RECEIVED DURING THE PERIOD 12 DECEMBER 2005 TO 30 JUNE 2006?****Table 10: Area of law in complaints**

Table 10 provides an overview of the specific areas of law that featured in complaints made during the period 12 December 2005 to 30 June 2006.

**Table 10: Area of law in complaints**

	Total
Administrative	47
Banking	7
Building – Commercial	3
Building – Residential	32
Civil Liberties	6
Commercial	165
Company	3
Conveyancing	166
Crimes Compensation	4
Criminal	65
Debt Collection	48
Defamation	5
Equal Opportunity	7
Family/Defacto	217
Immigration	10
Industrial Relations	27
Insolvency	9
Leasing	21
Mortgages	23
Motor Vehicle Repairs/Claims	20
Personal Injury – Industrial	2
Personal Injury – Motor Vehicle Accident	19
Personal Injury – Other	37
Planning	1
Probate & Estate	138
Taxation	4
Wills	35
Workers compensation	56
Other / Unknown	41
Total	1218

## 5. WHAT DID PEOPLE COMPLAIN ABOUT DURING THE PERIOD 12 DECEMBER 2005 TO 30 JUNE 2006?

### Table 11: Nature of allegations made against legal practitioners (Subject matter)

Table 11 provides an overview of the types of allegations complainants made in their complaints, and covers both disciplinary complaints and civil disputes. The total number of allegations far exceeds the total number of complaint files opened, as each file may involve a number of allegations. People who make complaints about their legal practitioners often have more than one grievance. For example, a person may claim that his/her practitioner was rude, negligent and charged too much.

### Table 11: Nature of allegations made against legal practitioners (Subject matter)

	<b>Total</b>
Abusive / Rude	31
Advertising	1
Breach of undertaking, Act, Rules or Court Order	27
Communication - Including failure to return telephone calls, to give progress reports and failure to correspond	83
Communication with client of other practitioner	6
Confidentiality breach	10
Conflict of Interest	71
Costs communication - Including failure to comply with section 3.4.9, 3.4.10 & 3.4.11 of the Act & Legal Aid information	40
Costs / Bills	553
Court system	25
Debts – includes practitioner’s failure to pay debts	30
Delay	79
Dishonest / Mised	66
Documents - Including retention of documents and lost documents	76
Duress / Pressure / Intimidating	30
Instructions - Including failure to comply with instructions, acting contrary to instructions and acting without instructions	54
Negligence - Including bad case handling and advice	322
Sexual Impropriety	3
Trust Money - Including failure to account, mismanagement of funds and misappropriation of funds	74
Other disciplinary issues	53

### COMMENTS

There is no total number of allegations provided in Table 11 as complainants may make a number of allegations in a single complaint.

The dominant issues of complaints were: -

- *Costs/Bills* - 553 allegations.
- *Negligence (including bad case handling etc)* – 322 allegations.
- *Communication (failure to return calls etc)* – 83 allegations.
- *Delay* – 79 allegations.
- *Documents – (including retention of and lost documents)* – 76 allegations.
- *Trust money (including failure to account, mismanagement of funds and misappropriation of funds)* – 74 allegations.

## 6. TIME TAKEN TO CLOSE FILES

**Table 12: Files closed pursuant to the *Legal Profession Act 2004* between 12 December 2005 and 30 June 2006 by time period**

In compliance with section 6.3.13(1)(f) of the *Legal Profession Act 2004*, Table 12 provides information about the time taken to close files. The files were opened in the period 12 December 2005 to 30 June 2006 under the *Legal Profession Act 2004*, and closed in that same period.

**Table 12: Files closed pursuant to the *Legal Profession Act 2004* between 12.12.05 and 30.6.06 by time period**

Days taken to close file	< 30 days	31-60 days	61-90 days	91-120 days	> 120 days	Total
Disciplinary only - solicitor	181	95	11	6	8	301
Disciplinary only - barrister	7	1	0	0	0	8
Disciplinary & Civil dispute - solicitor	20	10	5	2	7	44
Disciplinary & Civil dispute - barrister	3	0	0	1	0	4
Civil dispute only - solicitor	62	33	11	9	9	124
Civil dispute only - barrister	2	2	0	0	0	4
Total	275 (56.7%)	141 (29.1%)	27 (5.6%)	18 (3.7%)	24 (4.9%)	485 (100%)

## 7. OUTCOMES OF COMPLAINTS

In compliance with section 6.3.13(1)(c) of the *Legal Profession Act 2004*, the following tables (Tables 13, 14 and 15) show the outcome of complaints received and finalised by the Legal Services Commissioner pursuant to the *Legal Profession Act 2004* during the period 12 December 2005 to 30 June 2006. The majority of complaints received by the Legal Services Commissioner during the period under review were unresolved or under investigation as at 30 June 2006 (see Table 16).

The total number of outcomes far exceeds the total number of complaint files closed (see Table 12), as a complaint file may contain say a disciplinary and civil component, each of which may have a different outcome.

**Table 13: Outcomes of disciplinary complaints made pursuant to the *Legal Profession Act 2004***

Table 13 shows the outcomes of disciplinary complaints processed under the *Legal Profession Act 2004*.

	Total
No professional misconduct / unsatisfactory professional conduct (Section 4.4.13(5))	14
Summarily dismissed (Section 4.2.10) (see also table 15)	326
Out of time (Section 4.2.7)	2
Withdrawn	24
Total	366



**Table 14: Outcomes of civil disputes made pursuant to the Legal Profession Act 2004**

Table 14 shows the outcomes of civil disputes processed under the *Legal Profession Act 2004*.

	<b>Total</b>
Civil dispute <b>settled</b> by LSC	21
LSC <b>unable to resolve</b> civil dispute (Section 4.3.7)	11
Summarily dismissed (Section 4.2.10) (see table 15 for further breakdown)	108
Request received out of time – no dispensation granted (Section 4.2.7)	18
Disputed legal costs not lodged with LSC (Section 4.3.3)	27
Withdrawn	19
<b>Total</b>	<b>204</b>

**Table 15: Summarily dismissed – Section 4.2.10 of the Legal Profession Act 2004**

Table 15 shows a breakdown of both the disciplinary complaints and civil disputes which were summarily dismissed pursuant to section 4.2.10 of the *Legal Profession Act 2004* (refer to Tables 13 and 14).

	<b>Complaint about Solicitor</b>	<b>Complaint about Barrister</b>	<b>Total</b>
s 4.2.10(1)(a) – further details not given/verified as required by LSC	27	2	29
s 4.2.10(1)(b) – complaint vexatious, misconceived, frivolous or lacking in substance	167	13	180
s 4.2.10(1)(c) – complaint subject of previous complaint	37	0	37
s.4.2.10(1)(d) – conduct complained about subject of another complaint	4	0	4
s 4.2.10(1)(e) – complaint not one LSC has power to deal with	140	4	144
s 4.2.10(1)(f) – LSC forms the view disciplinary complaint requires no further investigation	39	1	40
<b>Total</b>	414 (95.4%)	20 (4.6%)	434 (100%)

## 8. NUMBER AND TYPE OF COMPLAINTS OUTSTANDING AS AT 30 JUNE 2006

**Table 16: Legal Services Commissioner current complaint files – Files open as at 30 June 2006**

In compliance with section 6.3.13(1)(e) of the *Legal Profession Act 2004*, Table 16 shows the number and type of complaints received by the Legal Services Commissioner during the period from 12 December 2005 to 30 June 2006 pursuant to the *Legal Profession Act 2004* which were outstanding as at 30 June 2006.

**Table 16: Legal Services Commissioner – Files open as at 30 June 2006**

Days since receipt of complaint as at 30.6.06	< 30 days	31-60 days	61-90 days	91-120 days	> 120 days	Total
Disciplinary only	50	97	48	52	106	353
Disciplinary and costs dispute	18	16	21	16	43	114
Disciplinary and pecuniary loss dispute	4	12	12	6	24	58
Disciplinary, costs & pecuniary loss dispute	0	3	5	2	13	23
Costs & pecuniary loss dispute	2	8	4	2	1	17
Costs dispute only	32	32	33	12	30	139
Pecuniary loss dispute only	4	6	8	2	6	26
Total	110 (15.1%)	174 (23.8%)	131 (17.9%)	92 (12.6%)	223 (30.6%)	730 (100%)

## 9. APPLICATIONS TO THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (VCAT)

The Legal Services Commissioner did not make any applications to VCAT pursuant to section 4.4.13 of the *Legal Profession Act 2004* during the period 12 December 2005 to 30 June 2006.

See Table 16 about the number of outstanding disciplinary complaints as at 30 June 2006. These outstanding disciplinary complaints may yet result in an application by the Legal Services Commissioner to VCAT under section 4.4.13 of the *Legal Profession Act 2004*.

See Part B, Section 15 about charges brought pursuant to the *Legal Practice Act 1996* during the period under review.

## 10. DELEGATIONS

The table below lists the delegations made by the Legal Services Commissioner under section 6.3.12 of the *Legal Profession Act 2004*, as in force at 30 June 2006.

<b>KEY:</b>		
Victorian Bar		Victorian Bar Incorporated
Director, Investigations		The person for the time being performing the duties of Director, Investigations, Legal Services Commissioner
Law Institute		Law Institute of Victoria Limited
<b>Date of Delegation</b>	<b>Delegate</b>	<b>Functions Delegated</b>
28 December 2005	Director, Investigations Legal Services Commissioner	<p><b>Part 4.2 of the <i>Legal Profession Act 2004</i></b>            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><b>Part 4.3, Division 2 of the <i>Legal Profession Act 2004</i></b>            Section 4.3.3 – lodgement of disputed legal costs            Section 4.3.4 – dealing with lodged costs            Section 4.3.5 – attempt to resolve civil dispute            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><b>Part 4.3, Division 3 of the <i>Legal Profession Act 2004</i></b>            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><b>Part 4.3, Division 4 of the <i>Legal Profession Act 2004</i></b>            Section 4.3.15 – notice about unresolved dispute</p> <p><b>Part 4.4, Division 3 of the <i>Legal Profession Act 2004</i></b>            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- requiring legal 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><b>Part 4.4, Division 7 of the <i>Legal Profession Act 2004</i></b>            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>
18 January 2006	Law Institute	<p><b>Clause 6.1, Schedule 2 to the <i>Legal Profession Act 2004</i></b>            Current disputes to continue to be dealt with in accordance with the <i>Legal Practice Act 1996</i>. The delegation does not include the functions set out in sections 125(1) and (2), 126(2) and 128 of the <i>Legal Practice Act 1996</i>.</p>
18 January 2006	Victorian Bar	<p><b>Clause 6.1, Schedule 2 of the <i>Legal Profession Act 2004</i></b>            Current disputes to continue to be dealt with in accordance with the <i>Legal Practice Act 1996</i>. The delegation does not include the functions set out in sections 125(1) and (2), 126(2) and 128 of the <i>Legal Practice Act 1996</i>.</p>

18 January 2006	Law Institute	<b>Clause 6.2 and 6.3, Schedule 2 of the Legal Profession Act 2004</b> Current complaints to be dealt with by the Legal Services Commissioner in accordance with the <i>Legal Practice Act 1996</i> . Current investigations to be conducted by the Legal Services Commissioner in accordance with the <i>Legal Practice Act 1996</i> . This delegation does not include the functions set out in sections 141, 142, 143, 151 and 152 of the <i>Legal Practice Act 1996</i> .
18 January 2006	Victorian Bar	<b>Clause 6.2 and 6.3, Schedule 2 of the Legal Profession Act 2004</b> Current complaints to be dealt with by the Legal Services Commissioner in accordance with the <i>Legal Practice Act 1996</i> . Current investigations to be conducted by the Legal Services Commissioner in accordance with the <i>Legal Practice Act 1996</i> . This delegation does not include the functions set out in sections 141, 142, 143, 151 and 152 of the <i>Legal Practice Act 1996</i> .
18 January 2006	Law Institute	<b>Part 4.3, Division 2 of the Legal Profession Act 2004</b> 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
18 January 2006	Victorian Bar	<b>Part 4.3, Division 2 of the Legal Profession Act 2004</b> 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
27 January 2006	Director, Investigations Legal Services Commissioner	<b>Part 4.2 of the Legal Profession Act 2004</b> Section 4.2.7 – time limits for complaints <b>Part 6, Schedule 2 to the Legal Profession Act 2004</b> Clause 6.1- current disputes to continue to be dealt with in accordance with the <i>Legal Practice Act 1996</i> Clauses 6.2 - current complaints to be dealt with by the Legal Services Commissioner in accordance with the <i>Legal Practice Act 1996</i> Clause 6.3 - current investigations to be conducted by the Legal Services Commissioner in accordance with the <i>Legal Practice Act 1996</i> Clause 6.4 - reviews outstanding under <i>Legal Practice Act 1996</i> to be dealt with in accordance with the <i>Legal Practice Act 1996</i>

#### Delegations Revoked by the Legal Services Commissioner in the period 12 December 2005 to 30 June 2006

##### KEY:

Victorian Bar	Victorian Bar Incorporated
Law Institute	Law Institute of Victoria Limited
PIB	Prescribed investigatory body

Date of Delegation	Date of Revocation	Delegate	Functions Delegated (Revoked)	Reason for Revocation
16 December 2005	18 January 2006	Law Institute	Section 4.3.5(1) - must attempt to resolve civil dispute Section 4.3.5(3) - may require provision of relevant documents or information	Clarification of the delegation
16 December 2005	18 January 2006	Victorian Bar	Section 4.3.5(1) - must attempt to resolve civil dispute Section 4.3.5(3) - may require provision of relevant documents or information	Clarification of the delegation

All complaints and disputes which had been made under the *Legal Practice Act 1996* (the Old Act), and which were not finalised on 12 December 2006, were taken over by the Legal Services Commissioner.

The following statistical information covers the complaints and disputes dealt with in the period 12 December 2005 to 30 June 2006 by the Legal Services Commissioner pursuant to the transitional provisions of the *Legal Profession Act 2004* and the *Legal Practice Act 1996*.

### 11. FILES CLOSED

On 12 December 2005, the Legal Services Commissioner took over 719 open complaint and dispute files from the Legal Ombudsman, Law Institute and the Victorian Bar and 48 review files from the Legal Ombudsman.

#### Table 17: Files closed which were made pursuant to the *Legal Practice Act 1996*

Table 17 shows the number of files that were closed by the Legal Services Commissioner between 12 December 2005 and 30 June 2006 in accordance with the *Legal Practice Act 1996*, and the time it took to do so. While the Legal Services Commissioner may have delegated and/or referred certain parts of these files to the Law Institute or the Victorian Bar, the Legal Services Commissioner made the final decision in respect of each of these files.

#### Table 17: Files closed which were made pursuant to the *Legal Practice Act 1996*

Days taken to investigate & close	< 30 days	31-60 days	6-90 days	91-120 days	> 120 days	Total
Conduct only -solicitor	0	3	2	8	50	63
Conduct only - barrister	0	1	0	1	3	5
Conduct & dispute - solicitor	0	0	0	2	32	34
Conduct & dispute - barrister	0	0	1	0	1	2
Dispute only - solicitor	0	2	8	11	101	122
Dispute only - barrister	0	0	0	1	0	1
Total	0 (0.0%)	6 (2.6%)	11 (4.9%)	23 (10.1%)	187 (82.4%)	227 (100%)

### 12. OUTCOMES

The following tables (Tables 18 and 19) show the outcomes of complaints which were made pursuant to the *Legal Practice Act 1996*, processed and closed by the Legal Services Commissioner. These complaints were made before 12 December 2005, and were taken over by the Legal Services Commissioner on 12 December 2005. The decisions in these matters were made in accordance with the provisions of the *Legal Practice Act 1996* pursuant to the transitional provisions in the *Legal Profession Act 2004* (Schedule 2, Part 6 - Disputes and Discipline).

The total number of outcomes exceeds the total number of complaint files closed under the *Legal Practice Act 1996* (see Table 17), as each file may contain conduct and dispute components, each of which may have a different outcome.

**Table 18: Outcomes of conduct complaints which were made pursuant to the *Legal Practice Act 1996* and closed during the period 12 December 2005 to 30 June 2006**

Table 18 shows the outcomes of conduct complaints made and processed pursuant to the *Legal Practice Act 1996* during the period 12 December 2005 to 30 June 2006.

	Total
Unsatisfactory conduct – reprimand (Section 151(3)(b))	1
Unsatisfactory conduct – Generally competent – no further action (Section 151(3)(c))	7
No Unsatisfactory conduct / misconduct (Section 151(5))	59
Frivolous, Vexatious, Misconceived or Lacking in Substance (section 141(1))	28
No jurisdiction (eg out of time, other proceedings commenced, practitioner is deceased)	5
<b>Total</b>	<b>100</b>

**Table 19: Outcomes of disputes which were made pursuant to the *Legal Practice Act 1996* and closed in the period 12 December 2005 to 30 June 2006**

Table 19 shows the outcomes of disputes made under the *Legal Practice Act 1996* and closed during the period 12 December 2005 to 30 June 2006.

	Total
Costs / Pecuniary loss disputes settled by LSC	71
Costs / Pecuniary loss disputes not settled by LSC	66
Disputed costs not lodged	7
No Jurisdiction, eg out of time, other proceedings commenced, practitioner deceased	8
Withdrawn	4
<b>Total</b>	<b>156</b>

### 13. REVIEWS

On 12 December 2005, the Legal Services Commissioner took over 48 incomplete review files from the Legal Ombudsman.

The transitional provisions of the *Legal Profession Act 2004* allowed a limited number of reviews after the 12 December 2005 commencement date.

**Table 20: Review requests received by the Legal Services Commissioner in the period 12 December 2005 to 30 June 2006**

Table 20 shows the number of requests received by the Legal Services Commissioner during the period 12 December 2005 to 30 June 2006 for review of a decision made pursuant to the *Legal Practice Act 1996*

	Review of files handled by the LIV	Review of files handled by the BAR	Total
Number of requests received	20	2	22

**Table 21: Completed Reviews during the period 12 December 2005 to 30 June 2006**

Table 21 shows the outcome of completed reviews in the period 12 December 2005 to 30 June 2006

	<b>Total</b>
Files reviewed and closed in the period	12
No jurisdiction to review, eg. request for review received out of time	5
Total number of reviews completed in the period	17
<b>Outcome of files reviewed</b>	
LIV / Bar's decision <b>affirmed</b> after examining material (and reinvestigation, if it was determined necessary)	10
LIV / Bar's decision <b>varied</b> after examining material (and reinvestigation, if it was determined necessary)	2
Total	12

#### 14. OPEN COMPLAINT FILES AS AT 30 JUNE 2006

**Table 22: Open complaint files (Complaints received prior to 12 December 2005 pursuant to the *Legal Practice Act 1996*)**

On 12 December 2005, the Legal Services Commissioner took over 719 open complaint files (and 48 review files). Table 22 shows how many complaint files (by type) that were taken over by the Legal Services Commissioner on 12 December 2005 were still open as at 30 June 2006. Open review files are not included in Table 22 and are shown at Table 23.

**Table 22: Open complaint files (Complaints received prior to 12.12.05 pursuant to the *Legal Practice Act 1996*) as at 30 June 2006**

<b>Type of complaint</b>	<b>Total</b>
Conduct only (LOV files)	35
Conduct only (LIV files)	239
Conduct only (BAR files)	4
Conduct and Dispute (LIV files)	195
Conduct and Dispute (BAR files)	3
Dispute only (LIV files)	38
Total	514

**Table 23: Open Review files as at 30 June 2006**

Table 23 shows how many review files remained open on 30 June 2006.

**Table 23: Open Review files as at 30 June 2006**

<b>Review of files handled by the LIV</b>	<b>Review of files handled by the BAR</b>	<b>Total</b>
49 (92.5%)	4 (7.5%)	53 (100%)

## 15. DETERMINATIONS OF THE VICTORIAN CIVIL &amp; ADMINISTRATIVE TRIBUNAL

TABLE 24: Determinations of VCAT in the period 12 December 2005 to 30 June 2006 where charges proved

Hearing Date(s)	Who laid the charges; Date charges brought	Name of Legal Practitioner/ Firm	Type of charge(s)	Finding (Misconduct or Unsatisfactory Conduct)	Reprimand?	Practising Certificate ("P/C") Affected?	Fine to be paid to the Legal Services Board	Costs to be paid to Legal Services Commissioner	Any other order?
14/3/06 & 28/4/06 before Member, VCAT	LIV, J21/2005, 22/12/05	ANGELATOS, Sam	Misconduct / Unsatisfactory conduct - breach s.149 of the Act - failure to respond to a request for information regarding a complaint	Misconduct	No	No	\$1000	\$2760 to LIV	Provide to LIV all office account and trust account records re complainant.
14/3/06 & 28/4/06 before Member, VCAT	LIV, J45/2005, 22/12/05	ANGELATOS, Sam	Misconduct - breach of s.149 of the Act - failure to respond to a request for information regarding a complaint	Misconduct	No	No	\$1000	\$2760	Provide LIV a full written explanation of his conduct and deliver to LIV his files re subject matter of complaint
21/3/06 before Member, VCAT	LIV, J59/2005, 22/12/05	ANGELATOS, Sam	Misconduct / Unsatisfactory conduct - breach of s.86(1)(3) of the Act; contravention s.97(4) of <i>Accident Compensation Act 1985</i> ; contravention Rule 31 Trust Account Practice Rules	Misconduct and Unsatisfactory conduct	No	No	\$3000	\$6740 to LIV	Charges 1 and 5 dismissed
13/2/06 before Member, VCAT	LIV, J63/2005, 22/12/05	DEAN, Noor	Misconduct - delay; breach s.182(1) of the Act - failure to keep proper trust records; failure to account; breach s.174 of Act and/or Rule 31(1) of Trust Account Practice Rules - withdrawing trust moneys otherwise than in accordance with Rules	Misconduct	No	No	\$3000	\$6570 to LIV	Pay compensation fixed at \$12,944.22 to complainants
21-23/2/06, 6/4/06 & 12/4/06 before V/ President & 2 members, VCAT	LOV, J22/2005, 24/10/05	FRANCIS, Jeffrey Alexander	Misconduct - contravention or failure to comply with Rule 10(1A) of Professional Conduct & Practice Rules 2000 - failure to avoid a conflict of interest by ceasing to act; Misconduct at common law - failing to inform client practitioner involved in purchase of land; and giving false explanation for failure to inform client	Misconduct	Yes	No	\$47,500	Costs to be agreed or as taxed by Principal Registrar	



Hearing Date(s)	Who laid the charges; Date charges brought	Name of Legal Practitioner/Firm	Type of charge(s)	Finding (Misconduct or Unsatisfactory Conduct)	Reprimand?	Practising Certificate ("P/C") Affected?	Fine to be paid to the Legal Services Board	Costs to be paid to Legal Services Commissioner	Any other order?
3-4/12/03, 14/5/04, 20-21/5/04, 24-25/5/04, 17/6/04, 30/6/04, 10/9/04, 21/10/04, 25/11/04	LIV, T0106 of 2003, 29/8/03	GUSS, Joseph	Misconduct at common law - failing to discover or disclose a document related to an issue in the trial of an action in the Supreme Court, which is indicative of a failure either to understand or to practice the precepts of honesty or fair dealing expected of a legal practitioner	Misconduct	No	Yes - P/C is cancelled. From 26/2/05. May not apply for a P/C before 1/12/2007	\$30,477 to LIV		P made application to Full Tribunal for a stay of orders of 25/11/04. Application dismissed on 10/2/05. P appealed order to Court of Appeal, Supreme Court. On 21/4/06 Court ordered that appeal is allowed to extent that order 3 of Full Tribunal is set aside and in lieu P is to pay to LIV its costs fixed in the sum of \$30,477. Appeal otherwise dismissed. P to pay one half of LIV costs of appeal including reserved costs, if any.
23&24/11/05 and 5/4/06 before Senior Member, VCAT	LIV, J4/2006, 6/10/05	HUGHES, Keith Thomas Bagot	Misconduct – breach Rules 3 and Rule 12 of Professional Conduct & Practice Rules 1984 and 2000 - undue and excessive delay, failure to communicate regularly and effectively with client	Unsatisfactory conduct	No	No	\$1000	\$7000 to LIV	Pay compensation of \$15,000 to complainant
20/2/06 before Senior Member, VCAT	LIV, J123/2005, 22/12/05	JOHNSON, Raymond Stanley	Unsatisfactory conduct - breach of s.149 - failure to respond to a request for information regarding a complaint		Yes	No	\$600	\$1000 to LIV	
20/2/06 & 31/5/06 before V/President & 2 Members, VCAT	LIV, J40/2005 of 2005, 2/11/05	LE, Huy Anh	Misconduct – contravention of Trust Account Rules 23(1) & (2) - defalcation of trust moneys; contravention of the Act ss188(1)(b), 182(1) & Crimes Act 1958 - theft, obtaining financial advantage by deception, false accounting, falsification of documents; and/or contravention of Rule 12 of Professional Conduct & Practice Rules 2000	Misconduct	Yes	Not to apply for a P/C for 3 years from date of order	\$6630 to LIV		P to provide medical evidence of suitability to engage in legal practice on any application made by him to be issued with a P/C

Hearing Date(s)	Who laid the charges; Date Charges brought	Name of Legal Practitioner/Firm	Type of charge(s)	Finding (Misconduct or Unsatisfactory Conduct)	Reprimand?	Practising Certificate ("P/C") Affected?	Fine to be paid to the Legal Services Board	Costs to be paid to Legal Services Commissioner	Any other order?
6/3/06 before Judge & 2 Members, VCAT	BAR, J119/2005, 9/12/05 (Amended 3/3/06)	LUCAS, Gregory S.	Misconduct – Engaging in legal practice without holding a current P/C; contravention s.226 – commencing to engage in legal practice as sole practitioner without first obtaining professional indemnity insurance, contravention s.227 – engaging in legal practice without maintaining professional indemnity insurance at all times whilst so engaged	Misconduct	No	No	\$5000	\$4400 to BAR	
14/2/06 before Member, VCAT	LIV, J125/2005, 22/12/05	MANTELLO, Mario Michael	Unsatisfactory conduct – breach s.149(1)(b) - failure to respond to a request for information regarding a complaint	Unsatisfactory conduct	Yes	No		\$1000 to LIV	
20/4/06 before Member, VCAT	LIV, J20/2005, 22/12/05	MICHEL, Louis Georges Yves	Unsatisfactory conduct – breach s.149(1)(b) - failure to respond to a request for information regarding a complaint	Unsatisfactory conduct	No	No	\$500	\$1000 to LIV	
24/3/06 before Senior Member, VCAT	LIV, J48/2005, 23/12/05	PARSONS, Simon Harry	Misconduct at common law – breaching undertaking to client; Misconduct - withdrawing trust money other than in accordance with s.174(3) of the Act and/or Trust Account Practice Rule 31(1)	Unsatisfactory conduct	No	No	\$750	\$9000 to LIV	
5-6/5/05, 12/9/05 & 15/2/06 Senior Member, VCAT	LIV, T0049 of 2005 and J3/2006, 7/3/05	ROBINSON, Patrick John	Misconduct / Unsatisfactory conduct- failure to commence proceedings within limitation period; failure to reach reasonable standards of competence and diligence	Unsatisfactory conduct	No	No	\$1000	\$2000 to LIV	
14/2/06 before Senior Member, VCAT	LIV, J130/2005, 22/12/05	RUSHFORD, Robert John	Unsatisfactory conduct – breach s.149(1)(b) – failure to respond to a request for information regarding a complaint	Unsatisfactory conduct	No	No	\$500	\$1000 to LIV	Provide LIV with written explanation of conduct, deliver to LIV files, office and trust account ledgers and statement of account in respect of sale of property subject of complaint
15/2/06 before Member, VCAT	LIV, J136/2005, 22/12/05	STANCU, Dorina	Misconduct – mixing affairs with those of her client creating a conflict of interest	Misconduct	Yes	No		\$5560 to LIV	

**TABLE 25: UNFINISHED CASES AS AT 30 JUNE 2006**

Details of charges to be heard in the Victorian Civil & Administrative Tribunal (VCAT) which were awaiting hearing and/or final orders as at 30 June 2006.

Case	Who brought the charge(s)	Date charges listed	Type of charge(s)	Hearing date(s)
Case 1	LIV	30/6/05	Misconduct (alternatively Unsatisfactory conduct) – breach s.182 and breach of Trust Account Rules	On 6/3/06 LIV granted leave to file amended charges. Hearing fixed for 1/8/06
Case 2	LIV	30/6/05	Misconduct – unauthorised dealing with trust money knowing client lacked capacity; (alternatively) failing to act honestly and fairly in client's best interests; failure to avoid conflict of interest; failure to keep accurate records	Hearing fixed for 1/8/06
Case 3	LIV	30/6/05	Misconduct and Unsatisfactory conduct - assisting unqualified person to engage in legal practice, failing to supervise unqualified person; assisting unqualified persons to engage in unqualified legal practice in breach of s.324, employing unqualified person in breach of s.318(1)	Hearing fixed for 1/8/06
Case 4	BAR	19/7/05	Misconduct - contravention of Rules – r35 – making an allegation without reasonable grounds [4 charges]; r42 – suggesting serious misconduct against the respondents when no reasonable grounds for any belief that the evidence provided a proper basis for that suggestion and/or there were no reasonable grounds for believing that the matters covered by the suggestion were well founded [6 charges]; r31 - failing to ensure that an allegation or suggestion was reasonably justified by the material available, and did not go beyond what was appropriate for the robust advancement of client's case [9 charges]; r19 – knowingly made a misleading statement to the Federal Court [1 charge]	Hearing fixed for 21/8/06
Case 5	BAR	19/7/05	Misconduct – contravention of Rules – r35 - making an allegation without reasonable grounds [4 charges]; r42 – suggesting serious misconduct against the respondents when there were no reasonable grounds for any belief that the evidence in the case provided a proper basis for that suggestion and/or there were no reasonable grounds for believing that the matters covered by the suggestion were well founded [6 charges]; r31 - failing to take care to ensure that the allegation or suggestion was reasonably justified by the material available and did not go beyond what was appropriate for the robust advancement of their clients' case [11 charges]; r38(a) - cross examined so as to suggest serious misconduct on the part of the respondents [1 charge]; rule 34 – drew and settled the notice of appeal in which allegations of serious misconduct were made when there were no reasonable grounds to believe that the clients wished the allegations to be made, did not previously advise the clients of the seriousness of the allegations [1 charge]; r 19 - knowingly made a misleading statement to the Federal Court [1 charge]	Hearing fixed for 21/8/06
Case 6	LIV	20/6/03	Misconduct - gaining access to the client's home and dealing with his possessions without his authority; acting with a conflict of interest; failing to account to the client for trust money	Directions hearing fixed for 21/7/06
Case 7	BAR	9/8/05	Misconduct - contravention of s.178(1) - unauthorised receipt of trust monies	Hearing fixed for 27/2/2006

**TABLE 26: CASES ON APPEAL TO COURT OF APPEAL, SUPREME COURT OF VICTORIA IN THE PERIOD 12 DECEMBER 2005 to 30 JUNE 2006**

Details of Charges brought in the Legal Profession Tribunal which were awaiting hearing of appeal and/or final orders of appeal as at 30 June 2006

Case	Who brought the charge(s)	Date charge(s) brought	Type of charge(s)	Current status
Case 1	LIV	18/7/05	Misconduct – gross overcharging, defalcation, having a deficiency in the trust account, breach of Trust Account Rules; withdrawing moneys from trust account without authorisation in breach of s.174(3) of the Act; breach s.166(1) of the Act by commencing proceedings to recover costs when not entitled to do so.	Appeal by P against order of the Full Tribunal made on 22 November 2005. On 22/12/05 Court of Appeal stayed suspension of practitioner's P/C until determination of appeal. Awaiting hearing date for the appeal.

## 16. SUPPLEMENTARY INFORMATION

### FINANCIAL MANAGEMENT REGULATIONS

The information specified in 9.1.3(iv) of the Financial Management Regulations has been prepared and is available on request.

### FREEDOM OF INFORMATION

The Legal Services Commissioner is subject to the *Freedom of Information Act 1982* ("the Act").

During the period under review there were three new requests made under the Act. One other request made to the Legal Ombudsman, and subject to an application to VCAT as at 12 December 2005, was taken over by the Legal Services Commissioner on 12 December 2005.

Of the three new requests, two were granted in part and a decision had not been made with respect to the third request as at 30 June 2006.

An application was made to VCAT with respect to one of the new requests. That application had not been heard as at 30 June 2006. The application to VCAT made before the period under review, and taken over by the Legal Services Commissioner on 12 December 2005, was withdrawn before it proceeded to hearing.

### COMPLIANCE WITH BUILDING ACT 1993

In accordance with the requirements of the Minister for Finance, the annual report must include a statement about compliance with the building and maintenance provisions of the *Building Act 1993*, for publicly owned buildings controlled by the Department. However, the Commissioner does not own or control any government buildings.

### NATIONAL COMPETITION POLICY

In 1995, all Australian governments (Federal, State and Territory) agreed to review and, where appropriate, reform all existing legislative restrictions on competition. Under 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 Commissioner continues to comply with the requirements of the National Competition Policy.

### WHISTLEBLOWERS PROTECTION ACT 2001

The following is a summary of the application and operation of the *Whistleblowers Protection Act 2001*, including required disclosures.

	Number	Type
The number and types of disclosures made to public bodies during the year	Nil	-
The number of disclosures referred to the Ombudsman for determination as to whether they are public interest disclosures	Nil	-
The number and types of disclosed matters referred to the public body by the Ombudsman for investigation	Nil	-
The number and types of disclosures referred by the public body to the Ombudsman for investigation	Nil	-
The number and types of investigations taken over from the public body by the Ombudsman	Nil	-
The number of requests made by a whistleblower to the Ombudsman to take over an investigation by the public body	Nil	-
The number and types of disclosed matters that the public body has declined to investigate	Nil	-
The number and types of disclosed matters that were substantiated upon investigation and the action taken on completion of the investigation	Nil	-
Any recommendations made by the Ombudsman that relate to the public body	Nil	-

#### **IMPLEMENTATION OF THE 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 \$3million in metropolitan Melbourne, and \$1million in regional Victoria.

For the reporting period, the Commissioner did not commence any contracts to which the VIPP applies.

#### **PUBLICATIONS AND THE LEGAL SERVICES COMMISSIONERS' WEBSITE**

Publications available from the Legal Services Commissioner as at 30 June 2006, in print and online, include:

- Do you have a problem with your lawyer?
- Working with your lawyer

The publication *Working with your lawyer* is available in English and 10 community languages (Arabic, Chinese, Croatian, Greek, Italian, Macedonian, Serbian, Spanish, Turkish & Vietnamese).

The Annual Report will be available in print and online following tabling in Parliament.

The Legal Services Commissioner's website, [www.lsc.vic.gov.au](http://www.lsc.vic.gov.au) provides information on the role of the Legal Services Commissioner and how to make a complaint about a lawyer. A complaint form can be downloaded from the website.



# Legal Services COMMISSIONER

## Financial Statements

11 December 2005 – 30 June 2006

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## OPERATING STATEMENT

FOR THE PERIOD 12 DECEMBER 2005 TO 30 JUNE 2006

	Notes	30.06.06 \$
<b>INCOME</b>		
Revenue	2(a)	3,372,046
Total Income		3,372,046
<b>EXPENSES</b>		
Employee benefits expenses	2(b)	1,326,694
Supplies and services	2(c)	1,296,580
Consultants and legal expenses	2(d)	173,389
Other expenses from ordinary activities	2(e)	198,358
Depreciation and amortisation expense	2(f)	2,850
Transition expenses	2(g)	118,364
Total Expenses		3,116,235
<b>NET RESULT FROM CONTINUING OPERATIONS</b>		255,811
<b>NET RESULT FOR THE PERIOD</b>		255,811

*The above operating statement should be read in conjunction with the accompanying notes.*



## BALANCE SHEET

AS AT 30 JUNE 2006

	Notes	30.06.06 \$
<b>CURRENT ASSETS</b>		
Cash and Cash Equivalents	3,16	958,300
Receivables	4,16	596,645
Prepayments		2,243
<b>Total Current Assets</b>		<b>1,557,188</b>
<b>NON CURRENT ASSETS</b>		
Motor Vehicles	5	50,315
<b>Total Non Current Assets</b>		<b>50,315</b>
<b>TOTAL ASSETS</b>		<b>1,607,503</b>
<b>CURRENT LIABILITIES</b>		
Payables	6,16	944,501
Provisions	7	316,589
Leases	10	11,554
<b>Total Current Liabilities</b>		<b>1,272,644</b>
<b>NON CURRENT LIABILITIES</b>		
Provisions	7	10,748
Leases	10	38,934
<b>Total Non Current Liabilities</b>		<b>49,682</b>
<b>TOTAL LIABILITIES</b>		<b>1,322,326</b>
<b>NET ASSETS</b>		<b>285,177</b>
<b>EQUITY</b>		
Accumulated Surplus/(Deficit)		255,811
Contributed Capital		29,366
<b>TOTAL EQUITY</b>	8	<b>285,177</b>
Contingent Assets and Liabilities	9	
Leases - Commitments for Expenditure	10	

*The above statement should be read in conjunction with the accompanying notes.*

## STATEMENT OF RECOGNISED INCOME AND EXPENSE

FOR THE PERIOD 12 DECEMBER 2005 TO 30 JUNE 2006

	Notes	30.06.06 \$
Net result from continuing operations		255,811
<b>TOTAL RECOGNISED INCOME AND EXPENSES FOR THE PERIOD</b>	8	<b>255,811</b>

## CASH FLOW STATEMENT

FOR THE PERIOD 12 DECEMBER 2005 TO 30 JUNE 2006

	Notes	30.06.06 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Receipts from other entities		2,835,734
Payments to suppliers and employees		(2,050,710)
Goods and Services Tax recovered from ATO		122,187
Goods and Services Tax paid to ATO		(180,044)
Interest received		4,430
<b>NET CASH FLOWS/(OUTFLOWS) FROM OPERATING ACTIVITIES</b>	15	<b>731,597</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Receipts/(Payments) for motor vehicles		(2,677)
<b>NET CASH INFLOW/(OUTFLOW) FROM INVESTING ACTIVITIES</b>		<b>(2,677)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Cash and cash equivalents transferred from the Legal Ombudsman		229,380
<b>NET CASH INFLOW/(OUTFLOW) FROM FINANCING ACTIVITIES</b>		<b>229,380</b>
Net Increase/(Decrease) in Cash Held		958,300
Cash and cash equivalents at the beginning of the reporting period		-
<b>CASH AND CASH EQUIVALENTS AT THE END OF THE REPORTING PERIOD</b>	3	<b>958,300</b>

The above statements should be read in conjunction with the accompanying notes.

## NOTES TO THE FINANCIAL STATEMENTS

FOR THE PERIOD 12 DECEMBER TO 30 JUNE 2006

### NOTE 1

#### SUMMARY OF ACCOUNTING POLICIES

##### 1A STATEMENT OF COMPLIANCE

This general-purpose financial report has been prepared on an accrual basis in accordance with the *Financial Management Act 1994*, Australian Accounting Standards and Urgent Issues Group Interpretations. Accounting Standards include Australian equivalents to International Financial Reporting Standards Board (A-IFRS').

##### 1B BASIS OF PREPARATION

The financial report has been prepared on the basis of historical cost, except for the valuation of certain non-current assets and financial instruments. Cost is based on the fair values of the consideration given in exchange for assets.

In the application of A-IFRS management is required to make judgments, estimates and assumptions about carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances, the results of which form the basis of making the judgments. Actual results may differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period or in the period of the revision and future periods if the revision affects both current and future periods.

Judgments made by management in the application of A-IFRS that have significant effects on the financial statements and estimates with a significant risk of material adjustments in the next year are disclosed throughout the notes in the financial statements.

These financial statements are the first Legal Services Commissioner financial statements to be prepared. The statements have been prepared in accordance with AASB 1 'First-time Adoption of Australian Equivalents to International Financial Reporting Standards'.

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 transaction or other event is reported.

##### A) REPORTING ENTITY

The Legal Services Commissioner commenced operations on 12 December 2005 following the proclamation of the *Legal Profession Act 2004*.

The *Legal Professional Act 2004* (Part 8) provided that all rights, property and assets and all debts, liabilities and obligations of the Legal Ombudsman immediately before the commencement day transfer to the Legal Services Commissioner.

## NOTES TO THE FINANCIAL STATEMENTS continued

FOR THE PERIOD 12 DECEMBER TO 30 JUNE 2006

The net transfer on 12 December 2005 was as follows:

<b>CURRENT ASSETS</b>	
Cash and cash equivalents	229,380
Prepayments	15,298
Receivables	6,907
<b>Total Current Assets</b>	<b>251,585</b>
<b>NON CURRENT ASSETS</b>	
Property, Plant and Equipment	-
<b>Total Non Current Assets</b>	<b>-</b>
<b>TOTAL ASSETS</b>	<b>251,585</b>
<b>CURRENT LIABILITIES</b>	
Payables	52,710
Employee Benefits	169,509
<b>Total Current Liabilities</b>	<b>222,219</b>
<b>NON CURRENT LIABILITIES</b>	
Employee Benefits	-
<b>Total Non current Liabilities</b>	<b>-</b>
<b>TOTAL LIABILITIES</b>	<b>222,219</b>
<b>NET ASSETS</b>	<b>29,366</b>
<b>EQUITY</b>	
Contributed Capital	302,706
Accumulated Surplus/(Deficit)	(273,340)
<b>AMOUNTS TRANSFERRED AS CONTRIBUTIONS BY OWNERS TO THE LEGAL SERVICES COMMISSIONER</b>	<b>29,366</b>

### B) OBJECTIVES AND FUNDING

The objectives of the Commissioner are:

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

The Commissioner is funded from the Legal Services Board Public Purpose Fund as per Section 6.7.7 of the *Legal Professional Act 2004*.

### C) GOODS AND SERVICES TAX

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

The net amount of GST recoverable from, or payable to, the ATO is included as part of receivables or payables in the Balance Sheet.

Cash flows are included in the cash flow statement on a gross basis. The GST component of cash flows arising from investing and financing activities which is recoverable from, or payable to the ATO is classified as operating cash flows.

## NOTES TO THE FINANCIAL STATEMENTS continued

FOR THE PERIOD 12 DECEMBER TO 30 JUNE 2006

### D) CASH AND CASH EQUIVALENT

For the purposes of the statement of cash flows, cash includes cash on hand and short term deposits that are readily convertible to cash on hand and are subject to an insignificant risk of changes in value, net of outstanding cheques yet to be presented by the Legal Services Commissioner's suppliers and creditors.

### E) COMPARATIVE FIGURES

As per part 8 of the *Legal Professional Act 2004* all rights, property, assets, debts, liabilities and obligations of the Legal Ombudsman on 11 December 2005 were vested with the new Legal Services Commissioner on 12 December 2005. As the Commissioner is a new organisation there are no comparative figures.

### F) DEPRECIATION AND AMORTISATION

Depreciation is provided on motor vehicles on a straight line basis, at rates which allocate their costs over the estimated useful life of the asset.

The expected useful lives of the vehicles are 3 years. The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at each balance sheet date.

### G) EMPLOYEE BENEFITS

- (i) Provision is made for benefits accruing to employees in respect of wages and salaries, annual leave, and long service leave when it is probable that settlement will be required and they are capable of being measured reliably.

Provisions made in respect of employee benefits are to be measured on their expected settlement. Provisions which are expected to be settled within 12 months are measured at their nominal values using the remuneration rate expected to apply at the time of settlement. Provisions which are not expected to be settled within 12 months are measured at the present value of the estimated future cash outflows to be made by the Legal Services Commissioner in respect of services provided by employees up to reporting date.

Regardless of the expected timing of settlement, provisions made in respect of employee benefits are classified as a current liability unless there is an unconditional right to defer the settlement of the liability for at least 12 months after the reporting date, in which case it would be classified as a non-current liability. Provisions made for annual leave and unconditional long service leave would be classified as a current liability where the employee has a present entitlement to the benefit. A non-current liability would include long service leave entitlements accrued for employees with less than 7 years of continuous service.

- (ii) Superannuation

The amount charged to the operating statement in respect of superannuation represents the contributions made by the Legal Services Commissioner to the superannuation funds in respect of Legal Services Commissioner staff.

The Commissioner does not recognise defined benefit liability in respect of the superannuation plan because it 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 administers and discloses the State's defined benefit liabilities in its financial report.

### H) FINANCIAL ASSETS

Short term investments held for trading purposes are classified as current assets and are stated at fair value, with any resultant gain or loss recognised in profit or loss.

Short term investments are investments that have maturities of one year or less and are stated at the lower of cost and net realisable value.

### I) LEASED ASSETS

Leases are classified as finance leases whenever the terms of the lease transfer substantially all the risks and rewards of ownership to the lessee. All other leases are classified as operating leases. Operating lease payments are charged as an expense in the period in which they are incurred.

Assets held under finance leases are recognised as assets of the Commissioner at their fair value or, if lower, at the present value of the minimum lease payments, each determined at the inception of the lease. The corresponding liability to the lessor is included in the balance sheet as a finance lease obligation.

Lease payments are apportioned between finance charges and reduction of the lease obligation so as to achieve a constant rate of interest on the remaining balance of the liability. Finance charges are charged directly against income.

Finance lease assets are amortised on a straight-line basis over the estimated useful life of the asset.

Operating lease payments are recognised as an expense in a straight-line basis over the lease term, except where another systematic basis is more representative of the time pattern in which economic benefits from the leased asset are consumed.

## NOTES TO THE FINANCIAL STATEMENTS continued

FOR THE PERIOD 12 DECEMBER TO 30 JUNE 2006

### J) NON-CURRENT PHYSICAL ASSETS

Assets are initially recorded at cost less accumulated depreciation and impairment.

### K) PAYABLES

Payables are recognised for amounts to be paid in the future for goods and services received, whether or not billed to the organisation. The amounts reported in the Balance Sheet are their net market value. No interest is paid in respect of payables. Trade payables are ordinarily settled on 30 day terms.

### L) REVENUE RECOGNITION

Revenue (including interest income) is brought to account on receipt, control or official notification.

The *Legal Profession Act* section 6.7.7 determines that the Legal Services Commissioner must be paid such amount as the Legal Services Board.

All income received by the Legal Services Commissioner is paid into the Operating Account with the exception of Disputed Costs which are paid into a separate account.

### M) ROUNDING OF AMOUNTS

Amounts in the financial report have been rounded to the nearest dollar.

### N) RECHARGE POLICY

(i) The Legal Services Board to the Legal Services Commissioner

The Board charges the Commissioner for premises, depreciation and insurance on the basis of staff numbers and floor space.

(ii) The Legal Services Commissioner to the Legal Services Board

The Commissioner charges the Board for salaries and on-costs based on the time spent by Commissioner staff on Board work.

### O) CONTRIBUTIONS BY OWNERS

Consistent with UIG Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities* appropriations for additions to net assets have been designated as contributions by owners. Other transfers that are in the nature of contributions or distributions have also been designated as contributions by owners.

## NOTES TO THE FINANCIAL STATEMENTS continued

FOR THE PERIOD 12 DECEMBER TO 30 JUNE 2006

30.06.06

\$

### NOTE 2 NET RESULT FROM CONTINUING OPERATIONS

<b>INCOME</b>	
<b>(A) REVENUE</b>	
• Legal Services Board	2,950,000
<b>OTHER</b>	
• Recovery of Legal costs	100
• Interest	4,430
• Service Agreement between Legal Services Board and Legal Services Commissioner	417,422
• Other	94
<b>REVENUE FROM CONTINUING OPERATIONS</b>	<b>3,372,046</b>
<b>EXPENSES</b>	
<b>(B) EMPLOYEE BENEFITS</b>	
• Salaries	966,315
• Superannuation	82,790
• Temporary Staff	205,008
• Provisions	1,659
• Payroll & Workcover	52,553
• Training	10,701
• Other	7,668
	<b>1,326,694</b>
<b>(C) SUPPLIES AND SERVICES</b>	
<b>COSTS OF FUNCTIONS DELEGATED TO THE VICTORIAN LAWYERS RPA LTD AND VICTORIAN BAR INC.</b>	
• Cost of Regulation - LIV	1,149,483
• Cost of Regulation - BAR	147,097
	<b>1,296,580</b>
<b>(D) CONSULTANTS &amp; LEGAL EXPENSES</b>	
• Investigations	122,769
• Legal Advice	8,206
• Consultants	42,414
	<b>173,389</b>
<b>(E) OTHER EXPENSES FROM ORDINARY ACTIVITIES</b>	
• Motor Vehicle expenses	10,504
• Community and education expenses	11,039
• Telephone and fax expenses	17,880
• EDP expenses	55,229
• General administration expenses	41,356
• Ex gratia expenses	1,101
• Travel and accommodation expenses	5,368
• Audit Fees	3,900
• Bank Fees	1,190
• Postage, printing and stationery	50,791
	<b>198,358</b>

## NOTES TO THE FINANCIAL STATEMENTS continued

FOR THE PERIOD 12 DECEMBER TO 30 JUNE 2006

30.06.06

\$

### NOTE 2 (Continued)

#### (F) DEPRECIATION AND AMORTISATION EXPENSE

• Motor Vehicles	2,850
	<hr/>
	2,850

#### (G) TRANSITION EXPENSE

• Human Resources	142
• Temporary Premises	118,222
	<hr/>
	118,364

### NOTE 3 CASH AND CASH EQUIVALENTS

CASH ON HAND 1,000

#### CASH AT BANK

• Legal Services Commissioner	767,032
• Disputed Costs	190,268
	<hr/>

**TOTAL** 958,300

### NOTE 4 RECEIVABLES

#### CURRENT

• GST Recoverable	64,763
• Accrued Income	531,882
	<hr/>

**Total** 596,645

### NOTE 5 MOTOR VEHICLES

#### MOTOR VEHICLE

• At Cost	53,165
• Less: Accumulated Depreciation	(2,850)
	<hr/>

**TOTAL** 50,315

### NOTE 6 PAYABLES

• Accrued expenses	683,626
• PAYG	61,071
• Payables	9,533
• Disputed Costs	190,271
	<hr/>

**TOTAL** 944,501



## NOTES TO THE FINANCIAL STATEMENTS continued

FOR THE PERIOD 12 DECEMBER TO 30 JUNE 2006

30.06.06  
\$

### NOTE 7 PROVISIONS

#### CURRENT

• Employee benefits (note 7A)	316,589
	<hr/> 316,589

#### NON-CURRENT

• Employee benefits (note 7A)	10,748
	<hr/> 10,748

### NOTE 7A EMPLOYEE ENTITLEMENTS

#### CURRENT

All annual leave and LSL entitlements representing 7+ years of continuous services

• Short-term employee benefits, that fall due within 12 months after the end of the period measured at nominal value	173,601
• Other long-term employee benefits that do not fall due within 12 months after the end of the period measured at present value	142,988
	<hr/> 316,589

#### NON-CURRENT

• LSL representing less than 7 years of continuous service measured at present value	10,748
	<hr/> 10,748

#### EMPLOYEE NUMBERS

Average (FTE) number of employees during the financial year	No. 32
---	-----------

As explained in note 1 g(i) the amount for long service leave is measured at the present value. The following assumptions were adopted in measuring present values:

• Weighted average rates of increase in annual employee entitlements to settlement of the liabilities	4.75%
• Weighted average discount rates	5.84%
• Weighted average terms to settlement of the liabilities	12 years

### NOTE 8 EQUITY AND MOVEMENTS IN EQUITY

#### Contributions by Owners

• Balance at beginning of financial year	-
• Contribution by owners to the Legal Services Commissioner	29,366
<b>Balance at end of financial year</b>	<hr/> 29,366

#### Accumulated Surplus

• Balance at beginning of financial year	-
• Net Result	255,811
<b>Balance at end of financial year</b>	<hr/> 255,811

## NOTES TO THE FINANCIAL STATEMENTS continued

FOR THE PERIOD 12 DECEMBER TO 30 JUNE 2006

40

Legal Services Commissioner Report for the period 12 December 2005 – 30 June 2006

30.06.06  
\$

### NOTE 9 CONTINGENT LIABILITIES AND CONTINGENT ASSETS

There are no contingent liabilities or contingent assets at balance date not provided for.

### NOTE 10 LEASES

	MINIMUM FUTURE LEASE PAYMENTS	PRESENT VALUE OF MINIMUM FUTURE LEASE PAYMENTS
	30.06.06	30.06.06

#### (A) FINANCE LEASES

Not longer than 1 year	14,436	11,554
Longer than 1 year and not longer than 5 years	41,066	38,934
Longer than five years	-	
Minimum lease payments	55,502	50,488
Less future finance charges	(5,014)	
Present value of minimum lease payments	50,488	50,488

#### (B) OPERATING LEASES

The Commissioner holds no operating leases

### NOTE 11 RESPONSIBLE PERSONS

The names of persons who were responsible persons at any time during the reporting period were:-

The responsible Minister during the period 12 December 2005 to 30 June 2006 was the Hon R Hulls MP, Attorney-General.

During the period the following Ministers were Acting Attorney-General:

The Hon. John Lenders, MP 24 December 2005 to 2 January 2006

The Hon. John Lenders, MP 16 January 2006 to 5 February 2006

The Hon. Bob Cameron, MP 14 April 2006 to 18 April 2006

The Hon. Bob Cameron, MP 24 June 2006 to 27 June 2006

The Hon. Bob Cameron, MP 29 June 2006 to 30 June 2006

## NOTES TO THE FINANCIAL STATEMENTS continued

FOR THE PERIOD 12 DECEMBER TO 30 JUNE 2006

### NOTE 12

#### REMUNERATION OF EXECUTIVES AND ACCOUNTABLE OFFICER

Accountable Officer: Ms V Marles.

Section 6.3.4 of the *Legal Profession Act 2004* states that the Legal Services Commissioner is the Chief Executive of the Legal Services Board.

The Executive Officers during the period 12 December 2005 to 30 June 2006 were Ms Diana Gillespie, Mr David Forbes, and Ms Janet Cohen.

INCOME BAND	TOTAL REMUNERATION 30.06.06	BASE REMUNERATION 30.06.06 No.
<b>EXECUTIVE AND ACCOUNTABLE OFFICERS REMUNERATION OVER \$100,000</b>		
Income of:		
\$100,000 - \$109,999		
\$110,000 - \$119,999	1	1
\$120,000 - \$129,999		
\$130,000 - \$139,999		
\$140,000 - \$149,999		
Over \$150,000		
<b>TOTAL AMOUNT</b>	118,767	118,767
		<b>30.06.06</b>
		\$

### NOTE 13

#### RELATED PARTY TRANSACTIONS

There were no related party transactions during the year.

### NOTE 14

#### EX-GRATIA PAYMENTS

Payment made under Section 4.2.16 of the <i>Legal Profession Act 2004</i>	1,100
<b>TOTAL EX-GRATIA PAYMENTS</b>	<b>1,100</b>

### NOTE 15

#### RECONCILIATION OF THE NET RESULT FOR THE PERIOD TO NET CASH FLOWS FROM OPERATING ACTIVITIES

Net result for the reporting period	255,811
Depreciation and Amortisation	2,850
Changes in net assets and liabilities:	
• (Increase)/decrease in Prepayments	13,056
• (Increase)/decrease in receivables	(589,738)
• Increase/(decrease) in annual leave	62,690
• Increase/(decrease) in long service leave	95,138
• Increase/(decrease) in payables	891,790
<b>NET CASH INFLOW FROM OPERATING ACTIVITIES</b>	<b>731,597</b>

## NOTES TO THE FINANCIAL STATEMENTS continued

FOR THE PERIOD 12 DECEMBER TO 30 JUNE 2006

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Legal Services Commissioner Report for the period 12 December 2005 – 30 June 2006

### NOTE 16 FINANCIAL INSTRUMENTS

The entities' exposure to interest rate risk and the effective weighted average interest rate for classes of financial assets and financial liabilities is set out below:

	NOTE	FLOATING INTEREST \$	FIXED INTEREST MATURING IN:			NON INTEREST BEARING	TOTAL \$
			1 YEAR OR LESS	OVER 1 TO 5 YEARS	MORE THAN 5 YEARS		
<b>FINANCIAL ASSETS</b>							
Cash and cash equivalents	3	957,300			1,000	958,300	
Receivables	4				596,645	596,645	
<b>TOTAL</b>		<b>957,300</b>			<b>597,645</b>	<b>1,554,945</b>	
Weighted Average Interest Rate		5.31%					
<b>FINANCIAL LIABILITIES</b>							
Payables	6				944,501	944,501	
<b>TOTAL</b>					<b>944,501</b>	<b>944,501</b>	

### NOTE 17 SUPERANNUATION

30.06.06  
\$

• Vic Super	40,870
• MLC Masterkey	15,248
• Other Superannuation funds	26,672
<b>Total Superannuation Contribution</b>	<b>82,790</b>

### NOTE 18 SUBSEQUENT EVENTS

There are no subsequent events to report.

### NOTE 19 IMPACT OF THE ADOPTION OF AUSTRALIAN EQUIVALENT TO INTERNATIONAL FINANCIAL REPORTING STANDARDS

These are the first financial statements of the Legal Services Commissioner. The statements have been prepared in accordance with AASB 1 'First-time Adoption of Australian Equivalents to International Financial Reporting Standards'.

**LEGAL SERVICES COMMISSIONER**

**ACCOUNTABLE OFFICER'S AND CHIEF FINANCE OFFICER'S DECLARATION**

We certify that the attached financial statements for the Legal Services Commissioner have been prepared in accordance with Standing Direction 4.2 of the *Financial Management Act 1994*, applicable Financial Reporting Directions, Australian accounting standards and other mandatory professional reporting requirements.

We further state that, in our opinion, the information set out in the Operating Statement, Balance Sheet, Statement of Recognised Income and Expenses, Cash Flow Statement, and notes to and forming part of the financial statements, presents fairly the financial transactions during the period ended 30 June 2006 and financial position of the Legal Services Commissioner as at 30 June 2006.

We are not aware of any circumstances that would render any particulars included in the financial statements to be misleading or inaccurate.

Melbourne



V. Marles  
Commissioner

Legal Services Commissioner  
Melbourne



D. Gillespie  
Chief Financial Officer

Legal Services Commissioner  
Melbourne

Dated:



AUDITOR GENERAL  
VICTORIA

INDEPENDENT AUDIT REPORT

Legal Services Commissioner

To the Members of the Parliament of Victoria and the Commissioner

**Matters Relating to the Electronic Presentation of the Audited Financial Report**

This audit report for the period 12 December 2005 to 30 June 2006 relates to the financial report of the Legal Services Commissioner included on its web site. The commissioner is responsible for the integrity of the web site. I have not been engaged to report on the integrity of the web site. The audit report refers only to the statements named below. An opinion is not provided on any other information which may have been hyperlinked to or from these statements. If users of this report are concerned with the inherent risks arising from electronic data communications, they are advised to refer to the hard copy of the audited financial report to confirm the information included in the audited financial report presented on this web site.

**Scope**

*The Financial Report*

The accompanying financial report for the period 12 December 2005 to 30 June 2006 of the Legal Services Commissioner consists of the operating statement, balance sheet, statement of recognised income and expense, cash flow statement, notes to and forming part of the financial report, and the accountable officer's and chief finance officer's declaration.

*Commissioners' Responsibility*

The commissioner is responsible for:

- the preparation and presentation of the financial report and the information it contains, including accounting policies and accounting estimates
- the maintenance of adequate accounting records and internal controls that are designed to record its transactions and affairs, and prevent and detect fraud and errors.

*Audit Approach*

As required by the *Audit Act 1994*, an independent audit has been carried out in order to express an opinion on the financial report. The audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance as to whether the financial report is free of material misstatement.

The audit procedures included:

- examining information on a test basis to provide evidence supporting the amounts and disclosures in the financial report
- assessing the appropriateness of the accounting policies and disclosures used, and the reasonableness of significant accounting estimates made by the commissioner
- obtaining written confirmation regarding the material representations made in conjunction with the audit
- reviewing the overall presentation of information in the financial report.



AUDITOR GENERAL  
VICTORIA

**Independent Audit Report (continued)**

These procedures have been undertaken to form an opinion as to whether the financial report is presented in all material respects fairly in accordance with Accounting Standards and other mandatory professional reporting requirements in Australia, and the financial reporting requirements of the *Financial Management Act 1994*, so as to present a view which is consistent with my understanding of the Legal Services Commissioner's financial position, and its financial performance and cash flows.

The audit opinion expressed in this report has been formed on the above basis.

**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. The Auditor-General and his staff and delegates comply with all applicable independence requirements of the Australian accounting profession.

**Audit Opinion**

In my opinion, the financial report presents fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia, and the financial reporting requirements of the *Financial Management Act 1994*, the financial position of the Legal Services Commissioner as at 30 June 2006 and its financial performance and cash flows for the year then ended.

MELBOURNE  
6 November 2006



D.D.R. Pearson  
*Auditor-General*

## DISCLOSURE INDEX

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

<b>MINISTERIAL DIRECTIONS</b>		
<b>REPORT OF OPERATIONS</b>		
<b>Charter and purpose</b>		
Legislation	Requirement	Page Ref.
FRD 22A	Manner of establishment and the relevant Ministers	3, 40
FRD 22A	Objectives, functions, powers and duties	2
FRD 22A	Nature and range of services provided	2, 5
<b>Management and Structure</b>		
FRD 22A	Organisational structure	6
<b>Financial and other information</b>		
FRD 22A	Operational and budgetary objectives and performance against objectives	N/A
FRD 22A	Statement of workforce data and merit and equity	6
FRD 22A	Occupational Health and Safety	6
FRD 15A	Executive Officer disclosures	6
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FRD 22A	Significant changes in financial position during the year	NIL
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