



The New South Wales Bar Association



Annual Report 2008 - 2009

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Corporate Directory

Incorporating the annual report of
The New South Wales Bar Association
ABN 18 526 414 014

The Indigenous Barristers' Trust
ABN 53 124 431 831

Financial results for
Barristers' Benevolent Association of NSW
ABN 18 466 736 745

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Bankers

National Australia Bank
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Annual General Meeting

The Annual General Meeting will be
held at 1.00pm on November 2009 in
the Bar Association Common Room.

Cover photo: Troy Bendeich /
Newspix

President's report

Anna Katzmann SC



President Anna Katzmann SC

Standing up for rights

Last year in these pages I referred to the furore over the World Youth Day Regulation, part of which the Federal Court held could have a 'chilling' effect on the exercise of the right of free speech. Noting the absence of human rights legislation in New South Wales or nationally, one did not need to be a soothsayer to predict that more legislation of this kind would follow.

...it is difficult to see any justification for the conferral of such extraordinary powers in a liberal democracy.

This year (without public consultation) the New South Wales Parliament passed the Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Bill, legalising the use of covert search warrants in the investigation of numerous criminal offences. It was trumpeted as 'part of the State Government's ongoing commitment to providing law enforcement agencies with the necessary armoury to respond effectively to major crime and keep the community safe'.¹

The Legislative Review Committee expressed concerns about the absence of 'robust consultation' on the Bill and reported that:

the broad covert search warrant powers significantly trespass on personal rights and liberties, particularly in regard to persons not suspected of serious criminal activity. The Committee also believes that the Act contains insufficient safeguards to address these.²

The legislation provides NSW police with extraordinary powers to invade our privacy without our knowledge. The powers enable the police to enter the premises, not merely of suspects, but also of their hapless neighbours, and search and seize items without notice and using a subterfuge. What is more, the householder may not know that the search has been conducted for a period of up to three years afterwards. Until this legislation, powers of this kind were only exercisable in terrorism cases and then only by the NSW Police Counter-Terrorism Co-ordination Command and units of the NSW Crime Commission involved in terrorism-related investigations. Now they apply to all law-abiding citizens, cover a

wide range of indictable offences and may be used by ordinary police officers. As I said at the time the Bill was introduced into the parliament, it is difficult to see any justification for the conferral of such extraordinary powers in a liberal democracy. Certainly, no good reason has been offered. Having regard to the breadth of the powers it was particularly disappointing that the government chose not to consult on the proposed changes.

The Bar Association briefed members of parliament about the implications of the proposals. Despite our view that there was

no place for legislation of this kind, but alive to the political realities, we suggested a number of amendments designed to ameliorate some of the worst features of the scheme. The Opposition expressed support for the legislation, although it did move some of our proposed amendments. The Greens expressed opposition and moved others. It is regrettable that the government accepted none of these amendments.

In *Ousley v The Queen*³ McHugh J said of provisions in the Commonwealth Crimes Act that make it mandatory for a police officer executing a search warrant to make a copy of it available to the occupier of the premises,

Such provisions reflect the desire to achieve an appropriate balance between a person's rights of privacy and the need to facilitate the gathering of evidence against, and the apprehension and conviction of, those who have broken the criminal law. Recognition is given to the importance of enabling persons whose rights of privacy stand to be affected to satisfy themselves of the authority for such action...

In *Ballis v Randall*⁴ Hall J set aside three search warrants executed covertly by NSW Crime Commission officers. He acknowledged that investigating officers might find covert search warrants highly desirable – even necessary – and observed that it could be inconvenient not to be able to execute a search warrant without the knowledge of the occupier. However, he went on to say:

[I]nconvenience in carrying out an object authorised by legislation is not a ground for eroding fundamental common law rights": *Plenty v Dillon* (1991) 171 CLR at 654 referred to by the Full Court of the High Court in *Coco v R* [1993-94] 179 CLR 427 at 436.

Yet, it appears that the NSW Parliament decided that inconvenience to the police should trump the right to privacy. And it did so despite the lack of any empirical evidence showing the need for these

President's report



Premier Nathan Rees at a NSW Police briefing on violence related to outlaw motorcycle gangs, 23 March 2009. Photo: Tracey Nearmy / AAP Image

covert search warrants and without proper consideration of whether this legislation was a proportionate response to the concerns apparently raised by the police, presumably in the wake of the decision in *Ballis v Randall*.

The NSW Government appeared to share these concerns when covert warrant powers were originally proposed for terrorism-related offences in the *Terrorism Legislation (Warrants) Bill 2005*. The then attorney general, the Hon Bob Debus MP, noted at the time that:

General criminal activity has never aimed to perpetrate the mass taking of life, the widespread destruction of property, or the wholesale disruption of society in the way that terrorism does. The powers in the bill are not designed or intended to be used for general policing. Their use is restricted to the NSW Police Counter-Terrorism Co-ordination Command and to the units of the NSW Crime Commission assigned the task of investigating and responding to terrorism. Law enforcement agencies already have a wide array of investigation powers at their disposal and they will all continue to be employed in the fight against terrorism.⁵

When the government introduced its anti-terrorism legislation in 2005 it announced that the covert warrants scheme would be the subject of independent monitoring

by the ombudsman for two years. Although the ombudsman reported to the government, the government has not tabled his report. Why the legislation was introduced before the ombudsman's report is made public is a mystery.

Our experience with the covert search warrants legislation was replicated when the government introduced the Crimes (Criminal Organisations Control) Bill, only in this case there was even less time for debate. The Bill was introduced

Some opponents of human rights legislation have argued that a scrutiny of bills committee is sufficient to protect our rights from ill-conceived parliamentary incursions. However, the NSW experience suggests otherwise.

into the lower house on 2 April, passed through both houses that same day and commenced the following day. The Legislation Review Committee expressed its concerns that the Bill would criminalise a person's associations rather than 'a guilty act of a specified criminal conduct' and would deny a person's right to freedom of association, contrary to article 22 of the International Covenant on Civil and Political Rights. It pointed out that this legislation went further than its South

Australian prototype and compared it to the old consorting laws of the Askin government about which the Wran Labor government had been very critical.

During the brief window of opportunity available to it, the Bar Association again briefed parliamentarians on our concerns, which were of the same order as those later voiced by the Legislation Review Committee, but both the New South Wales Government and Opposition, keen to be seen to be doing something about outlaw motorcycle gangs, seemed to be unable to see the wider picture.

Fortunately, with the change of government federally, there has been much greater consultation with the profession about these sorts of issues. In September last year the association co-hosted (with the Law Council of Australia) a Federal Criminal Law Conference, which was designed to feed into a forum later in the month in Canberra organised by the minister for home affairs. A number of highly qualified members of the bar and bench from across the country attended and presented papers. The association also attended and contributed to the Canberra forum. The purpose of both events was

to generate ideas to improve the federal criminal law. In July this year the Australian Government released a discussion paper on proposed amendments to the national security legislation. The association is contributing to the Law Council's response and may lodge its own separate submission. It is a pity that the New South Wales Government is apparently unwilling to follow the example of its federal counterpart.

Some opponents of human rights legislation have argued that a scrutiny of bills committee is sufficient to protect our rights from ill-conceived parliamentary incursions. However, the NSW experience suggests otherwise. The NSW Legislation Review Committee's powers are limited to reporting to both houses of parliament on whether a bill complies with certain criteria related to rights or process. Parliament is entitled to pass a bill even though the committee has not reported on it. In the case of the Crimes (Criminal Organisations Control) Bill, the committee's report was published on 4 May 2009, over a month after the Bill passed through both houses. In the case of the covert search warrants legislation, although the committee did report before the Bill was passed, the government took no notice of what it had to say.

The association, like the Law Council of Australia and the Victorian Bar, recommended the enactment of national legislation providing for the protection of human rights contained in international covenants Australia has ratified.

In June the Bar Association complemented its work on such legislation by presenting a comprehensive submission to the National Human Rights Consultation. The association, like the Law Council of Australia and the Victorian Bar, recommended the enactment of national legislation providing for the protection of human rights contained in international covenants Australia has ratified. The NSW experience only serves to reinforce the wisdom of the Association's position.

I thank the criminal law and the human rights committees, and the Bar

Association's staff - Cindy Penrose and Alastair McConnachie - for their selfless efforts in helping the association to fulfil its role in promoting the administration of justice in the community by speaking out for the rights of all, no matter how little political mileage might be seen to be gained in doing so.

Barristers in schools

During the 2009 Law Week, the Bar Association launched its Barristers in Schools Programme. The programme involves sending barristers to primary schools to introduce children to the law and to barristers, at a time in their lives when they might come into contact with it but before their opinions and prejudices are formed. It was conceived as a way, not only to assist the community, but also

Cunneen SC and Andrew Martin for preparing the curriculum and conducting the programme.

Depression

Our work to raise awareness about, and encourage early intervention to address depression and other mental health issues, continues. During the year I visited a number of chambers to seek the views of members and to introduce Penny Johnston, our director, care and assistance. The work that Penny has performed in the relatively short period she has been with us has been invaluable. She has not only responded swiftly to the needs of individual barristers on request but has organised bereavement counselling for chambers and staff and for families and she has played a valuable role in cushioning the blow of disciplinary action for those of our members whom the Bar Council anticipates may benefit from her assistance. We are enormously grateful to her.

A final word

Finally I must thank the indefatigable executive director and the entire Bar Association staff for their support throughout my term of office. Few appreciate the extent of their efforts on our behalf. We are greatly indebted to them all.

Endnotes

1. Hansard, NSW Legislative Council, Tuesday 24 March 2009
2. Legislation Review Digest No. 2 of 2009 p 41
3. (1997) 192 CLR 69 at 112
4. [2007] NSWSC 422
5. Hansard NSW Legislative Assembly, 9 June 2005, p 16940

Executive director's report

Philip Selth OAM



Executive Director Philip Selth OAM

National practice reform

For the past few years I have been reporting on progress (or lack of it) with the National Practice Model Laws Project. I began my 2007 – 2008 report on the project thus: 'As at 30 June 2008 all but South Australia has enacted model legal profession legislation to establish similar legislation governing the legal profession across Australia.' Unfortunately, the only change that needs to be made to this sentence is to substitute 30 June 2009 for 30 June 2008. However, the failure of the South Australian Parliament to enact the model legislation was not the only problem facing this project. For a range of reasons it was taking far too long to 'tidy up' the legislation in each state and territory to remove inconsistencies across jurisdictions stemming from local policy and administrative arrangements that remain impediments to national practice. There are also matters that were put to one side for further consideration once the model legislation was in place.

The Bar Association raised with both the New South Wales and federal attorneys-general ways in which the major 'bumps in the road' to a uniform national regime might be removed. The Law Council, too, raised its concerns with the federal attorney-general.

In February 2009 the Council of Australian Governments (COAG), which comprises the prime minister, state premiers, territory chief ministers and the president of the Australian Local Government Association, formally agreed that legal profession regulation would be added to its microeconomic and regulatory reform agenda.

On 30 April 2009 the prime minister and the federal attorney-general announced that COAG had agreed on 'a plan to achieve national regulation of the Australian legal profession'.

COAG has agreed that:

- draft legislation providing uniform laws regulating the legal profession across Australia be prepared for consideration by COAG within 12 months;
- a specialist taskforce be appointed by the attorney-general to make recommendations and prepare the draft legislation; and
- a consultative group be appointed by the attorney-general to advise and assist the taskforce.

The taskforce comprises:

- Roger Wilkins AO - secretary, Commonwealth Attorney-General's Department (chair);
- Bill Grant OAM - secretary-general, Law Council of Australia;
- Laurie Glanfield AM - director-general, NSW Attorney General's Department;
- Mr Steven Goggs, acting chief executive, ACT Department of Justice and Community Safety; and
- Louise Glanville - executive director, Victorian Department of Justice.

The Consultative Group is chaired by the Hon Michael Lavarch, professor of law at Queensland University of Technology, a former federal attorney-general and former secretary-general of the Law

Council of Australia. Members of the Consultative Group include the Hon Justice Murray Tobias AM RFD, Supreme Court of New South Wales and presiding member of the New South Wales Legal Profession Admission Board (and a former president of the NSW Bar Association); Joe Catanzariti, president, Law Society of New South Wales and partner at Clayton Utz; and me.

The mandate for the taskforce undertaking the reform project is very broad. The taskforce is considering all aspects of the existing system of regulation of the legal profession, including education, admission and practice with the goal of harmonising a single national regulatory framework.

The taskforce aims to produce draft legislation and to make recommendations on regulatory structures for the uniform regulation of the legal profession across Australia by 30 April 2010. The intention is to deliver '(a) a national legal profession and a national legal services market through simplified uniform legislation and regulatory standards; (b) clear and accessible consumer protection, so that consumers have the same rights and remedies available to them regardless of where they live; and (c) a system of regulation that is efficient and effective.'

No one can reasonably cavil with the stated intention. The 'bumps in the road' need to be removed - and the road kept in good repair. There must be national standards, for example, for admission, trust accounts, professional indemnity insurance and fee disclosure. There is no justification for different entry standards into either branch of the profession being applied in different jurisdictions. What constitutes professional misconduct or unsatisfactory professional conduct should be uniform across Australia.

However, there are a number of important and complex issues that will need to be addressed before the intention can be met. The important role of the Supreme Courts in the admission of legal practitioners and regulation of the

profession needs to continue. Every person admitted is an officer of the Supreme Court. The legal profession must remain an integral part of whatever regulatory system is to be introduced. A centralised regulatory system, which would inevitably cause delays and increase costs borne by the profession, would benefit neither the profession nor, more importantly, its clients. Nor is there merit in a system of regulation that is administered by people with limited knowledge of the day to day realities of legal practice or who are physically located in another jurisdiction. The enormous contribution being made now by the profession to its administration needs to be acknowledged and preserved. The important role of the bars and law societies in the administration of the profession, their contribution to the work of the courts and to the maintenance of the rule of law, working in a federal system, must be acknowledged.

A centralised regulatory system, which would inevitably cause delays and increase costs borne by the profession, would benefit neither the profession nor, more importantly, its clients.

There have been suggestions by some that the COAG project is justification for the present federated model of the Law Council being replaced by a national model with the state and territory bars becoming some form of 'chapter' of the Law Council. While such a national model for the profession's peak representative body may evolve over time, the forced imposition of such a model would inevitably see the demise of the Law Council.

As at 30 June 2009 the Consultative Group had yet to meet. The various possible models to form the basis of the proposed legislation being developed by the taskforce have yet to be published.

National Barristers' Rules

As I noted in the 2007- 2008 annual report, the Australian Bar Association, of which each state and territory bar is a constituent body, has as a major project the development of a uniform set of Rules for all bars. The benefits of an identical set of Rules that apply across Australia are obvious. The development of these Rules is properly the role of the profession, not one to be picked up by default by some government agency.

At the end of 2008 the president of the Australian Bar Association, Tom Bathurst QC, the Bar Association's senior vice president, appointed a Working Party comprising Michael Colbran QC of the Victorian Bar, Jennifer Pearce, the Bar Association's then director, legal (and now director, professional conduct) and myself to work with each bar to come up with a draft set of national Rules. Each bar strongly supported the preparation of

The second reason was the extraordinary amount of co-operation and good will the Working Party encountered as it worked its way around each bar discussing how best a national uniform set of Rules could be achieved.

At the time of writing, it is very likely that before the end of the 2009 calendar year the ABA's proposed new set of uniform Rules will be formally submitted to the state and territory bars for consideration. Each bar will then consult its members. After that, the intention is that each bar will adopt as its Rules the new uniform Rules, albeit with a few minor differences required by, say, state legislation. This project is an excellent example of how different organs of the legal profession can work together to achieve a national purpose.

Section 55D of the Judiciary Act 1903

In my report for 2005 – 2006, I noted that there was a serious flaw in the national practising certificate regime. This is s 55D of the *Judiciary Act 1903*, enacted when there was no ACT (and Norfolk Island) law dealing with legal practice. The effect of this provision is that it is at least arguable that a person whose name is on a supreme court's or the High Court's roll of lawyers is entitled to practise in a federal court (including the High Court of Australia) without holding a practising certificate.

This problem, which unfortunately is not simply a hypothetical problem, has been raised by the Bar Association with both the former and current federal governments. There was general agreement that the Act needed to be brought up to date, but doing so was not a legislative priority.

On 3 December 2008 the *Law and Justice Legislation Amendment (Identity Crimes and Other Measures) Bill 2008* was introduced into the House of Representatives. As the Parliamentary Library noted in *Bills Digest no. 89 2008 – 09*, one of the Bill's key amendments was to repeal s 55D of the

the proposed new Rules and was quick to agree to common wording for most of the Rules. The few 'policy' differences were identified and discussed at meetings of the Australian Bar Association's Council.

There were two reasons why this project has been so successful to date – and that there is no apparent reason why it will not be successfully concluded in the near future. First, the amendments to the various Rules are for the most part of an editorial nature only. The few 'policy differences' that were identified in the early stages of this project, when carefully considered by the ABA Council, have generally proved to be either differences that should not have existed, or differences which can be accommodated.

Executive director's report

Judiciary Act. At the time of writing this report, the Bill had passed the House of Representatives and is awaiting debate by the Senate.

The Australian Taxation Office's secrecy provision

As I noted in last year's report, since November 2000 the Bar Association has been endeavouring to persuade the Australian Taxation Office and relevant Commonwealth ministers to seek parliamentary approval to an amendment to section 16 of the *Income Tax Assessment Act 1936*. The aim is to allow the ATO to provide the association with *publicly available information* (for example, court records) about action it has taken against those few barristers who have abused the taxation laws to the detriment of both the community and the profession. Unless the association is given the information, the first we often know is when the details appear on the front pages of the newspapers. We know from bitter experience that the damage that sort of publicity causes, to both the reputation of the barrister concerned and the bar as a whole is, incalculable.

In August 2006 the Treasury commenced a review of the secrecy and disclosure provisions in the taxation legislation, about which the association made a submission.

In March 2009 the then assistant treasurer released for public comment an exposure draft *Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009* proposed to implement a single and consolidated framework to govern the protection and disclosure of taxpayer information received by the Australian Taxation Office in the course of administering the taxation laws. It is now proposed that 'information that is lawfully available to the public can be disclosed regardless of the source of the information'. The Explanatory Material that accompanied the draft Bill gave the following example of how the new secrecy provision would operate in this area.

The New South Wales Bar Association has a statutory responsibility under the *Legal Profession Act 2004 (NSW)* to satisfy itself that a barrister is a fit and proper person to hold a practising certificate. It is not an offence for a taxation officer to disclose to the New South Wales Bar Association that a NSW barrister has been convicted in an open court. However, the ATO would not be able to supplement that information with, say, a copy of the barrister's tax return, which was not available to the public.

This is exactly what the Bar Association has been seeking since November 2000.

In August 2009 the assistant treasurer issued a media release advising that the Australian Government intended to introduce legislation to standardise the tax secrecy laws into a single, standard piece of legislation in the spring sitting of parliament, that is, before the end of 2009.

The Law Council of Australia

The Bar Association is a constituent body of the Law Council of Australia. The president is a director of the Law Council.

In last year's report I expressed optimism about the Law Council's future. My optimism may have been a little premature.

In previous reports I have indicated that the role and future of the Law Council has at various times in recent years been unsettled. In last year's report I expressed optimism about the Law Council's future. My optimism may have been a little premature. The Law Council has commissioned yet another external review of its governance arrangements. The Executive of the Law Council was recently increased from five members to six. The three new directors elected during 2008-2009 were solicitors. There is only one barrister member of the Executive.

The Law Council and the Australian Bar Association are discussing how matters of particular concern to the bars might be better addressed by the Law Council (the agenda for Law Council meetings is often dominated by matters primarily of interest to the solicitors' branch of the profession), how the LCA might better draw upon the 'intellectual resources' of the bars and how barrister directors might be more able to contribute to the senior leadership of the Law Council, given the restraints of their being sole practitioners and the considerable demands on their time as members of the Law Council's Executive.

Procurement of federal government legal work

I noted in last year's report that the association had raised, with both the previous federal government and the current government, ways in which costs of providing some legal services to the Commonwealth could be reduced by recognising the cost competitiveness of the efficient barrister, particularly in the area of advisory work and in the conduct of legal proceedings. Ministers in both

governments have acknowledged the merit in these proposals.

In March 2009 the attorney-general announced a broad review into the procurement of legal services following the significant increase in legal expenditure by Commonwealth agencies in the 2007 – 2008 financial year. The review is being conducted by former

senior Commonwealth public servant Mr Tony Blunn AO and former Clayton Utz partner Ms Sibylla Krieger. The reviewers have been charged with examining the existing arrangements for the procurement of legal services and to provide advice on how the Commonwealth can most efficiently purchase legal services to deliver value for money for taxpayers.

The Bar Association has made a submission to the review.

Bar Association's Constitution

The Bar Association's present Constitution came into effect on 1 January 2000. In October 2008 comments were sought from members about a number of amendments to the Constitution proposed by the Bar Council. The purpose of these amendments was to:

- update references to the *Corporations Act 2001* and make a number of amendments in line with requirements of that Act;
- delete provisions relating to the *Registered Clubs Act 1976*;
- simplify the procedure for removal of a member's name from the register upon resignation of the member (clause 7.1.2);
- delete provisions relating to honorary members (there are no honorary members of the Bar Association);
- reduce the number of members required to form a quorum at a general meeting from 25 to 5 (clause 9.1.2), and in consequence delete clause 9.1.4; and
- make a number of minor changes of a mechanical nature.

The proposed amendments, other than relating to the quorum, which would bring this provision more into line with the Corporations Act, attracted little comment.

The Bar Council, having considered all the comments received, in April approved a revised version of a new Constitution that

it is intended to be put to members in the near future. The proposed changes to the quorum have been deleted. An additional amendment is being proposed to clarify the procedure for proposing a resolution at a general meeting.

Thanks

The activities recorded in this annual report only constitute a small part of the work done by and on behalf of the Bar Association. Many other activities are noted in *Bar News*, the daily *In Brief* and frequent @CPD, as well as on the web site. Due to the need to preserve the confidentiality of many of the association's dealings with state and federal attorneys-general, their departments and parliamentary committees, for example, a significant part of the association's work goes unpublicised. However, I can here publicly acknowledge much of the contribution made by members of the bar and friends of the bar to the business of the association.

Each year, hundreds of members of the association assist in its activities, whether as members of committees, sections, representatives on court liaison bodies; those who draft submissions and provide comments on legislation; those who present CPD seminars; the legal assistance volunteers and duty barristers. Others receive telephone calls from me and association staff in the early hours and on weekends as a result of media inquiries, and their helpfulness and tolerance in these trying circumstances is greatly appreciated. Sadly, too often the assistance and information we provide, usually which shows the bar and barristers in a good light, never makes it to press or broadcast. Editors and producers have a resistance to the positive portrayal of the profession, while the converse, where for example, a barrister or former barrister brings the bar into disrepute, assures extensive coverage. My sincere thanks are also due to the clerks and staff of barristers whose assistance we have called upon during the year.

I must also acknowledge the assistance given to me and the association's staff by the president. Senior staff of the association and I are unfortunately required to contact her by 'phone or e-mail at all hours of the day or night, seven days a week, about matters that usually need immediate resolution. The president tolerates this with a resigned good humour that is greatly appreciated. Similarly, the senior vice president has been more than tolerant of my frequent, often unheralded, visits to his chambers on urgent business.

The other members of the Executive, too, graciously provide assistance when requested. I acknowledge here the support I received from the now Justice Rachel Pepper in all her years on the Bar Council, particularly as its secretary from November 2005 until resigning from this position in April 2009 on being appointed to the Land and Environment Court.

The Bar Association's staff

As I said last year, the Bar Association's staff do not attend the association's office just to do a daily darg and then clock off. They consider themselves, as they are, an integral part of the Bar Association. Many are members of the association. They work long hours, including at night and on weekends, to provide the best service they can to the association's members and others who in some way have sought the association's assistance. While at times treated unreasonably by a troubled correspondent, caller or vexatious visitor to the office, they strive to provide a courteous, efficient service. I am proud of the contribution to the association made by all the staff and am grateful for their personal support and for the support they give to the association and those who seek the association's assistance.

PA Selth
Executive Director

Directors

Bar councillors

David Ash
Tom Bathurst QC
Phillip Boulten SC
Bernie Coles QC
Margaret Cunneen SC
Alexander Dawson
Tim Game SC
Peter Garling SC
Louise Goodchild
Jeremy Gormly SC
Andrew Haesler SC
Anne Healey
Ruth Higgins
Margaret Holz
Anna Katzmann SC
Paresh Khandhar
Richard Lancaster
Chrissa Loukas
Garry McGrath
Michael McHugh
Jane Needham SC
Rachel Pepper
David Rayment
Alexander Street SC
Ian Temby QC
Dominic Toomey
Stuart Torrington
Kate Traill

Office bearers

Anna Katzmann SC was elected president of the Bar Association in November 2007. She has served as a member of Bar Council since 1994. Ms Katzmann began practising as a barrister in July 1980 and was appointed senior counsel in 1997. In 2002 the Women Lawyers' Association of NSW presented her with the 'Woman Lawyer of Achievement' award. Offices held include: 1995-2007, council member of the Australian Academy of Forensic Sciences and 1997-2000 part-time commissioner, Legal Aid Commission of NSW.



Anna Katzmann SC
President



Tom Bathurst QC
Senior vice-president



Bernie Coles QC
Junior vice-president



Alexander Street SC
Treasurer



Paresh Khandhar
Secretary
(29 April 09 -)



Rachel Pepper
Secretary
(1 July 08 - 29 April 09)

Our people

Office of the Executive Director

Executive Director	Philip Selth OAM BA (Hons) LLB
Executive Assistant	Corinne Brown

Legal Assistance Referral Scheme

Legal Assistance Manager	Heather Sare
Legal Assistance Administrative Assistant	Wendy Incoll BA

Administration Department

Administration Manager	June Anderson
Administrative Assistant	Patrina Malouf Dip. Bus.
Administrative Officer (Records)	Kim Ellis
Receptionist	Maree Fitzgerald BDesign JP
Administrative Officer	Fay Braddick
Systems Administrator	Matthew Vickers
IT Consultant	Darren Covell

Professional Conduct Department

Director, Professional Conduct	Jennifer Pearce BEc LLB
Deputy Director, Professional Conduct	Helen Barrett LLB
Deputy Director, Professional Conduct	Emma Day LLB
Assistant to the Director, Professional Conduct	Lorraine Haycock
Administrative Assistant	Meagan Phillips
Administrative Assistant	Lisa Waterworth

Bar Library

Librarian	Lisa Allen B App Sc (Info) M Inf Stud
Assistant librarian	Jennifer Nott BA DIM
Technical services librarian	Leonie Anderson B App Sc (Info)
Library Technician	Lee-Ann Walsh

Professional Development Department

Director, Professional Development	Chris D'Aeth LLB (Hons) MBA
Deputy Director, Professional Development	Jo Musumeci BA (Hons)
Professional Development & Events Coordinator	Katie Hall BM
Education Assistant	Stella Giandiri

Finance Department

Finance Manager	Basil Catsaros B Comm. CA
Deputy Finance Manager	Tess Santos B Sc (Bus Admin)
Certification Officer	Barrie Anthony JP

Law Reform and Public Affairs

Director	Alastair McConnachie LLB
Publications Manager	Chris Winslow BA(Hons) MIntS
Policy Lawyer	Cindy Penrose B Comm LLB
Projects Officer	Jo Wilton LLB

Statistics

The Bar Association is a voluntary association. Being a member and holding a New South Wales barrister's practising certificate (PC) are separate. The following is a statistical profile of both membership and barristers who hold a New South Wales practising certificate.

Membership

As at 30 June 2009 there were 2800 members.

Members who hold a NSW practising certificate

(including members based interstate & overseas and life members who have a current NSW PC)

Male	1722
Female	371
Total	2093

Number of senior counsel (QC or SC)+

Male	303
Female	19
Total	322

Number of 'junior' barristers++

Male	1419
Female	352
Total	1771

Practising address of members who hold a NSW PC

New South Wales	2077
Australian Capital Territory*	6
Queensland*	3
Victoria*	1
Overseas*	6

Honorary life members and non-practising barristers

(including members interstate and overseas)

Male	575
Female	132
Total	707

(Includes 24 honorary life members who don't have a current NSW PC)

Occupation of non-practising members

Judge	166
Magistrate	36
Statutory / government officer	8
Judicial officers	15
Academic (non-practising)	14
Interstate barrister	168
Overseas barrister	28
Former barrister	136
Former judge	100
Clerk	16
Miscellaneous	20

Practitioners

As at 30 June 2009 there were 2107 barristers with a NSW PC.

Practitioners holding NSW practising certificates

(including practitioners based interstate and overseas)

Male	1730
Female	377
Total	2107

Practitioners who are senior counsel (QC or SC)

Male	303
Female	19

Total senior counsel

322

Junior barristers

Male	1427
Female	358

Total junior barristers

1785

Location of holders of a New South Wales PC

	Juniors		Silks		Total
	Male	Female	Male	Female	
New South Wales	1413	357	302	19	2091
ACT	6	0	0	0	6
Queensland	2	0	1	0	3
Victoria	1	0	0	0	1
Overseas	5	1	0	0	6

Overseas practitioners by country of residence

	Juniors		Silks		Total
	Male	Female	Male	Female	
United Kingdom	1	0	0	0	1
New Zealand	3	0	0	0	3
Singapore	0	1	0	0	1
Papua New Guinea	0	0	1	0	1

+ Senior counsel (SC and QC) are commonly called 'silks'. SCs have been appointed since 1993 and replaced the appointment of queen's counsel.

++ The term 'junior' barrister means all barristers except those who have been appointed senior counsel. A junior barrister does not necessarily indicate the ability or number of years at the bar; for example, some 'juniors' have been practising for 30 years.

* Practitioners advised that NSW is their principal place of practice.

Our history

In July 1896 an association of barristers was formed in New South Wales to consider and report upon all matters of current legislation, enunciate and enforce rules of professional discipline and to foster social and professional liaison among the members of the Bar.

On 9 June 1902 the old association was dissolved and the first annual meeting of a new body took place. It was called the Council of the Bar of New South Wales.

On 22 October 1936 the New South Wales Bar Association was incorporated and in the first meeting of the Council of the New South Wales Bar Association took place. The Memorandum and Articles of Association noted that the Bar Association would make suggestions on legislation, court rules, procedure and business. The memorandum also noted that a library would be established together with reading, meeting, and dining rooms, and power to undertake law reporting, printing, publishing and bookbinding.

Over the years, both the judicial and executive branches of government



sought the advice of the Bar Association regarding Bills and Rules of Court. By 1960 the number being sent to the Bar Association had increased markedly. In 1962 the association formed a standing Law Reform Committee to deal with the increased workload. By 1968 there were 14 standing committees of the Bar Association including the Ethics, Finance, Fees, Accommodation, Liaison with the Law Society, Bar History, Law Reform, Continuing Legal Studies, Barristers'

Benevolent Association, Reading, Membership, Listing, Library and Housing committees.

In 2009 there were 16 standing committees. A considerable number of barristers are appointed as members of court liaison committees, government working parties and statutory authorities, providing their skills and expertise for the public benefit.



Servants of all yet of none

The motto of the coat of arms of the New South Wales Bar Association is 'Servants of all yet of none'. The motto was included on the coat of arms granted to the Bar Association by the College of Arms in 1959. The motto emphasises specialised functions of barristers, which over the centuries have come to distinguish them from other legal practitioners.

Our aims

The Bar Association is a voluntary association of practising barristers. Our aims, as expressed in our Constitution include:

- to promote, maintain and improve the interests and standards of local practising barristers;
- to make recommendations and promote the administration of justice;
- to arrange and promote continuing professional development; and
- to inquire into questions as to professional conduct and etiquette of barristers.

Promoting the interests of practising barristers

Indigenous Barristers' Strategy Working Party

The Indigenous Barristers' Strategy Working Party is a committee set up to develop employment and mentoring opportunities for Indigenous law students and graduates. Membership is comprised of barristers and representatives of the law schools at the University of New South Wales and the University of Technology, Sydney.

Mentoring Indigenous law students

The president of the Australian Human Rights Commission, the Hon Catherine Branson QC, the president of the Bar Association, Anna Katzman SC, and more than 50 barristers and Indigenous law students launched the Mentoring Indigenous Law Students Program on 12 March 2009 at the Holiday Inn Old Sydney - Rooftop. This was an initiative of the working party, which designed the programme and its mentoring guidelines.

Its purpose is to provide opportunities for barristers to share their wealth of professional and life experiences with Indigenous law students from across the state. The programme was established in close co-operation with a representative group of Indigenous law students to enrich their legal studies and to provide an understanding of the way the legal profession works at both a practical and a personal level. Direct contact with barristers is expanding the knowledge and networks of the students and providing an opportunity for the barrister to develop a relationship with the student for a substantial period.

The programme provides and fosters an environment for barristers and students to stay engaged and connected with the Indigenous Barristers' Trust, the Bar Association and with each other.

It also helps students to explore career options and aspirations with experienced professionals, obtain advice and guidance on job application and presentation skills, gain access to inside knowledge on the way the legal profession works

and acquire insightful information and advice on leadership, management and workplace relations.

There are 18 students from various New South Wales universities participating in the scheme in 2009.

share experiences and discussions with Indigenous lawyers and law students from around Australia.

The students participating in the University of NSW Indigenous Pre-Law Program attended the Bar Association for

Direct contact with barristers is expanding the knowledge and networks of the students...

The Indigenous Barristers' Trust

A special trust fund, The Indigenous Barristers' Trust – the Mum Shirl Fund, was established in 2002 to create a pool of funds to provide financial assistance to Indigenous barristers, especially in their first few years of practice and to Indigenous law students. The fund has deductible gift recipient status as a public benevolent institution under the *Income Tax Assessment Act 1936* (Cth).

The four trustees are the current president of the Bar Association, Anna Katzmann SC, the Hon Justice Michael Slattery, Mullenjaiwakka, the most senior of the four Indigenous barristers at the New South Wales Bar, and Chris Ronalds AM SC.

Barristers and judges continue to make generous donations to the trust so it can meet the special needs of Indigenous law students and law graduates. For three years Craig Leggat SC of Martin Place Chambers made significant monthly donations. Another member donates his sitting fees from a committee he attends as a Bar Association representative.

Conferences

The third National Indigenous Legal Conference, which was held in Melbourne in September 2008, built on the success of the inaugural Sydney conference and the second one in Brisbane. Members who attended found it a stimulating and interesting forum and an opportunity to

a day during their course in December 2008 and were taken to chambers and introduced to the work of a barrister. They visited courts and spoke with judges who shared their experiences, both as a barrister and then as a judge. This visit is an annual event and is important in exposing Indigenous law students at the beginning of their studies to the career opportunities available at the bar.

Indigenous law students were assisted in finding part-time employment with seven barristers or groups of barristers during the year. Further employment opportunities are being sought from interested barristers.

Social events

The working party organised a theatre event, *Mathinna* by Bangarra Dance Theatre on 15 August 2008 at the Sydney Opera House. This was the tragic story of a young Tasmanian Aboriginal woman torn between two worlds. This event provided an opportunity for social contact between barristers interested in Indigenous legal matters and to provide a cultural backdrop to discussions and debate.

Women Barristers' Forum

In 2008-2009, the Women Barristers Forum continued its efforts in promoting awareness of the many talents of and diversity amongst women at the New South Wales Bar. The following warrant specific mention:

- a function to celebrate the appointment in 2008 of Julia Baird SC and Donna Woodburne SC as senior counsel on 6 November 2008, with a similar function planned for 2009 and proposed to be held on 5 November 2009;
- a CPD seminar by Michael Kelly of Kelly Speech Communication entitled 'The Audacity of Inspiration – what barristers can learn from the speaking and presentation techniques of Barack Obama' on 23 June 2009;
- investigating the possibility of other CPDs of interest and encouraging women barristers to give papers at regional CPDs;
- informal quarterly drinks functions held at Dolci restaurant in Phillip Street, Sydney open to all members of the bar to encourage collegiality and support among women at the bar – held on 19 March 2009 and 18 June 2009, with a further event planned for 22 October 2009;
- co-hosting on 28 August 2009 a 'Women in Law' dinner in conjunction with Sydney University Women's College to promote women in the law, which is expected to have approximately 100 people attending;
- Julia Baird SC met, with Anna Katzmann SC, representatives of PILCH and others about matters concerning women's participation at the bar;
- at each monthly meeting of WBF there was a report by, and suggestions to, a representative from the Bar Association's Equal



Opportunity Committee, which conducts many activities which are designed to assist women at the bar, including the mentoring programme, and to introduce women to the bar through University;

- Student Open days promoting a career at the bar to female law students; and
- Margaret Holz, a committee member of WBF, was appointed to the committee of NSW Women Lawyers and assists in the liaison between WLA and WBF.

In addition WBF continued to maintain its web site and database.

The history of the WBF

The genesis of the Women Barristers Forum (WBF) was a function held at The Westin, Sydney on 6 March 2002. This function was organised by eleven women barristers to network and promote camaraderie among women at the bar and to forge links with solicitors and the judiciary. That function was highly successful with over 200 members of the profession attending.

WBF developed rapidly. At the request of many women barristers, a forum was held on 25 October 2003 to discuss issues affecting women at the New South Wales Bar.

Another forum was convened on 19 June 2004 at which the WBF was established, with its aims being to:

- promote awareness, discussion and resolution of issues which particularly affect women barristers;
- identify, highlight and eradicate discrimination against women in law and in the legal system;

- advance equality for women at the bar and in the legal profession generally;
- provide a professional and social network for women barristers;
- support and encourage women at the bar;
- promote the interests and skills of women barristers; and
- support diversity and flexibility at the bar.

A momentum developed, with judges, barristers, solicitors, academics and law students attending events. One highlight was the Women in Law Dinner entitled, 'Change by Generation', co-hosted with the University of Sydney's Women's College on 25 August 2005. In addition, solicitors' firms have hosted many networking evenings to provide an opportunity for women barristers to meet other members of the profession and to promote their equitable briefing policies. In promoting the Model Equal

Opportunity Briefing Policy for Female Barristers and Advocates, adopted by the Bar Association, the WBF consulted solicitors and other users of barristers' services over a period of two years to ascertain the best vehicle for promoting women barristers. Access to relevant information about the practices of women barristers was the immediate requirement. From June 2005, the primary focus of WBF was the development of a web site and a database of women barristers.

On 22 November 2006 the Inaugural Annual General Meeting of WBF was held, the Executive elected, and the web site launched. In 2007 the site was integrated into the Bar Association's web site. It will be pivotal in providing information to the public about women barristers and their diverse accomplishments; communicating news and events; and recording the history of the WBF.

Promoting the interests of practising barristers



The Bar Association identified the need to extend the existing BarCare resources to provide an early intervention service. The position of director, care and assistance was established in early 2008. My work for the bar commenced in early March. Historically, the Bar Association only becomes aware that a member is having difficulties when a complaint is made. This can be the beginning of the inevitable pathway to a disciplinary hearing. This new position is designed to avoid an exacerbation of the problems by supporting members through difficult times.

The existing panel of health care specialists has been expanded and includes psychologists, psychiatrists, drug and alcohol specialists and financial advisors. I act as the first point of contact for barristers seeking advice in relation to their personal circumstances. Colleagues and family members are also encouraged to contact BarCare if they have concerns about a member. All contact with BarCare is strictly confidential and no personal information is provided to the Association without the express permission of the person involved. There is a dedicated telephone line and an e-mail address to contact me directly. Data is collected in an anonymous fashion describing the type of services

provided. The Benevolent Fund will carry the cost of an initial consultation with one of the panel specialists.

In the brief time that this new service has been operating there has been a steady demand. Some matters are handled entirely by telephone contact. Referrals have been arranged for specialist treatment. BarCare is fortunate that through its panel of specialist services urgent appointments at short notice can be facilitated. In other circumstances an appointment can be made to discuss the nature of the problem and to determine whether specialist help is needed. These meetings are informal and often will be a matter of meeting for a cup of coffee.

My experience to date has demonstrated that working at the Bar is a stressful occupation. The number of self-referrals is heartening, showing that barristers are aware of the need to seek help. It is also obvious that there is a strong collegiate bond between the members of the bar. Colleagues concerned about the welfare of a peer have made approximately half of the calls to BarCare.

There has been a steady stream of calls and a diverse range of problems from simply needing a confidential chat to arranging a referral to a health care specialist. Problems such as depression,



general health, marital difficulties and bereavement have been just a few of the calls received. Another aspect of BarCare is the capacity to provide financial assistance through a grant or a loan. Where a need has been identified I prepare a submission stating the circumstances but not the individuals name. The identity is disclosed only when a decision has been made and a cheque is drawn. There have been a number of instances this year where the fund has been able to reduce a member's financial stress.

The establishment of my position has provided the opportunity for members and member's families to individual guidance in times of stress. The response to date has shown that there is a need for this model of support.

Penny Johnston
Director
Care & Assistance

The Barristers' Benevolent Fund

Every year there are barristers who encounter personal misfortune or require some form of assistance from the Benevolent Association in order to overcome a major problem.

Every aspect of the operation of the Benevolent Association, from the

donations made, to the notification that a member is in difficulty, and assessing and providing assistance, is an expression of the collegiate nature of the life of a group of independent individuals collectively operating as the bar.

For the year ended 30 June 2009 the fund

advanced two loans totalling \$40,000. Grants totalling \$152,649 were made to 15 parties.

Promoting the interests of practising barristers

The Bar Library

The Bar Library aims to provide legal resources in a timely and accurate manner to the members of the New South Wales Bar and their staff and to staff of the New South Wales Bar Association.

Major goals of the library are to:

- support the practice of the members of The New South Wales Bar by identifying, selecting, acquiring, processing and making available resource material within the parameters of the collection development policy, to constitute a relevant, up to date and well balanced collection;
- assist members in the effective use of library resources; and
- provide information resources in the most appropriate medium.

The library provides the following services:

- legal reference services for members, exam candidates and Bar Association staff;
- library orientation and legal research training;
- development and maintenance of links to relevant legal web sites; and
- current awareness services.

Reference continues to be a significant component of the services offered by the library and is well used by members outside the Phillip St precinct.

Visits to the library have increased since the renovation in February 2008. However in January 2009, the Sydney University Law School library closed, and there has been a marked increase in library use in the areas



of loans, requests for interlibrary loans and for access to databases previously found at the Law School library.

In 2008/09, loans increased by 16.7 per cent. Part of this growth is the increasing use of the library's collection of recordings of the Professional Development Department's seminars. This is particularly apparent in the figures from February and March.

Equal Opportunity Committee

Equitable briefing

The year past has been another busy one for the Equal Opportunity Committee. It has progressed the Equitable Briefing Policy by approaching major corporate and institutional clients directly, as well as public and private solicitors. The policy has received strong support from the New South Wales Government, as well as a number of solicitors' firms and corporate clients.

Disability access

As a result of several inquiries received by the committee during the reporting year, it is in the process of obtaining data from all chambers regarding the suitability of their accommodation for barristers with disabilities, in particular those with wheelchairs, so that the Bar Association can readily make such information available to prospective barristers.

Student open days

The committee also continued the practice of previous years by holding a Career at the Bar Open Day and other meetings with university students. Each event was well attended and the feedback indicated that it was well received.

Mentoring

The committee has continued the mentoring scheme for women in their second year of practice at the bar and has augmented it by hosting a series of social functions to encourage discussion among the participants. The committee considered whether the scheme should be extended to all barristers in their second year of practice. Following a dialogue with the Professional Development Department, it was decided to offer all readers nearing the end of their readership an opportunity to form a new mentoring relationship with their tutor or another senior barrister.

Women speakers

The committee followed its successful women speakers programme in conjunction with the Women Barristers Forum. The next speaker will be *Sydney Morning Herald* journalist Annabel Crabb, in November 2009. The committee has also hosted a number of programmes designed to reinforce the collegiality of the bar, such as film nights.

Child and aged care

The committee was pleased to host further CPD seminars which highlighted the emergency child care scheme and introduced the expansion of it to cover Aged and Carers' care. The CPD was enthusiastically received and the aged care aspect of the scheme has enjoyed a considerable take up rate.

Arranging & promoting continuing professional development

The Professional Development Department

Last year's report began with a reference to the effects on the bar of rising prices and interest rates. As the 2008-2009 reporting year progressed, however, a very different set of challenges became apparent as the global financial crisis impacted upon the Australian economy. The Bar Association's Professional Development Department responded appropriately by appraising its services and providing a range of new seminars on financial planning and management of a modern practice at the bar. The department continues to meet its primary objective of providing sound, practical advice to members on ways to improve their practice, together with intellectually rewarding seminars on recent developments in the law.

As in previous years, the department is extremely grateful for all the assistance provided by a great many volunteers. All give of their time freely and willingly, concerned only to contribute to the improvement of the bar as an institution. It simply would not be possible for the department to operate without the support and commitment of so many.

Bar exams

For the July 2008 bar examinations 95 candidates submitted a registration form to sit for one or more of the examinations. The three examinations are: Practice and Procedure; Evidence; and Ethics. During the reporting year 81 candidates sat the examinations – equal the number from twelve months previously. In February 2009, 92 candidates attempted one or more of the examinations, up from 70 candidates the previous year (although similar to February 2007). A total of 41 members of the association assisted in the preparation and marking of papers in July 2008 and 43 assisted with the February 2009 examinations.

Bar Practice Course

Despite the relatively healthy number of candidates attempting the bar exams the number of readers in the October



2008 Bar Practice Course was one of the lowest on record, only 21 readers in total. There were 35 readers in the May 2009 Bar Practice Course. Encouragingly, the number of women choosing the bar as a profession continues to grow and both courses had a percentage of women significantly higher than the ratio of the general bar population. More than two-fifths of the October course (43 per cent) was female and the figure for the May course was 29 per cent. The bar continues to draw its readers from the ranks of solicitors, with 75-80 per cent of readers practising as a solicitor before being called to the Bar. The average age of a reader remains steady at about 35.

As set out in last year's report, all readers, at the conclusion of the Bar Practice

workshops: after three months and nine months. The purpose of the workshops is to develop advocacy skills introduced in the practice course and to reinforce concepts of case analysis, case theory and presenting evidence.

International influences

In January 2009 the Australian Bar Association Residential Advocacy Course was held at Macquarie Graduate School of Management, North Ryde. It was the third such course, building on the successes of the first one in Perth, in January 2007 and the second, also in Sydney, in January 2008. As in previous years the New South Wales Bar Association worked closely with the ABA and course directors to make it an outstanding success. The quality of

Encouragingly, the number of women choosing the bar as a profession continues to grow and both courses had a percentage of women significantly higher than the ratio of the general bar population.

Course, return to the association each month to attend further 'extension sessions' which offer an opportunity to look at new and emerging jurisdictions or revisit existing or common areas of practice for a reader. Furthermore, all readers undertake two advocacy

the national and international coaches who provide their time so generously is also fundamental. Planning for the fourth course, due to take place in January 2010 in Brisbane, is well underway. Anyone who wishes to improve their advocacy skills in court is encouraged to register and attend.

Continuing Professional Development The New South Wales Bar Association

Continuing professional development

In 2008-2009 the department offered 58 seminars, plus a further three workshops and six conferences. In addition, at the suggestion of the Common Law Committee, a specialist conference relating to personal injury was offered to barristers and other members. The department is grateful to the members of the Common Law Committee for their assistance with the design and preparation. Feedback from attendees was overwhelmingly positive and the event will be used as a template for other specialist conferences in 2010. Bar Association committees have been asked to consider whether a conference focussing on their area of law would be suitably interesting and beneficial to members.

The regional conference programme continued to enjoy strong support from all members. Conferences were run throughout February and March in Orange, Newcastle, Canberra, Parramatta and the North Coast. The conference programmes were designed to offer a wide range of topics and speakers.

New Barristers' Committee CPDs

The New Barristers' Committee programme of CPD events built on the success of the previous year and continued to draw healthy attendances in the common room.

The first seminar of the year in review concerned recent amendments to the *Evidence Act 1995* (NSW) and was presented by Stephen Odgers SC and chaired by the chair of the New Barristers Committee, Kylie Day. The committee's intention is to provide a CPD event each month - whether it be a seminar or

workshop. Their programme is designed for, and by, junior members of the bar and is intended to give immediate and practical support and guidance regarding common problems, tasks, briefs and situations. Bar luminaries, such as Chester Porter QC, have provided their thoughts on advocacy. Members of the judiciary from state and federal courts have also generously made themselves available for the programme. Further seminars and workshops are planned for 2009-2010.

In addition to a programme packed with useful seminars, the committee also assists with, or is responsible for, a great many other projects including the Bench and Bar lunches. Initiated by Phil Greenwood SC and now run by Jeremy Gormly SC with the assistance of the New Barristers' Committee.

The professional development department would like to acknowledge the work of the committee in 2008-09 and, in particular, the chair, Kylie Day.

Other events and social functions

The Bench and Bar Dinner took place at Sydney's Hilton Hotel on 8 May and was attended by 655 members and guests. The guest of honour was Chief Justice French.

During the year 15 bobbars were held for justices Perram and Foster, as well as his Honour Judge Elkaim SC and his Honour Judge Levy SC. Functions were held for members of the association's committees, the judiciary and parliamentarians to acknowledge their contribution to the association and the wider community.

Highlights

2008

July

Tutors and Readers Dinner
Bar exams
Duty Barristers / LARS function

August

Under Sixes Dinner
Mediation Workshop

September

Federal Criminal Law Conference
Parliamentary Drinks

October

Senior counsel appointments
Bar Practice Course 02/08

November

Indigenous Law Students Forum

December

Bar Dispute Resolution Centre opens
Great Bar Boat Race

2009

January

Indigenous Pre-Law Day
Third ABA Residential Advocacy Course

February

Personal Injury Conference
New silks ceremony, High Court
Bar exams
CPD Regional Conferences begin

March

CPD Intensive
Women law students visit the bar
Indigenous Mentoring Scheme launched

April

Sir Maurice Byers Address
Open Day for university students

May

Bench and Bar Dinner
Bar Practice Course 01/09

June

Bench and Bar Lunch
ABA Conference Strasbourg & London

Making recommendations and promoting the administration of justice

Law Reform and Public Affairs

What this proposal means is that police are entitled to enter the premises of all law-abiding citizens under false pretences and without notice. It is difficult to see any justification for the conferral of such extraordinary powers in a liberal democracy.

These were the words of President Anna Katzmann SC concerning the New South Wales Government's *Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Bill 2009*, which gave police unprecedented powers involving the use of covert search warrants.

Unfortunately, this was not the only occasion through the year where it was necessary for the Bar Association to take a strong stand against legislation which proposed significant inroads into individual rights in this state. The pro-law and order policies of the major parties in the New South Wales Parliament meant that the association's voice was one of only a scant few raised against the more extreme elements of the government's bikie gang legislation, the covert warrant provisions mentioned above, and other intrusive proposals such as the World Youth Day Regulations.

In the case of the *Crimes (Criminal Organisations Control) Bill 2009* (the so-called 'bikie gang' legislation), the Bar Association was put in a position where it had to respond to the content of the legislation within an hour or two, as the Bill ended up being introduced, debated and passing both houses of New South Wales Parliament in the course of a single sitting day.

... the association's voice was one of only a scant few raised against the more extreme elements of the government's bikie gang legislation, the covert warrant provisions...and other intrusive proposals such as the World Youth Day Regulations.

Nevertheless, the Bar Association's concerns were provided as a matter of urgency to the government, opposition and cross-bench, and Ms Lee Rhiannon MLC of the New South Wales Greens placed these concerns on the parliamentary record in the course of the Legislative Council debate on the Bill.

The New South Wales Bar Association has also provided an analysis in the short time available. The Association makes the obvious but important point that it is completely inappropriate that legislation infringing on recognised basic civil liberties should be passed so quickly, with no consultation or opportunity for debate. As a general comment, the Bar Association states:

Police resources would be better used fighting actual crime rather than people's associations. The legislation will not achieve anything other than to drive these organisations underground and make it more difficult to detect their existence and any associated criminal activities.

It is concerning that control orders can be made based on confidential police 'intelligence' rather than any publicly proven criminality. How could a person adequately challenge the making of such an order without access to the information on which it is based?

The Bar Association states that it is concerned at the anti-democratic nature of the legislation and the potential for abuse and injustices.

Amendments based upon the Bar Association's concerns were moved in the Upper House but opposed by both major parties.

However the association's approach to the unwelcome trend towards intrusive legislative schemes was not confined to criticism, however justified, and defence of legal principle. Throughout the reporting year, the president consistently took the opportunity to publicly advocate the Bar Council's policy in favour of a statutory Charter of Rights, which would require governments to respond to human rights considerations in the context of legislation introduced into parliament. In her press release dated 10 December 2008, the president said:

A statute providing legislative protection for our basic rights, drafted after thorough consultation with the community, would help put a brake on the growing trend towards knee-jerk law making...A charter of rights would provide a legislative statement about the kind of society in which we want to live.

Throughout the reporting year, the association pursued opportunities to publicise the contribution to the community made by the bar.

The most notable development in this regard was the establishment and successful trial of the Barristers in Schools programme during 2008-09. Under the programme, barristers give a two hour presentation to year five or six primary school students on the court system, basic principles of the justice system and provide an introduction to evidentiary concepts, such as hearsay and opinion evidence. The second element of the programme involves a mock criminal trial where students are allocated the roles of prosecutors, defence counsel, court officers, the accused, witnesses and jurors. One of the presenting barristers sits on the bench, while the other coaches and advises students in the course of the proceedings.



Karen Conte-Mills (L) and Margaret Cunneen SC show their wigs to the pupils from Summer Hill Public School, Summer Hill, Sydney. Photo: Troy Bendeich / Newspix

The programme was developed in close consultation with Department of Education and Training, and four sessions were held in suburban schools during Law Week.

The exercise was a great success. The Bar Association received uniformly positive feedback from teachers and Department of Education representatives on each session. The programme is very beneficial to students who would otherwise have limited, if any, understanding of the role of a barrister and the role of our court system and yet may become involved in it, whether as witnesses or defendants – or legal practitioners. The presentation

at Summer Hill Primary School received favourable publicity in the *Daily Telegraph* which sent a journalist and a photographer to the school.

It is intended that the programme will be expanded in 2009-10, and a call made during that time for expressions of interest from the bar for volunteers to conduct future sessions. Particular thanks are due to the members of the association's Working Party on the Bar and the Community, its chair, Margaret Cunneen SC and Karen Conte-Mills, who developed the programme along with Andrew Martin, who assisted in some of the presentations.

Among the specific aims of the association, as set out in its Constitution, are the promotion of the administration of justice and seeking to ensure that the benefits of the administration of justice are reasonably and equally available to all members of the community.

The association's public promotion and defence of the essential tenets of our justice system are a crucial part of its activities. In this context, the association maintained a high public presence in relation to a number of criminal law and policy issues which came to prominence during the reporting year, and particular thanks are extended to Stephen Odgers SC and Philip Boulton SC who both assisted with media engagements, often at very short notice.

The Bar Association will continue to identify opportunities to come forward on wider issues of principle involving the rule of law, the independence of our courts and the presumption of innocence. These issues may not always be advocated by politicians and media commentators, but the bar will always have an important public role in explaining and supporting the legal principles which underpin the nature of our democracy.

Human Rights Committee

In November 2008 the Bar Council resolved to support a federal charter of rights. It directed the Human Rights Committee to prepare a submission to the National Human Rights Consultation.

The Consultation Committee's terms of reference identified the following issues:

- which human rights (including corresponding responsibilities) should be protected and promoted?

- are these human rights currently sufficiently protected and promoted?
- how could Australia better protect and promote human rights?

The Bar Association made its submission in June 2009. It argued that the most appropriate means to protect human rights in Australia is through the adoption of a national statutory charter or bill of rights that incorporates those rights

recognised in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and which makes specific provision for the rights of Indigenous peoples.

The committee looks forward to the report that the National Human Rights Consultation will provide to the Australian Government by 30 September 2009.

Making recommendations and promoting the administration of justice

Alternative Dispute Resolution Committee



NSW Bar Dispute Resolution Centre

In early 2008, the Alternative Dispute Resolution Committee initiated negotiations with Counsel's Chambers Ltd for the establishment of the NSW Bar Dispute Resolution Centre in the premises of the former National Disputes Centre with a view to providing NSW barristers with a strong identity and presence in the ADR industry. In August 2008, the committee's recommendation to Bar Council that the association enter into an agreement with Counsel's Chambers Ltd was approved, and the final steps were taken to establish the centre.

The centre was officially launched on Wednesday, 10 December 2008 by Attorney-General Robert McClelland. The attorney welcomed the bar's initiative in setting up the centre, noting that it could not come at a better time because of the need for lawyers to think creatively about their roles in resolving disputes outside of court, particularly in the current economic times. The president of the Bar Association and the chairman of Counsel's Chambers

Ltd also made short speeches. The launch was well attended by about 80 guests including representatives of the judiciary, members of the bar, in-house counsel and others from the mediation community.

The centre commenced operating immediately after the launch and, with its flexible facilities, is able to accommodate all types of ADR process. It has its own website for bookings and information at www.nswbardisputeresolution.com.au

Barristers as accredited mediators

Another important development for the bar has been the setting up of a system for qualified barristers to become accredited as mediators under the National Mediator Accreditation System Standards, which came into effect on 1 January 2008. On 22 May 2008, upon the committee's recommendation, the Bar Council declared the Bar Association to be a Recognised Mediator Accreditation Body under the standards. The committee then established an accreditation system

compliant with the National Standards, with the additional requirements also envisaged by the standards, but not mandatory, that mediators hold practising certificates and have five years' experience as a practising lawyer.

In October 2008, the Bar Council accredited 67 members as mediators for a period of two years in accordance with the standards. Many of those were accredited as 'experience qualified' mediators. Sixty three of the accredited mediators were also selected for appointment to the NSW District Court Panel of Mediators for 2009/2010.

A further accreditation process will take place in October 2009 in conjunction with selection of mediators for the Supreme Court Panel of Mediators for 2010/2011. Application forms were made available from early June 2009 and the committee held an information seminar on 3 June 2009 to advise barristers of the requirements for accreditation and selection for the court panel.

The accredited mediator and court appointed mediator lists appear on the Bar Association web site and mediators can be contacted directly through the e-mail facility on the web site.

The committee oversees the accreditation process and will continue to work on the implementation of the standards and to monitor further developments in relation to the standards. The Bar Association is one of 46 members of the National Mediator Accreditation Committee (NMAC), which was formed in February 2009 to have responsibility for the ongoing development and maintenance of the National Standards, and committee members have attended all NMAC meetings.

Seminars and educating barristers about ADR

One of the committee's concerns has been to provide opportunities for barristers to learn more about ADR in

Another important development for the bar has been the setting up of a system for qualified barristers to become accredited as mediators under the National Mediator Accreditation System Standards.



its various forms, to provide in-depth seminars on mediation, and to assist those seeking accreditation or re-accreditation as mediators to achieve the 20 CPD points required every two years under the National Standards. To this end, a series of seminars have been designed that provide both CPD points for renewal of practising certificates and mediation CPD points.

All seminars have been very well-attended, and included a seminar presented by committee members on expert determination, arbitration and other forms of ADR in March 2009 and the *Voyager* seminar in June 2009. The *Voyager* seminar, presented by Jeremy Gormly SC and Chris Barry QC, generated much interest from within the bar as well as from government departments such as Defence and the Crown Solicitor's Office. In 2008, Gormly SC successfully settled 24 of the 25 remaining claims arising from the collision of HMAS *Melbourne* and HMAS *Voyager* in 1964. Barry QC represented parties in a number of the mediations.

The committee held a very successful all-day mediation workshop at the Bar Association in August 2008, which provided members with 6.5 points towards both the Bar Association's CPD points and mediator points. Over 100 members attended the workshop and, on the basis of the positive feedback from

registrants, an all day advanced mediation workshop is planned for September 2009.

Each year, the committee offers a series of four arbitration seminars, organised primarily by Ian Bailey SC, to enable barristers to satisfy the criteria for appointment to the Local and District courts lists of arbitrators. At the recommendation of the committee, the Bar Council agreed to refer to the chief judge of the District Court the names of 27 barristers wishing to be considered for appointment to the District Court list of arbitrators for 2009-2010. All were appointed by the chief judge.

To keep those interested in ADR, and in particular mediation, informed of upcoming events, important application dates, mediation-specific CPDs and other mediation related information, in early 2009, the committee instituted a regular broadcast e-mail to mediators accredited by the Bar Association and other barristers.

Readers and ADR

In light of the increasing interest in and use of ADR, the committee has been concerned to ensure that readers are provided with information about ADR techniques, relevant legislation, court rules and court practice notes, and the skills needed to represent parties in ADR processes. Committee members presented a Bar Readers' Extension session

in July 2008 as an introduction to all types of ADR, a second extension session in September covering mediation in depth, and a two hour in-depth session in the Bar Practice Course in May 2009.

Mediators' mentoring scheme

In late 2008, the committee introduced a mentoring scheme for barrister mediators to enable them to have the benefit of the experience of more senior mediators and to provide opportunities for discussion and feedback about particular problems that arise in mediations. It is also hoped that the scheme will result in barristers gaining experience through co-mediation and observation opportunities. Mentors and mentees are able to claim up to 10 hours (10 CPD points) towards accreditation. Sixty two barristers have volunteered for the mentoring scheme. The scheme is also open to barristers who are not mediators but who wish to improve their skills in appearing for parties at mediations by consulting experienced mediators.

Mediation and LARS

The committee recommended to the Bar Council late last year that the Legal Assistance Referral Service (LARS) programme be expanded to include mediation. This occurred in early 2009. Where the parties to the dispute have agreed upon mediation or a court or tribunal has ordered the dispute to mediation, an application may now be made under LARS for the assistance of barristers as legal representatives for mediations, and also for the services of barristers as independent mediators to facilitate the resolution of disputes.

If the matter is referred to a barrister as an independent mediator, that barrister will be a mediator accredited by the Bar Association under the National Standards for Accreditation of Mediators. The barrister will undertake mediation for up to four hours at no cost to the parties. Any

Making recommendations and promoting the administration of justice

Alternative Dispute Resolution Committee

further assistance will be by agreement with the parties. A number of accredited mediators have volunteered to offer their services. The committee hopes that this scheme might also provide some co-mediation opportunities for barristers, and has prepared a list of the benefits of co-mediation for the manager of LARS.

NSW ADR blueprint

In May 2009, the NSW Attorney General's Department published an ADR Blueprint Discussion Paper, which included a series of 19 proposals to increase the use of ADR in NSW. The ADR Blueprint put forward three key strategies to developing a less adversarial and litigious culture in NSW, two of which are of particular importance to the bar:

- changing the culture of the legal profession so that it becomes less focussed on running cases and more focussed on solving problems; and
- structuring the civil justice system so that, when litigation is contemplated or commenced, the system increases the likelihood that the dispute will be settled quickly.

The proposals included placing a legislative obligation on legal practitioners to provide information to their clients about ADR, introducing pre-action protocols for ADR, establishing a single Sydney International Arbitration Centre and moving to a system where all mediators on Supreme Court and District Court panels are accredited under the

National Standards. The committee provided a detailed response to the Discussion Paper, with assistance from the Common Law Committee on particular issues, and is now represented on the ADR Blueprint Steering Committee, which met in late June 2009.

The Attorney General's Department will now produce a number of ADR Blueprint Draft Recommendations Reports in response to comments received on the ADR Blueprint proposals.

NADRAC inquiry into ADR in the civil justice system

In early 2009 the Commonwealth attorney-general asked the National Alternative Dispute Resolution Advisory Council (NADRAC) to enquire into the possibility of increasing the use of alternative dispute resolution in civil proceedings. For the purposes of the enquiry, NADRAC were asked to specifically consider:

- whether mandatory requirements to use ADR should be introduced;
- how best to overcome practical or cultural barriers to the use of ADR;
- how ADR techniques can be used to enhance court and tribunal processes; and
- the provision of and standards for community and private ADR services.

A committee member attended a Stakeholder Consultation on 26 February 2009 at the Attorney-General's

Department in Sydney. An Issues Paper was released by NADRAC in March 2009 and the Committee prepared a response on behalf of the Bar Association in May 2009. As at 30 June 2009, the inquiry remained with NADRAC.

South East Asia subcommittee

The committee's South East Asia sub-committee set up in early 2008 continues to be active in Indonesia, Singapore, Malaysia and elsewhere, liaising with individuals and organisations in those countries about alternative dispute resolution opportunities both in Australia and in South East Asia.

Barristers' Resolution Service

A sub-committee is working to revive the Barristers' Resolution Service under another name to provide access to the association's arbitrators, experts, referees, case appraisers, evaluators, conciliators and mediators at any time in a dispute whether or not litigation has commenced.

The future

The committee's past twelve months have been extremely active and productive, thanks to its very committed members and its very helpful and efficient projects officer, Jo Wilton. The New South Wales and Australian Government current inquiries into ADR and their emphasis on changing the culture of the legal profession are likely to have a significant impact on barristers' work and the ways in which they practise in coming years. The committee has put considerable work in to responding to the two inquiries and will continue to work to assist the bar in facing the challenges that continue to arise as a result of the increasing emphasis on ADR.

The committee's South East Asia sub-committee set up in early 2008 continues to be active in Indonesia, Singapore, Malaysia and elsewhere...

Criminal Law Committee



The Federal Criminal Law Conference held at the Hilton Hotel on 5 September 2008

The committee has remained active in responding to proposed changes in NSW law relating to criminal justice. A detailed submission was made to the New South Wales Law Reform Commission on its consultation paper on jury directions. Members of the committee assisted in the formulation of an extensive briefing note in respect of the *Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Bill 2009* (NSW). A submission was made to the New South Wales Parliament in respect of proposed amendments to

the Independent Commission Against Corruption Act. Submissions were made to the New South Wales Sentencing Council's reviews of sentences for alcohol related offences and the standard non-parole period scheme.

The committee has also been active at the federal level. A submission was made to the Standing Committee of Attorneys-General in respect of the *Model Spent Convictions Bill*. Considerable assistance has been provided to the Law Council of Australia in respect of

aspects of Commonwealth criminal law. For example, members have drafted substantial and well-received Law Council submissions on the *Foreign Evidence Amendment Bill 2008*, the *Federal Court of Australia Amendment (Criminal Jurisdiction) Bill 2008*, and the *Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009*. The committee has done more than respond to government. It has been active in generating law reform initiatives for the criminal justice system. Together with the Bar Association and the Law Council of Australia, it organised the Federal Criminal Law Conference, held at the Hilton Hotel on 5 September 2008. The conference was similar in format to the successful Criminal Justice Reform Conference 2006, which focussed on state criminal law. The object of the 2008 conference was to develop possible reforms to substantive criminal law and criminal procedure at the federal level. Speakers from all over Australia presented proposals for reform of federal criminal law, and these suggested reforms are under consideration by the Commonwealth.

Legal Aid Committee

The focus of the committee's work throughout the past year included:

- comment on merit test in legal aid care and protection matters and on the *Report of the Special Commission of Inquiry into Child Protection Services in NSW* (the Wood Report);
- management of changes to legal aid grants; and
- review of the fee structure for counsel.

Following the release of the the Wood Report, the government introduced the *Children's Legislation Amendment (Wood Inquiry Recommendations) Bill 2009*, which proposed dramatic changes to care and protection proceedings throughout the state. Some were opposed by the Bar Association. During late March 2009

representatives of the Bar Association and the Family Issues Committee of the Law Society met with members of parliament to discuss the concerns arising out of the Bill. The main issues were the following:

- removal of the court's power to order contact;
- limitations on the availability of ADR;
- limitations on the court's power to order report;
- changes to the threshold for DoCS / court intervention; and
- changes to temporary care arrangements.

In March 2009 Legal Aid NSW launched a new version of Grants Online, its web-based facility for submitting applications for grants of legal aid. Continuing

Professional Development seminars were held to cover the changes to legal aid grants, particularly, notification to counsel of a grant of aid, payment of pro-forma invoices for counsel's fees, Trial Information Forms, approval for extensions and transfer of briefs between counsel.

The committee also engaged in discussions with the commission regarding the review of the fee structure for counsel and continues to acknowledge the spirit of co-operation demonstrated by Legal Aid NSW in relation to that review. The association values membership on many of the commission's panels, including mental health advocacy, serious crime, general crime, veteran's law and civil law.

Making recommendations and promoting the administration of justice

The Family Law Committee



Those who practised in the Family Court during 2008-09 had to contend with significant changes. On 1 March 2009 the Commonwealth received the states' powers in respect of maintenance and property adjustments between parties to a *de facto* relationship. Couples, including same sex ones, who separated after that date or who agree to consensually accede to the jurisdiction of the federal Family Law courts now stand to have their claims determined pursuant to Part VIIIAB of the Family Law Act.

Growing backlogs

Inevitably, as older matters are exhausted in the state courts and new separations fall exclusively to courts exercising jurisdiction under the Family Law Act, there will be a substantial increase in the workload of the federal jurisdiction. While the Family Court of Western Australia has held jurisdiction in such matters for some time, the work in other states will represent a significant increase in volume. In Sydney, it is anticipated that most of the matters that would, under the old regime, have fallen to the Supreme Court will now occupy the Family Court. In New South Wales alone it is estimated that the judicial time occupied presently by such matters before judges and associate justices of the Supreme Court would occupy the equivalent of one to one and a half judges per annum.

Consequently, delays in the Family Court's

Sydney Registry are increasing. Judges there have dockets in excess of 80 matters each and more than 140 unallocated matters await their first docket listing. Parties who do not manage to resolve their cases consensually by the stage of completing a case assessment conference

Retirements from the bench are not being replaced in a timely fashion, if at all.

or conciliation conference can generally expect to then go into the unallocated pool for approximately 12 months before finding their way on to a judge's docket. This must be recognised as a crushing burden upon members of the community waiting to have these important personal issues determined so that they can move on.

The problem is clearly a consequence of insufficient judicial resources. Retirements from the bench are not being replaced in a timely fashion, if at all. Judges who have recently been elevated to the Appeals Division, such as Justice O'Ryan, have not been replaced at a first instance level. The Commonwealth attorney-general initially had announced that the Family Court would receive one additional appointment nationwide to cope with the additional workload. Clearly this was an inadequate proposition, but faced with the consequences of the global financial crisis it is now understood that the court

has been advised that this additional appointment will not be forthcoming. The association has continued to urge the attorney to give serious consideration to these issues.

Merger of Family Court and Federal Magistrates Court

It appears likely that the Australian Government will adopt the recommendations for the merger of the Federal Magistrates Court and the Family Court along the lines put forward in Des Semple's report *Future Governance Options for Federal Family Law Court in Australia – Striking the Right Balance*. This may result in a further reduction in the number of judges and a two-tier judicial structure in the Family Court, the lower tier being constituted by those who are presently magistrates.

Submissions and representations

This year the Family Law Committee has made representations to the Family Court's Case Management and Liaison committees and to the Legal Aid Commission regarding the determination of persons to be included on its Independent Children's Lawyers and Children's Care and Protection panels. The committee has participated with the Law Council of Australia in making submissions to government and has provided assistance to the Bar Association's Common Law Committee in respect of issues concerning the treatment of damages awards in the Family Court. The committee is also facilitating a series of continuing professional development seminars on advocacy at different levels in the family law jurisdiction.

The Common Law Committee



The Common Law Committee over the last two years has focussed upon discrete, incremental reforms to personal injury laws which would make a realistic difference for injured people.

The committee has also been given ongoing responsibility for the continued direction of personal injury reform. The reporting year again saw the committee deal with a number of significant personal injury-related issues, and prepare detailed submissions to government, parliamentary committees and heads of jurisdiction.

Ross Letherbarrow SC continued as chair of the committee and a number of new members were brought in to contribute to its work. In 2008-09 the committee again undertook a number of projects, either referred by the president or Bar Council, or identified and pursued by the committee itself.

Over the reporting year, the committee considered and made recommendations to the Bar Council on various issues, a number of which saw the preparation of detailed policy papers.

Among the matters examined were:

- the implications of the Supreme Court decision in *Corbett v Toll Stevedoring* for costs in s151Z Workers Compensation Act matters, resulting in the preparation of a submission to the New South Wales Government recommending legislative changes;

- issues involving the interaction between workers compensation legislation and the *Law Reform (Miscellaneous Provisions) Act 1965*, which also resulted in a submission to the attorney general and the minister for finance recommending legislative change;
- a submission to the Joint Review of the Dust Diseases Tribunal Claims Resolution Process in July 2008;
- preparation of a joint submission with the Law Society to the chief judge of the District Court concerning Practice Note DC (Civil) No 13;
- a proposal under consideration by the Attorney General's Department concerning the possible extension of the jurisdiction of the Small Claims Division of the Local Court, which resulted in the preparation of a submission to the department on that issue;

- the Bar Association's submission to the second review of the exercise of the functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council conducted by the Law and Justice Committee of the New South Wales Legislative Council. Ross Letherbarrow SC and Andrew Stone of the committee appeared before the committee in June 2009 to elaborate on the views expressed in the submission;
- members of the committee were heavily involved in the planning of the association's 2009 Personal Injury Conference, and committee members also prepared and presented papers at that conference; and
- submissions to the Law Council of Australia in relation to the national review involving harmonisation of workers compensation laws.

As in previous years, members of the committee continued to prepare submissions to organisations such as the Motor Accidents Authority and the Lifetime Care and Support Authority in respect of draft changes to guidelines and other administrative arrangements. Particular thanks are due to Andrew Stone in this regard.

All members of the committee were generous with their time and effort in what was another productive year for the committee.

The reporting year again saw the committee deal with a number of significant personal injury-related issues, and prepare detailed submissions to government, parliamentary committees and heads of jurisdiction.

Promoting access to justice

Legal Assistance Referral Scheme (LARS)

For the 2008-2009 financial year, 283 formal applications for assistance were received and processed. This represents an increase of 31.62 per cent for the same period last year. Of these applications, 130 were eligible under the scheme's guidelines for referral to a barrister. The assessment of all applications involves the expenditure of considerable time and resources, whether they were ultimately referred or not. The breakdown of those applications not referred to barristers is set out in the accompanying statistical report.

For the period in question, barristers contributed approximately 1560 hours through the scheme, with 23 matters still in the court system. An additional approximately 700 hours of work was contributed in relation to continuing matters commenced in the previous financial year.

Since the scheme's inception in 1994 barristers have contributed approximately 32,000 hours of work.

The following facts arising from the attached statistical analysis of the scheme's activities over the last financial year are worth highlighting:

- no fee matters comprised the highest category of those matters handled on a continuing basis;
- nearly 60 per cent of matters referred to barristers were considered to have legal merit/prospects of success;
- nearly 80 per cent of the applications to the scheme were refused legal aid as being outside the commission's guidelines;
- an increase of 40 per cent in matters received in the Supreme Court of New South Wales;
- an increase of 53 per cent in matters received in the District Court of New South Wales;
- a 100 per cent increase in the number of matters received in the Coroner's Court;



- a 53 per cent increase in matters received in Commonwealth and state tribunals;
- an 80 per cent increase in the number of matters received by members of the public;
- a 52 per cent increase in the number of matters referred by LawAccess;
- a 76 per cent increase in the number of matters referred by a judge/magistrate or registrar; and
- a 60 per cent increase in the number of referrals from the northern metropolitan area.

Volunteers encouraged

In 2008-2009, the executive director and the manager of the scheme spoke to readers about the scheme at the bi-annual Bar Practice Course, with a pleasing response in each instance. The president and the executive director, by circular and personal representation, have also encouraged members to participate in all schemes administered by the association and in the various court appointed pro bono schemes.

Barristers' Referral Service

The Barristers' Referral Service is aimed at addressing the increasing number of requests to the Bar Association for assistance in obtaining the services of a barrister. Enquiries have been directed to the association's web site under 'Find

a Barrister', which has been visited more than 196,000 times over the past twelve months. This category of assistance is invaluable for many applicants who have not qualified for assistance through LARS on financial grounds. If the enquirer does not have access to the internet, staff fax or post to them a list of barristers in the relevant area of practice.

Duty Barrister Scheme

The manager and staff of LARS manage the operation of the Duty Barrister Scheme, which operates at the Local and District courts at the Downing Centre. Over eighty barristers from all levels of seniority have volunteered to assist.

Barristers are rostered to attend each day at the courts. The schemes were promoted to readers at each of the bar practice courses, which resulted in additional volunteers being added to the roster.

Two duty barristers see an average of four clients each per day, which equates to approximately 2,000 clients per year.

Court appointed pro bono schemes

The manager of LARS assists with the administration of the court appointed legal assistance schemes concerning day-to-day queries which may arise, together with the provision and updating of the list of barristers who have volunteered their services. Barristers now support pro bono schemes in the Federal Court,

Federal Magistrates Court, Supreme Court, Land & Environment Court and District Court. The executive director has ongoing discussions with members of the judiciary and court staff in relation to these schemes. These schemes impose a significant burden on members of the bar and Bar Association staff.

The manager of LARS also assists with the administration of the Federal Court/ Federal Magistrates Court Refugee Review schemes.

Sexual Assault Communications Privilege Pilot Project (SACP)

In October 2008 Women's Legal Service NSW (WLS NSW) initiated a pro bono

SACP pilot referral project in conjunction with the Bar Association, the Office of the Director of Public Prosecutions, Blake Dawson, Clayton Utz and Freehills. The project began in mid-February 2009 to run for an initial six month period. It provides pro bono legal representation and advice to sexual assault complainants in an attempt to keep the counselling and other health records of complainants confidential when their private files are subpoenaed for use in trials.

A training seminar was held at the Bar Association in February 2009 for barristers who had responded to a request for volunteers through *In Brief*. The seminar was conducted by a barrister and a

solicitor from WLS NSW. The pilot project was formally launched at the offices of Blake Dawson on 17 April 2009 by the attorney general, the Hon John Hatzistergos MLC and the director of public prosecutions, Nicholas Cowdery AM QC.

Each stakeholder in the project agreed to keep statistics of matters undertaken and the number of hours contributed by the profession. At the end of the project period, a comprehensive assessment will be made of the project with a view to obtaining specific public funds for legal representation of complainants and to determine if legislative changes need to be made.

Case studies

The Law Society Pro Bono Scheme referred a young woman for assistance in relation to a coronial inquest into the death of her baby. A barrister appeared on her behalf at the inquest and objected to her giving evidence, as she was a person of interest to police, and she was not required to do so. The brief of evidence was tendered as an exhibit and further oral evidence was given by the woman's partner, the officer-in-charge of the investigation and an expert in forensic and scientific services from a university.

Ultimately, the deputy state coroner:

- noted the views of the caseworker that the mother had attended ante-natal reviews and was child focussed;
- stated that the evidence did not support the view that the baby's methadone level was a contributing factor in its death; and
- found that the baby had died from accidental asphyxiation from smothering because the mother had fallen asleep following breast feeding.

A young male New Zealand national, who had been detained in Villawood Immigration Detention Centre for four months approached the scheme for assistance in proceedings he had commenced in the Federal Magistrates Court as an unrepresented litigant against the minister for immigration and citizenship and the Migration Review Tribunal.

He had arrived in Australia in 2001 on his brother's passport. In 2008 he presented himself to immigration authorities to request the cancellation of his special category visa so that he could obtain assistance to return to New Zealand. On learning that the immigration authorities were confusing him with the holder of another passport who had been using that passport to make trips between Australia and New Zealand, the young man withdrew his request for the cancellation of his visa.

In breach of the *Migration Regulations 1994* the immigration authorities and later the Migration Review Tribunal rejected the young man's assertions

that he was not the user of that other passport and refused to accept his withdrawal of the cancellation request. He remained in detention and commenced proceedings in the Federal Magistrates Court for judicial review of the MRT decision.

A barrister agreed to assist and represented the young man in the Federal Magistrates Court proceedings. Upon an amended application and submissions drawn by counsel the minister ultimately consented to the issue by the court of the constitutional writs sought by the young man as pleaded by counsel, namely that the MRT had not complied with the Migration Regulations in not accepting the withdrawal of his request. When the orders were made, the young man was released from Villawood and returned to New Zealand.

Promoting access to justice

Legal Assistance Referral Scheme (LARS)

Interaction with other pro bono service providers

LARS works closely with the Law Society Pro Bono Scheme. There is virtually daily contact between the two schemes.

Together with the Law Society's pro bono solicitor, the manager of the scheme met with customer service officers at LawAccess on two occasions this year to outline the scheme's guidelines and give feedback as to the outcomes of the referrals made by LawAccess to the scheme. The executive director is a board member of LawAccess. The association's director, law reform & public affairs, who now oversees the operation of LARS, is a member of the LawAccess NSW Strategy Committee. He has acted for the executive director at meetings of the trustees of the Pro Bono Disbursement Fund. The manager, or her assistant, also attends the Law & Justice Foundation's quarterly NSW Legal Referral Forum.

The Bar Association's staff received in the order of 500–600 enquiries about legal assistance and related matters.

The Bar Association is a member of the NSW Legal Assistance Forum (NLAF). The scheme's manager attends board meetings together with the director, law reform & public affairs. She continues to be a member of the Coalition of Aboriginal Legal Services' working party and prisoners' working party.

There is also a meeting every two months between representatives of LARS, the Law Society Pro Bono Scheme and the Public Interest Law Clearing House.

The Bar Association's staff received in the order of 500–600 enquiries about legal assistance and related matters. There have been many difficult phone calls, which often involve multiple calls from the one

person, or from different individuals, which are dealt with by the scheme. Staff at the association's reception have had to deal with applicants who attend unannounced. There have been several unpleasant scenes where senior staff or security have had to intervene. Staff have received some training in dealing with difficult clients and there are plans to extend such training in the coming year.

The Bar Association continues to bear a significant portion of the costs for the administrative infrastructure needed to support the operation of the scheme. The staffing component of this support, in terms of time and salary, is significant.

Case studies (continued)

The Law Society Pro Bono Scheme referred a couple to the scheme who, between them, were facing 17 charges for allegedly underpaying an employee in a prosecution brought against them by the Office of Industrial Relations in the Industrial Magistrates' Court. They owned and operated a shuttle service providing a service for passengers wishing to travel to the airport and other destinations. The couple admitted to underpaying the employee, however disagreed on the amount owing, claiming that the amount owed had been calculated by the Office of Industrial Relations, based on the incorrect award and that they had relied on the same pay arrangements the employee had with the previous owners of the business. On this basis the magistrate entered a not guilty plea at the first mention date.

A barrister agreed to assist. He established that the driver had been paid under

the Tourist and Service Coach Drivers State Award but should have been paid pursuant to the Motor Bus Drivers and Conductors State Award. He advised the clients to plead guilty to ten of the 17 counts of award breach. He made submissions in relation to the remaining seven counts. Five charges against the wife were withdrawn and the magistrate dismissed two of the charges against the husband relating to holiday pay. Each of the charges of award breach carried a fine of \$10,000. The magistrate imposed a one-off fine of \$500.00. The driver had also claimed a back payment of \$40,000, which, after negotiations, settled for a payment of \$5,000.

The barrister contributed 42 hours of work to the matter.

A young woman on a parenting pension applied for assistance in relation

to relocation, residency and access proceedings in the Federal Magistrates Court at Parramatta. She had made a decision to relocate her children from New South Wales to Queensland for reasons of the father's mental health condition and was seeking orders from the court to validate her decision. A barrister agreed to assist and appear at an interim hearing. On the grounds that the mother had no alternative, and that the best interests of the children were served by continuing to stay in Queensland with her, the court ordered in her favour.

In a letter of appreciation the mother made the following comment about the barrister: '[s]he gave me hope that at least I will get a 'fair go.' I cannot tell you how that has lifted my spirits; I was feeling very disillusioned at the fairness of the system towards those in need.'

Promoting access to justice

Legal Assistance Referral Scheme statistics

	2007-2008	2008-2009		2007-2008	2008-2009
High Court			Family Court of Australia		
Application for special leave	4	5	Full bench appeals	1	-
Original jurisdiction	-	2	Access	7	7
Total	4	7	Residency	6	6
Federal Court			Child support	1	2
Full bench appeals	3	2	Spousal maintenance	-	-
Immigration	6	14	Property settlement	1	-
Administrative	-	1	Costs hearing	2	-
Discrimination	1	-	Total	18	15
Intellectual property	-	-			
Trade practices	1	1	District Court		
Native title	-	2	Criminal	6	18
Bankruptcy	4	3	Civil	16	25
Total	15	23	Care proceedings	4	2
Federal Magistrates Service			Defamation	-	1
Discrimination	-	2	Victims' compensation	1	-
Family law - access	1	8	Professional negligence	3	-
Family law - child support	-	-	Total	30	46
Family law - residency	2	5			
Family law - property settlement	-	1	Local Court		
Immigration	17	6	Criminal	19	23
Bankruptcy	5	3	Civil	17	13
Total	25	25	Family matters - access	-	-
Supreme Court			Family matters - property settlement	1	-
Court of Appeal	2	9	Family matters - child support	-	-
Court of Criminal Appeal	8	6	Total	37	36
Common Law	15	33			
Administrative	-	3	Children's Court	1	2
Equity	20	17	Coroner's Court	4	8
Criminal	1	1			
Corporations List	1	-	Tribunals		
Commercial	1	1	Administrative Appeals Tribunal	2	4
Family Provisions	4	4	Administrative Decisions Tribunal	9	14
Defamation	1	5	Consumer Trader Tenancy Tribunal	2	3
Professional Negligence	4	1	Guardianship Tribunal	-	2
Total	57	80	Nurses & Midwife Tribunal	-	1
Land and Environment Court	3	7	Refugee Review Tribunal	-	1
Australian Industrial Rels. Comm.	2	-	Victims Compensation Tribunal	-	1
NSW Industrial Rels. Comm.	4	6	Anti-Discrimination Board	2	2
			Total	15	28

Promoting access to justice

Legal Assistance Referral Scheme statistics

	2007-08	2008-09		2007-08	2008-09
Referral source			Rejection / No action		
Community legal centre	33	30	Outside guidelines	38	85
Instructing solicitor	33	35	No further information received / no further contact from applicant	33	42
Law Society	31	28	Requires a solicitor	23	**
Member of the public	30	60	Eligible for legal aid	8	**
Legal Aid	22	23	Subject to Federal Court RRT LAS	5	8
LawAccess	21	32	Subject to Fed. Ct Pro Bono Scheme	2	-
Judge / magistrate / registrar	17	30	Referred to community legal centre	1	-
Member of the bar	14	20	Briefed barrister to appear privately	1	3
Member of parliament	5	5	Briefed solicitor to appear privately	1	4
PILCH	3	9	Matter discontinued	-	2
Pro bono director of a large firm	2	10	Unable to refer - insufficient resources	-	2
DPP	2	1	Too late notification	2	4
Welfare / community group	2	-	Matter settled	-	3
Attorney General's Department	-	5	Total	114	153
Web site hits	9000	14900	** Included in 'Outside guidelines' for 2008-09		
Client location			Turnaround		
Sydney Metropolitan Area			Same day	10	24
West	56	73	Less than a week	16	18
North	41	66	1-2 weeks	28	33
South	33	37	2 weeks plus	48	55
East	12	7	Total	102	130
Inner City	14	27	Basis brief accepted		
Central Coast	8	9	No fee - merit assessment	102	130
Country	15	28	No fee - continuing involvement	65	99
Prison	18	12	Reduced fee - continuing involvement	21	17
Villawood Detention Centre	11	14	Speculative / costs recovery - continuing involvement	16	13
Interstate	7	10	Market rates - continuing involvement	-	1
Total	215	283	Refused legal aid on basis of		
Types of work done			Merit	11	30
Merit assessment	102	130	Financial	22	30
Advice (over and above initial merit assessment)	63	101	Outside guidelines	182	223
Conferences	38	57	Matters considered by a barrister to have legal merit / prospects of success		
Appearances	31	35	Yes	56	76
Matters settled	12	12	No	46	54
Appearances at hearing	27	41			
Other (inc. second opinion & preparation of submission)	18	31			

Questions as to professional conduct

The Professional Conduct Department

The principal role of the Professional Conduct Department is to facilitate the investigation of, and reporting to the Bar Council on:

- conduct complaints against barristers;
- notifications of show cause events; and
- other disclosures as required by the Legal Profession legislation.

Complaints

Under the *Legal Profession Act 2004*, complaints about a barrister's conduct are made to and investigated by the legal services commissioner. The commissioner may, pursuant to the Act, refer a complaint to the Bar Council for investigation and determination. In addition the Bar Council itself may make a complaint about a barrister.

In 2008/2009 the Bar Council received 60 new complaints for investigation – 49 complaints were referred by the legal services commissioner and 11 complaints were made by the Bar Council. The largest source of complaints was the client or former client of the barrister.

Where the Bar Council investigates a complaint, the complaint is referred to

In the course of 2008/2009 the Bar Council investigated 112 complaints – 58 complaints that were made during the year and 54 complaints made in the previous year but ongoing as at 1 July 2008. Of those investigations, 54 were finalised during the year – four complaints were withdrawn, 43 dismissed, three resulted in the barrister being reprimanded and in respect of four complaints the Bar Council decided to refer the matters to the ADT.

In the course of the year the legal services commissioner completed reviews of 22 Bar Council decisions to dismiss a complaint (eight of those decisions were made in the year 2007/2008). In each matter the commissioner confirmed the council's decision to dismiss.

Show cause events

Barristers and applicants for a barrister's practising certificate are required to notify the Bar Council of show cause events, that is, certain bankruptcy matters or a conviction for a serious offence or a tax offence. Professional conduct committees investigate show cause events and report to the Bar Council, which then determines whether the barrister or applicant is a fit and proper person to hold a practising certificate. In the course of 2008-2009

three barristers notified show cause events related to bankruptcy matters, one barrister notified the Bar Council of convictions for serious offences, and one barrister notified a conviction for a tax offence.

one of the council's four professional conduct committees. The committees are delegates of the Bar Council for the purposes of investigating complaints. Each committee is chaired by a member of the Bar Council who is a senior counsel. Committees are comprised of barrister members, community members and academic members. The deputy directors of the department serve as secretaries of the committees.

Other disclosures

The *Legal Profession Act 2004* requires barristers to notify the Bar Council if the barrister is convicted of certain offences or charged with a serious offence. The *Legal Profession Regulation 2005* requires a person applying for a barrister's practising certificate or renewal thereof to disclose certain information regarding convictions. Between July 2008 and June 2009 nine disclosures were made by barristers or applicants for a barrister's practising certificate.

Other work

Other work carried out by the department includes:

- providing advice and policy support to the Bar Council in respect of the council's functions under the Act;
- facilitating the provision of ethical guidance to barristers;
- responding to queries from solicitors and members of the public regarding regulatory provisions and the conduct of barristers;
- assisting barristers in corresponding with solicitors to recover outstanding legal fees; and
- assisting the Bar Council in connection with applications for re-admission to the legal profession and applications pursuant to s 26 of the Legal Profession Act where a person seeks an early declaration that matters disclosed to the Legal Profession Admission Board and the Council will not, without more, adversely impact on an application for admission.

Professional conduct committees

In late 2008 a number of community members on the professional conduct committees completed their terms of appointment. The Bar Association

Continued on page 37

The largest source of complaints was the client or former client of the barrister.

Professional conduct statistics

The Professional Conduct Department

Number & type of complaints made to the Bar Council during the year

Figures comprise complaints referred by the legal services commissioner to the Bar Council for investigation and complaints made by the Bar Council

Type of Complaint	Number
Acting contrary to/failure to carry out instructions	5
Acting without instructions	1
Breach of Barristers' Rule	5
Conflict of interest	3
Failure to return briefs	1
Incompetence	8
Misleading conduct	13
Other unethical conduct	3
Overcharging/overservicing	2
Personal conduct	1
Practising without a practising certificate	1
Rudeness/discourtesy	4
Unlawful conduct	3
Unsatisfactory advice/representation	10
Total number of complaints	60

Source of complaints made to the Bar Council during the year

Complainant	Number
Bar Council	11
Barrister	1
Client/former client	25
Instructing solicitor	3
Legal services commissioner	3
Opposing party	11
Opposing solicitor	1
Other	5
Total number of complaints	60

Number of consumer disputes referred to mediation during the year and the results of mediation

Nil

Number and type of complaints investigated during the year by the Bar Council

Complaint Type	Complaints investigated that were made during the year	Complaints investigated that were made in previous years
Acting contrary to/failure to carry out instructions	5	3
Acting without instructions	1	3
Breach of Barristers' Rule	4	5
Breach of confidentiality	0	1
Breach of s660 of <i>Legal Profession Act 2004</i>	0	1
Breach of undertaking	0	1
Conflict of interest	3	3
Failure to account	0	3
Failure to communicate	0	2
Failure to return briefs	1	0
Incompetence	8	6
Misleading conduct	13	3
Other unethical conduct	3	9
Overcharging/overservicing	2	5
Personal conduct	1	1
Practising without a practising certificate	1	2
Pressure to change plea/to plead guilty/to settle	1	0
Rudeness/discourtesy	3	1
Unlawful conduct	3	1
Unsatisfactory advice/representation	10	4
Sub-totals:	59 *	54
Total number of complaints investigated:		112

Figures include complaints remaining under investigation as at 30/06/2009, all complaints in respect of which the Bar Council made a decision and complaints that were withdrawn during the year.

* Sub-total does not include two complaints made but not investigated – one consumer dispute resolved informally and one out of time complaint.

Professional conduct statistics

The Professional Conduct Department

Number and type of complaints dismissed during the year by the Bar Council

Complaint type	Complaints made during the year	Complaints made in previous years
Acting contrary to/failure to carry out instructions	1	3
Acting without instructions	1	1
Breach of undertaking	0	1
Breach of Barristers' Rule	0	2
Conflict of interest	0	1
Failure to communicate	0	1
Incompetence	2	2
Misleading conduct	5	3
Other unethical conduct	0	5
Overcharging/overservicing	1	2
Personal conduct	1	1
Practising without a practising certificate	0	1
Rudeness/discourtesy	2	1
Unlawful conduct	0	1
Unsatisfactory advice/representation	2	3
Sub-totals	15	28
Total number of complaints dismissed:		43

Number & type of complaints in respect of which an Australian lawyer was reprimanded or cautioned during the year

Complaint type	Complaints made during the year	Complaints made in previous years
Misleading conduct	1	0
Other unethical conduct	1	0
Unsatisfactory advice/representation	0	1
Sub-totals	2	1
Total number of reprimands or cautions:		3

Number and type of complaints withdrawn during the year

Complaint Type	Complaints made during the year	Complaints made in previous years
Incompetence	1	0
Other unethical conduct	1	0
Overcharging/overservicing	1	1
Sub-totals	3	1
Total number of complaints withdrawn:		4

Number and type of complaints referred by the Bar Council to the Administrative Decisions Tribunal during the year

Complaint Type	Complaints made during the year	Complaints made in previous years
Breach of s 660 of LPA 2004	0	1
Failure to account	0	1
Overcharging/overservicing	0	1
Practising without a practising certificate	0	1
Sub-totals	0	4
Total number of complaints referred to ADT:		4

Number and type of complaints in respect of which proceedings were instituted in the Administrative Decisions Tribunal during the year by the Bar Council

Complaint Type	Proceedings instituted in ADT
Acting without instructions	1
Failure to account	1
Overcharging/overservicing	1
Total number of proceedings instituted in the ADT:	3

Number of matters referred to mediation under section 336 or Division 5 of Part 4.3 during the year & the outcome of those matters

Nil

Number of compensation orders made under section 540(2)(c)

Nil

Professional conduct statistics

The Professional Conduct Department

Summary of the results of proceedings in the Administrative Decisions Tribunal completed during the year

Proceedings commenced by the Bar Council in the Administrative Decisions Tribunal against eight persons who held or had held a barrister's practising certificate were finalised in 2008/2009. The tribunal made orders that

- the names of four lawyers were removed from the Roll of Lawyers
- two barrister's practising certificates were cancelled
- two fines of \$2000 were imposed
- five reprimands were issued
- two orders were made requiring barristers to undergo further legal training

Number of complaints not finally dealt with at the end of the year

58

Age of complaints not finally dealt with at the end of the year

Note: All complaints are at the stage where they remain under investigation

Age of complaints not finally dealt with at the end of the year	Number	Complaints made in the year ending 30 June
Up to six months	24	2009
Between seven & twelve months	14	2009
Between thirteen & eighteen months	7	2008
Between nineteen & twenty four months	7	2008
Up to three years	5	2007
Up to four years	1	2006
Total	58	

Time intervals involved in the complaint process, including the time between receipt of a complaint and the decision of the Bar Council under Part 4.5 in respect of the complaint

Note: Figures relate to complaints in respect of which a decision was made by the Bar Council during the year to dismiss the complaint, issue reprimand or caution, or refer to the Administrative Decisions Tribunal.

Time intervals between receipt of complaint and decision of the Bar Council	Number
Up to six months	19
Between seven & twelve months	17
Between thirteen & eighteen months	5
Between nineteen & twenty four months	3
Up to three years	3
Up to four years	2
Over five years	1
Total	50

The Professional Conduct Department

Continued from page 31

advertised for expressions of interest for persons to serve as community members on the professional conduct committees. The very large response indicated that it is not only the association but also the wider community that recognises the importance of community representation on the professional conduct committees.

The Bar Council would like to thank John Freeman, Geraldine Walsh, Bronwyn Preston, Mary Werick, and Lyndsay Connors, whose appointments expired in late 2008, for their significant contributions over a number of years to the work of the committees. Thanks are also extended to the community members who continued their terms with the committees – Denise Aldous, Geoff Geraghty AM, Rosemary Allsopp,

Sandra Fleischmann OAM, Judith Butlin and Simon Hayes. The Bar Association appointed six new community members to its committees in January 2009 and is pleased to welcome:

John Davison, Bill Purdue, Pam Clay, Anthony Pang, Patrick Smith and Rachel Williams, and to thank them for their contributions to the work of the committees.

The committees also receive valuable input from their academic members and the Bar Council is grateful for the assistance of Dorne Boniface, Professor Hilary Astor, Maxine Evers, Dr Andrew Buck and Dr Peter Radan.

The Bar Council wishes to express its sincere appreciation to all the

barrister members of the professional conduct committees. Their service demonstrates the ongoing commitment of the profession to ensuring complaints regarding the conduct of barristers are fully investigated and appropriate disciplinary action taken in the interests of maintaining public confidence in the profession.

All members of the professional conduct committees have devoted many hours of their time on a voluntary basis and their input to the investigative processes is highly valued by the Bar Council.

Committees of the Bar Association

The following lists display committee membership during the 2008-2009 financial year.

Alternative Dispute Resolution

July - December 2008

Angela Bowne SC (chair)
John West QC
Campbell Bridge QC
Peter Callaghan SC
Bruce Hodgkinson SC
Leonard Levy SC
Ian Bailey SC
Graham Barter
Richard Bell
Mary Walker
Susan Phillips
Andrew Bulley
Ian Davidson

January - June 2009

Angela Bowne SC (chair)
John West QC
Peter Callaghan SC
Campbell Bridge QC
Bruce Hodgkinson SC
Ian Bailey SC
Graham Barter
Richard Bell
Mary Walker
Susan Phillips
Andrew Bulley
Maria Gerace

Bar Association staff members

Kim Kemp
Jo Wilton

Bar News

July - December 2008

Andrew Bell SC (editor)
Keith Chapple SC
Gregory Nell SC
John Mancy
Arthur Moses
Chris O'Donnell
Carol Webster
Richard Beasley
David Ash
Louise Clegg
Julie Soars
Kylie Day
Jenny Chambers
Duncan Graham
Jeremy Stoljar
Geoff Hull (clerk)

January - June 2009

Andrew Bell SC (editor)
Keith Chapple SC
Mark Speakman SC
Gregory Nell SC
Arthur Moses SC
Jeremy Stoljar SC
Chris O'Donnell
Carol Webster
Richard Beasley
David Ash
Louise Clegg
Julie Soars
Kylie Day
Andrew Scotting
Jenny Chambers
Geoff Hull (clerk)

Bar Association staff member

Chris Winslow

Criminal Law

July - December 2008

Stephen Odgers SC (chair)
Anthony Bellanto QC
Tim Game SC
Phillip Boulten SC
John Stratton SC
Daniel Howard SC
Elizabeth Wilkins SC
Joanne Gallagher
Richard Wilson
Warwick Hunt
Greg Farmer
Sarah Huggett
Robert Bromwich
Susan Kluss
Margaret Cunneen
Frank Veltro
Sally Dowling
Gaby Bashir
Matthew Johnston

January - June 2009

Stephen Odgers SC (chair)
Tim Game SC
Philip Boulten SC
John Stratton SC
Daniel Howard SC
Elizabeth Wilkins SC
Phillip Ingram
Paul Winch
Susan Kluss
Robert Bromwich
Laura Wells
Sally Dowling
Nicole Noman
Gaby Bashir
Joanne Gallagher
John Weir
Richard Wilson
Lester Fernandez
Warwick Hunt

Bar Association staff member

Cindy Penrose

Common Law

July - December 2008

Ross Letherbarrow SC (chair)
Simon Harben SC
Stephen Campbell SC
Leonard Levy SC
David Russell SC
Paresh Khandar
Steven Woods
Richard Royle
Peter Frame
Elizabeth Beilby
Lorna McFee
Kylie Nomchong
Andrew Stone

January - June 2009

Ross Letherbarrow SC (chair)
Stephen Campbell SC
Simon Harben SC
Brian Ferrari
Peter Frame
Robert Harrington
Lorna McFee
Richard Royle
Greg Hickey
William Fitzsimmons
David Hooke
Duncan Graham
Andrew Stone
Richard Cavanagh
Paresh Khandhar
Eva Elbourne

Bar Association staff member

Alastair McConnachie

Costs and Fees

July - December 2008

Tom Bathurst QC (chair)
Bernie Coles QC
Dr Chris Birch SC
Mark Brabazon
Rachel Pepper
Philippe Doyle Gray

Bar Association staff member

Jennifer Pearce

Costs and Practice Management

January - June 2009

Tom Bathurst QC (chair)
Mark Brabazon SC
Geraldine Hoebe
Robert Dick
Andrew Coleman
Nick Tiffen (clerk)

Bar Association staff member

Jennifer Pearce

Equal Opportunity Committee

July - December 2008

Elizabeth Olsson SC (chair)
Simon Kalfas SC
Geoffrey Johnson
David Robertson
Julia Baird
Richard Weinstein
Phillipa Gormly
Trish McDonald
Patrick Griffin
Rachel Pepper
Kate Eastman
Rhonda Bell
David Price
Nicolette Bearup

January - June 2009

Elizabeth Olsson SC (chair)
Simon Kalfas SC
Julia Baird SC (deputy chair)
Geoffrey Johnson
Richard Weinstein
Anthony Lo Surdo
Trish McDonald
Rachel Pepper
Rhonda Bell
David J Price
Anthony Cheshire
Elizabeth Picker
Kavita Balendra

Bar Association staff member

Cindy Penrose

Family Law

July - December 2008

Grahame Richardson SC (chair)
Robert Lethbridge SC
Margaret Cleary
Warwick Tregilgas
Peter Cook
Paul Sansom
Richard Schonell
Neill Macpherson
Emily Pender
Alison Stenmark

January - June 2009

Grahame Richardson SC (chair)
Robert Lethbridge SC
Alison Stenmark SC
Margaret Cleary
Warwick Tregilgas
Peter Cook
Paul Sansom
Richard Schonell
Melissa Gillies
Emily Pender
Debra Harris

Bar Association staff member

June Anderson

Finance Investment & Audit

July - December 2008

Tom Bathurst QC
Bernard Coles QC
Alexander Street SC
Anne Healey
Michael McHugh

January - June 2009

Tom Bathurst QC
Bernard Coles QC
Alexander Street SC
Anne Healey
Michael McHugh

Bar Association staff member

Basil Catsaros

Committees of the Bar Association

The following lists display committee membership during the 2008-2009 financial year.

Human Rights

July - December 2008

Chris Ronalds SC (chair)
Nicholas Cowdery QC
Naomi Sharp
Craig Lenehan
Ruth Higgins
Paul Winch
Tom Brennan
David Knoll
Richard Lancaster
Simeon Beckett
Ben Kasep
Sera Mirzabegian
Alissa Moen
Sarah Pritchard
Mandy Tibbey
Andrew Byrnes

January - June 2009

Mark Ierace SC (chair)
Nicholas Cowdery QC
Alissa Moen
Richard Lancaster
Simeon Beckett
Kate Eastman
David Knoll
Sarah Pritchard
Hugh Stowe
Ben Kasep
Soruban Sivaloganathan
Craig Lenehan
Reg Graycar
Miranda Nagy
Professor Andrew Byrnes

Bar Association staff member

Cindy Penrose

Indigenous Barristers Strategy Working Party

July - December 2008

Chris Ronalds SC (chair)
David Frearson SC
Andrew Haesler SC
Daniel Howard SC
Mullenjaiwakka
Peter Miller
Tony McAvoy
Norman Laing
Lincoln Crowley
Professor David Barker
Professor Larissa Behrendt
Associate Professor Jill Hunter

January - June 2009

Chris Ronalds SC (chair)
Andrew Haesler SC
Daniel Howard SC
Mullenjaiwakka
Peter Miller
Tony McAvoy
Lincoln Crowley
Professor David Barker
Professor Larissa Behrendt
Associate Professor Jill Hunter

Legal Aid

July - December 2008

Tim Game SC (chair)
Geoff Lindsay SC
Phillip Boulten SC
Linda McSpedden
Stephen Hanley
Mark Buscombe
Luke Brasch
Nicole Carroll
Joseph Dalzell SM
Angus Grant
Charles Cassimatis

January - June 2009

Ian McClintock SC (chair)
Geoff Lindsay SC
Andrew Haesler SC
Stephen Hanley
Philip Hogan
Angus Grant
Mark Buscombe
Luke Brasch
Nicole Carroll
Esther Lawson
Joseph Dalzell AM

Bar Association staff member

Cindy Penrose

New Barristers

July - December 2008

Kylie Day (chair)
Angelina Gomez
Adam Casselden
Warwick Hunt
Kara Shead
Gillian Mahony
Nicolette Bearup
Spiro Tzouganatis
John-Paul Redmond
Esther Lawson
Jennifer Single
Ruth Higgins

January - June 2009

Kylie Day (chair)
David Rayment
Louise Goodchild
Nicolette Bearup
Elizabeth Raper
Esther Lawson
Angelina Gomez
Ruth Higgins
Gillian Mahony
Richard Jefferis
Spiro Tzouganatis
Warwick Hunt
Joshua Knackstredt
Jennifer English
Ramena Kako

Bar Association staff members

Katie Hall
Jo Musumeci

Practice Management

July - December 2008

Tom Bathurst QC (chair)
Robert Dick
Michael McHugh
Nick Tiffen (clerk)

Bar Association staff member

Jennifer Pearce

Professional Conduct Committee 1

July - December 2008

Alexander Street SC (chair)
Nye Perram SC (chair)
John Sheahan SC
Richard McHugh SC
Margaret Cunneen SC
Ian Tonking SC
Greg Farmer
David Hooke
Hugh Stowe
Alister Abadee
Philippe Doyle Gray
Naomi Sharp
Sandy Dawson
Edward Muston
Madeleine Avenell

Academic member

Dorne Boniface

Lay members

Denise Aldous
John Freeman
Geraldine Walsh

Secretary

Sarah Colquhoun
Emma Day

January - June 2009

Tim Game SC (chair)
John Sheahan SC
David Russell SC
Robert Beech-Jones SC
Tony Payne SC
Greg Farmer
Jeremy Morris
Kylie Nomchong
David Ash
Hugh Stowe
Alister Abadee
Naomi Sharp
Edward Muston
Madeleine Avenell

Secretary

Emma Day

Academic member

Dorne Boniface

Lay members

Denise Aldous
John Davison
Bill Purdue

Professional Conduct Committee 2

July - December 2008

Peter Garling SC (chair)
Ian Temby AO QC
Liz Olsson SC
James Stevenson SC
Gregory Nell SC
Jay Anderson
Michael Jenkins
Richard Weinstein
Sandra Duggan
David Ash
Vahan Bedrossian
Edward Cox
Rachel Francois
Paul Kerr
Ruth Higgins

Academic member

Professor Hilary Astor

Lay members

Geoff Geraghty AM
Bronwyn Preston
Mary Werick

January - June 2009

Ian Temby AO QC (Chair)
Malcolm Holmes QC
James Stevenson SC
Gregory Nell SC
Braddon Hughes
Jay Anderson
Geoffrey Rich
Sandra Duggan
Dominic Toomey
Vahan Bedrossian
Edward Cox
David McLure
Jeanette Richards
Ruth Higgins

Secretary

Helen Barrett

Academic member

Professor Hilary Astor

Lay members

Geoff Geraghty AM
Pam Clay
Anthony Pang

Professional Conduct Committee 3

July - December 2008

Justin Gleeson SC (chair)
David Higgs SC
David Davies SC
Robert Beech-Jones SC
Graham Turnbull SC
Barry Cross
Ian Davidson
David Jordan
James Lockhart
Michael McHugh
Natalie Adams
Angela Seward
Margaret Holz
Philip Carr

Academic member

Maxine Evers

Lay members

Rosemary Allsopp
Sandra Fleischmann OAM

Secretary

Stephanie Mancell

January - June 2009

Phillip Boulten SC (chair)
David Higgs SC
David Davies SC
Graham Turnbull SC
John Halley SC
Garry McGrath
Ian Davidson
David Robertson
David Jordan
James Lockhart
Natalie Adams
Angela Seward
Margaret Holz
Philip Carr

Secretary

Emma Day

Academic member

Maxine Evers

Lay members

Rosemary Allsopp
Sandra Fleischmann OAM
Patrick Smith

Committees of the Bar Association

The following lists display committee membership during the 2008-2009 financial year.

Professional Conduct Committee 4

July - December 2008

Bernie Coles QC (chair)
Alexander Street SC
David Williams SC
Andrew Colefax SC
Peter Hamill SC
Mark Hobart SC
Brendan Hull
Garry McGrath
Geoffrey Rich
Igor Mescher
Anne Healey
Mark Best
Patrick Griffin
Kylie Nomchong
Sigrid Higgins

Academic member

Dr Andrew Buck

Lay members

Judy Butlin
Lyndsay Connors
Simon Hayes

January - June 2009

Jeremy Gormly SC (chair)
David Williams SC
Andrew Colefax SC
Peter Hamill SC
Robert Beech-Jones SC
Mark Hobart SC
Brendan Hull
Andrew Kostopoulos
Igor Mescher
Anne Healey
Mark Best
Dominique Hogan-Doran
Patrick Griffin
Sigrid Higgins
Garry Wilson
David Rayment

Secretary

Helen Barrett

Academic members

Dr Peter Radan

Lay members

Judy Butlin
Simon Hayes
Rachel Williams

Senior Counsel Selection

July - December 2008

Anna Katzmann SC
Tom Bathurst QC
Stephen Gageler SC
Tony Meagher SC
Mark Ierace SC

Sections

Administrative Law Section

Convenor: Alan Robertson SC

Constitutional Law Section

Convenor: Stephen Gageler SC

Women Barristers Forum

President:	Mary Walker
Vice-presidents:	Linda McSpedden Sue Kluss
Treasurer:	Kerrie Leotta
Secretary:	Erika Techera
Assistant	Julie Soars
Secretary:	

Appointments to state and federal courts

For the year ended 30 June 2009

Supreme Court of New South Wales

The Hon Justice Robert Macfarlan
The Hon Justice Julie Ward
The Hon Justice Robert Hulme
The Hon Justice Robert Forster
The Hon Justice Michael Slattery
The Hon Justice David Davies

Land and Environment Court

The Hon Justice Rachel Pepper

District Court of New South Wales

His Hon Judge D Frearson SC
His Hon Judge Michael Colefax SC
His Hon Judge Michael Bozic SC

High Court of Australia

The Hon Justice Virginia Bell

Federal Court of Australia

The Hon Justice Nye Perram
The Hon Justice Lindsay Foster
The Hon Justice Jayne Jagot

Family Court

The Hon Justice Stewart Austin

Court committees and working parties

For the year ended 30 June 2009

State courts and tribunals

Uniform Rules Committee

Geoff Lindsay SC

Criminal Trial Efficiencies Working Group

Stephen Odgers SC

Court of Appeal Users Group

John Maconachie QC
David Davies SC
Justin Gleeson SC

Court of Criminal Appeal Users Group

Stephen Odgers SC

Supreme Court of New South Wales

Rules Committee

Geoff Lindsay SC
Elizabeth Olsson SC (deputy)

Admiralty Users Group Committee

Gregory Nell SC
Alternate: Alexander Street SC
Michael McHugh
Alternative: Edward Cox

Commercial List Users Committee

Robert Macfarlan QC
Tom Bathurst QC
Glenn Miller QC
Stephen Robb QC
John Kelly SC
Geoff Lindsay SC
Noel Hutley SC
Michael Rudge SC
Rodney Smith SC
Todd Alexis SC
Elizabeth Olsson SC
Lachlan Gyles SC
Mark Ashhurst
Elizabeth Collins

Common Law Division Civil Users Committee

Peter Deakin QC
Tony Hewitt SC
Lorna McFee

Corporations List Users Group

Malcolm Oakes SC
Robert Newlinds SC
James Thomson
James Johnson

Equity Liaison Group

Robert Forster SC
Robert Newlinds SC
Robert Harper SC
Jane Needham SC
Greg Sirtes SC
Mark Ashhurst
Miles Condon
Phillipa Ryan
Vanessa Whittaker

Probate Users Group

Michael Willmott SC

ADR Steering Committee

Mary Walker

Land and Environment Court Users Group

Jeffrey Kildea

Court committees and working parties (continued)

Industrial Relations Commission

Rules Committee

Ian Neil SC

Arthur Moses

Users Group

Maxwell Kimber SC

Trish McDonald

District Court

Rule Committee

Paresh Khandhar

Civil Business Committee

Peter Deakin QC

Larry King SC

Criminal Listings Review Committee

Kate Traill

Local Court

Civil Claims Rule Committee

Andrew Kostopoulos

Criminal Rule Committee

Elizabeth Beilby

Dust Diseases Tribunal

Rules Committee

Wendy Strathdee

Brian Ferrari (deputy)

Workers Compensation Commission

Users Group

Gregory Beauchamp

Federal courts and tribunals

Federal Court of Australia

Court User Committee

Malcolm Oakes SC

Richard Cobden SC

Rhonda Henderson

Family Court

Case Management Committee

Grahame Richardson SC

Appointments to national legal professional bodies

For the year ended 30 June 2009

Law Council of Australia

Director

Anna Katzmann SC

Alternate Director

Philip Selth OAM

Access to Justice Committee

Christopher Whitelaw

AustLII Working Group

Philip Selth OAM

Jennifer Pearce

Indigenous Legal Issues Committee

Chris Ronalds SC

Dr Sarah Pritchard

Anthony McAvo

Alternative Dispute Resolution Committee

Mary Walker

Anti-Money Laundering Working Group

Tim Game SC

Young Lawyers Committee

Joshua Knackstedt

Client Legal Privilege Advisory Committee

Cameron Moore

Dr Ruth Higgins

Constituent Body Policy Staff

Jennifer Pearce

Equalising Opportunities in the Law Committee

Patricia McDonald

Freedom of Information Reform Working Group

Mark Robinson

National Occupational Health and Safety Review Working Group

Mark Cahill

Ingmar Taylor

Judicial Issues Working Group

Philip Selth OAM

Model Conduct Rules Working Group

Jennifer Pearce

Military Justice Working Group

Dr James Renwick

Model Equal Opportunity Briefing Policy Working Group

Trish McDonald (Alt Julie Baird)

Dominique Hogan-Doran

Julia Baird SC

National Criminal Law Committee

Tim Game SC

Bret Walker SC

Stephen Odgers SC

Phillip Boulton SC

National Profession Harmonisation Committee

Philip Selth OAM

Bill of Rights Adviser

Nicholas Cowdery AM QC

Australian Bar Association

Tom Bathurst QC (president)

Australian Advocacy Institute Board

Her Honour Judge Ann Ainslie-Wallace

Bar Association representatives on educational bodies

For the year ended 30 June 2009

Legal Profession Admission Board

Peter Taylor SC
Jeremy Gormly SC
Garry McGrath

Legal Qualifications Committee

John Fernon SC
Janet Oakley
Philippe Doyle Gray
Susan Leis
Elizabeth Picker

Law Examinations Committee

Michael Christie

University of Sydney

Faculty of Law

Peter Garling SC

Law School Advisory Board

Jennifer Stuckey-Clarke
University of NSW, Faculty of Law
Margaret Holz

Law Extension Committee

Peter Hamill SC
Anthony O'Brien

University of Technology, Sydney - Faculty Board

Geoff Lindsay SC

University of Western Sydney

External Law Advisory Committee

Robert O'Neill

University of Wollongong

Faculty of Law, Visiting Committee

Bruce Collins QC

Court liaison members

For the year ended 30 June 2009

State courts and tribunals

New South Wales Court of Appeal

Donald Grieve QC

Supreme Court of New South Wales

Common Law Division

Richard J Burbidge QC

Equity Division

Robert G Forster SC

Possessions List

James Stevenson SC

Admiralty List

Alexander Street SC

Land and Environment Court

Malcolm G Craig QC

Industrial Relations Commission of New South Wales

Max Kimber SC

Local Court of New South Wales

Lester Fernandez

Federal courts and tribunals

High Court

David Jackson AM QC

Federal Court

Malcolm Oakes SC
Richard Cobden SC
Rhonda Hendersen

Family Court

Grahame Richardson SC

Federal Magistrates Court

Kate Morgan

Refugee Review Tribunal

Nick Poynder

Statutory appointments

For the year ended 30 June 2009

Administrative Appeals Tribunal

Peter Taylor SC

Administrative Decisions Tribunal

General Division

Deputy presidents

Peter Callaghan SC
Jane Needham SC
Elizabeth Olsson SC

Judicial members

Gail Furness
Sigrid Higgins
Robert Wilson

Guardianship & Protected Estates List

Julian Millar

Legal Services Division

Peter Callaghan SC (deputy president)*
Paul Blackett SC
Gail Furness*
Robert Macfarlan QC*
Sharron Norton SC
Lionel Robberds QC
Wendy Robinson QC)
Alison Stenmark SC
Robertson Wright SC

Equal Opportunity Division

Jane Needham SC (deputy president)
Larissa Behrendt*
Gail Furness
Richard Perrignon
Sarah Pritchard

Retail Leases Division

Peter Callaghan SC (deputy president)
Liz Olsson SC (deputy president)
Sigrid Higgins

Revenue Division

Jane Needham SC (divisional head)
Michelle Hirschhorn

Richard Perrignon

Council for Law Reporting

Bret Walker SC (editor)
Christine Adamson SC (chairperson)
Timothy Castle (deputy chairperson)*
Noel Hutley SC*
Ian Jackman SC
Geoff Lindsay SC
Peter Brereton

Motor Accidents Authority

Motor Accidents Council

Andrew Stone

Claims Assessment and Resolution Service

Robert Tonner
Robert Quickenden
John Turnbull
William Fitzsimmons
John Tancred
Helen Wall
John Watts
Margaret Holz

Home Building Advisory Council

Elizabeth Olsson SC

Judicial Commission of New South Wales

John Griffiths SC

New South Wales Law Reform Commission

Tim Game SC

The ‘**’ symbol denotes members who ceased to be a member of the committee at the end of calendar year 2008

Legal Aid Commission

Board members

Geoff Lindsay SC
Alternate: Phillip Boulten SC

Legal Aid Review Committees 2007/08

Committee No.1

John McCarthy QC
1st alternate: Paul Menzies QC
2nd alternate: Paul Blackett SC

Committee No.2

Winston Terracini SC
1st alternate: Anne Healey
2nd alternate: Mark Buscombe

Family Law Legal Aid Review Committee No.1

Gregory Moore
1st alternate: Richard Schonell
2nd alternate: John Berry

Public Interest Human Rights Committee

Sarah Pritchard
Alternate: Nick Poynder

Law and Justice Foundation Board

Bret Walker SC
Nye Perram SC
John Sheahan SC

Law Week Board

Philip Selth OAM

Patent and Trade Marks Attorneys Disciplinary Tribunal

Sigrid Higgins

Professional Standards Council

Brian Rayment QC (chair)

Public Interest Law Clearing House (PILCH)

Garry McGrath (vice president)
Geoff Lindsay SC (director)

New South Wales Bar Association

Financial report for the year ended 30 June 2009

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This financial report covers The New South Wales Bar Association as an individual entity. The financial report is presented in Australian currency.

The financial report was authorised for issue by the directors on the 27 August 2009. The Bar Association has the power to amend and reissue the financial report.



Directors' report

The directors present their report together with the financial report of The New South Wales Bar Association ('the association') for the year ended 30 June 2009 and the auditor's report thereon.

Directors

The following persons were directors of the association during the whole of the financial year up to the date of this report:

D Ash	R Higgins	C Loukas	A Street SC
T Bathurst QC	A Healey	G McGrath	K M Traill
P Boulten SC	A J Katzmann SC	M McHugh	
B A Coles QC	P Khandhar	J Needham SC	

The following persons were directors from the beginning of the financial year to the 14 November 2008:

M Cunneen SC	P Garling SC	M Holz
A Dawson	A Haesler SC	S Torrington

The following persons were directors from 20 November 2008 up to the date of this report

T Game SC	J Gormly SC	D Rayment
L Goodchild	R Lancaster	I Temby QC

D Toomey was appointed as a director on the 29 April 2009 and continues in office at the date of this report:

R Pepper was a director from the beginning of the financial year until her resignation on the 29 April 2009.

All directors are practising barristers.

Principal activities

The principal activities of the association during the course of the financial year were to conduct the affairs of The New South Wales Bar Association and to operate The New South Wales Bar Association Library.

There were no significant changes in the nature of these activities during the financial year.

Dividends

No dividends were paid during the year and no recommendation is made as to dividends, as dividends are forbidden by the Constitution.

Review and results of operations

The association continued to engage in its principal activity during the financial year. The net surplus of the association for the year ended 30 June 2009 was \$613,632 (2008: \$330,447). This result represents a \$283,185 increase in net surplus from the prior year.

Significant changes in the state of affairs

No significant changes in the state of affairs of the association occurred during the financial year.

Matters subsequent to the end of the financial year

There has not arisen in the interval between the end of the financial year and the date of this report, any item, transaction or event of a material and unusual nature likely, in the opinion of the directors of the association, to significantly affect the operations of the association, the results of those operations, or the state of affairs of the association in future financial years.

Directors' report

Association particulars

The New South Wales Bar Association, incorporated and domiciled in Australia, is an unlisted public company limited by guarantee. The address of the registered office and principal place of business is:

174 Phillip Street, SYDNEY NSW 2000.

Likely developments and expected results of operations

In running its operations the association's aim is that the costs of doing so do not exceed the revenue available.

Environmental regulation

The association is not subject to any significant environmental regulations under Australian law.

Meetings of directors

Name	Meetings attended	Meetings held
Anna Katzmann SC (president)	20	21
Tom Bathurst QC (senior VP)	17	21
Bernard Coles QC (junior VP)	16	21
Paresh Khandhar (secretary from 29/4/09)	18	21
Alexander Street SC (treasurer)	15	21
Kate Traill	12	21
Chrissa Loukas	15	21
Anne Healey	16	21
David Ash	17	21
Phillip Boulten SC	20	21
Jane Needham SC	18	21
Garry McGrath	17	21
Michael McHugh	19	21
Ruth Higgins	14	21
Richard Lancaster	14	14
Timothy Game SC	12	14
Jeremy Gormly SC	13	14
Ian Temby QC	9	14
David Rayment	14	14
Louise Goodchild	9	14
Sandy Dawson	7	7
Margaret Holz	6	7
Peter Garling SC	3	7
Margaret Cunneen SC	7	7
Andrew Haesler SC	6	7
Stuart Torrington	1	7
Dominic Toomey	2	2
Rachel Pepper (secretary to 29/4/09)	15	19

From 1 July 2008 to 30 June 2009 there were 21 meetings.

Directors' report

Meetings of the Finance, Investment and Audit Committee

Name	Meetings attended	Meetings held
Tom Bathurst QC (senior VP)	4	4
Bernard Coles QC (junior VP)	1	4
Anne Healey	4	4
Michael McHugh	2	4
Alexander Street SC (treasurer)	4	4

From 1 July 2008 to 30 June 2009 there were four meetings.

Insurance of officers

During the financial year the association has paid premiums in respect of directors' and officers' liability insurance contracts for the year ended 30 June 2009 and since the financial year, the association has paid or agreed to pay on behalf of the association, premiums in respect of such insurance contracts for the year ending 30 June 2010. Such insurance contracts insure against certain liability (subject to specific exclusions) persons who are or have been directors or executive officers of the association.

The directors have not included details of the nature of the liabilities covered or the amount of the premium paid in respect of the directors' and officers' liability insurance contracts, as such disclosure is prohibited under the terms of the contracts.

Proceedings on behalf of the association

No person has applied for leave of court to bring proceedings on behalf of the association or to intervene in any proceedings to which the association is a party for the purposes of taking responsibility on behalf of the association for all or part of those proceedings.

No proceedings have been brought or intervened in on behalf of the association with leave of the court under section 237 of the *Corporation Act 2001*.

Auditor's independence declaration

A copy of the auditor's independence declaration as required under section 307C of the *Corporations Act 2001* given to the Directors by the lead auditor for the audit undertaken by HLB Mann Judd is included on page 51.

The report is made in accordance with resolution of directors made pursuant to section 298(2) of the *Corporations Act 2001*.



A Katzmann SC

President

Sydney

27 August 2009



A Street SC

Treasurer

Auditor's independence declaration

To the directors of The New South Wales Bar Association:

As lead auditor for the audit of The New South Wales Bar Association for the year ended 30 June 2009, I declare that, to the best of my knowledge and belief, there have been:

- (a) no contraventions of the auditor independence requirements of the *Corporations Act 2001* in relation to the audit; and
- (b) no contraventions of any applicable code of professional conduct in relation to the audit.



P B Meade

Partner



HLB MANN JUDD

(NSW Partnership)

Chartered Accountants

Sydney

27 August 2009

Income statement

For the year ended 30 June 2009

	Note	2009 \$	2008 \$
Revenue from continuing operations	3	8,216,135	7,822,514
Employee benefits expense		(3,436,518)	(3,319,066)
Legal and professional fees		(1,589,543)	(1,597,065)
Subscriptions		(558,224)	(508,137)
Communications and information technology expense		(244,292)	(272,498)
Depreciation and amortisation expense	4	(371,247)	(230,796)
Occupancy expense		(399,791)	(373,135)
Advertising and marketing expense		(172,289)	(194,811)
Financial expense		(142,671)	(140,072)
Other expenses from ordinary activities		(647,207)	(650,568)
Surplus before income tax expense		654,353	536,366
Income tax expense	5	40,721	205,919
Net surplus		613,632	330,447

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

Reimbursement by the Public Purpose Fund

Section 700(3)(n) of the *Legal Profession Act 2004* requires certification by the auditor of the costs incurred by the Bar Council in relation to its regulatory function. Expenditure on regulatory activities reimbursed by the Public Purpose Fund in 2008-2009 amounted to \$1,986,041.

Balance sheet

As at 30 June 2009

	Note	2009 \$	2008 \$
ASSETS			
CURRENT ASSETS			
Cash and cash equivalents	18(a)	10,929,400	9,929,236
Trade and other receivables	7	37,745	256,113
Inventories		2,404	3,508
Current tax assets		152,570	49,048
Other assets	8	159,898	150,405
TOTAL CURRENT ASSETS		11,282,017	10,388,310
NON-CURRENT ASSETS			
Other financial assets	6	158,566	197,474
Deferred tax assets		4,470	6,099
Intangibles	9	262,120	210,193
Plant and equipment	10	1,081,702	1,209,055
TOTAL NON-CURRENT ASSETS		1,506,858	1,622,821
TOTAL ASSETS		12,788,875	12,011,131
LIABILITIES			
CURRENT LIABILITIES			
Trade and other payables	11	656,320	674,376
Employee benefits	12	438,821	471,381
Fees received in advance	13	5,120,860	4,868,048
TOTAL CURRENT LIABILITIES		6,216,001	6,013,805
NON-CURRENT LIABILITIES			
Employee benefits	12	98,611	79,211
Deferred tax liabilities	5 (c)	28,591	56,755
TOTAL NON-CURRENT LIABILITIES		127,202	135,966
TOTAL LIABILITIES		6,343,203	6,149,771
NET ASSETS		6,445,672	5,861,360
ACCUMULATED FUNDS			
Accumulated surplus		6,394,851	5,781,219
Reserves	14	50,821	80,141
TOTAL ACCUMULATED FUNDS		6,445,672	5,861,360

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

Statement of recognised income and expense

For the year ended 30 June 2009

	Note	Accumulated surplus	Reserves	Total accumulated funds
At 30 June 2007		5,450,772	104,672	5,555,444
Surplus for the year		330,447	-	330,447
Changes in the fair value of available-for-sale financial assets, net of tax	14	-	(24,531)	(24,531)
Total recognised income and expense for the year		330,447	(24,531)	305,916
At 30 June 2008		5,781,219	80,141	5,861,360
Surplus for the year		613,632	-	613,632
Changes in the fair value of available-for-sale financial assets, net of tax	14	-	(29,320)	(29,320)
Total recognised income and expense for the year		613,632	(29,320)	584,312
At 30 June 2009		6,394,851	50,821	6,445,672

The above statement of recognised income and expense should be read in conjunction with the accompanying notes

Cash flow statement

For the year ended 30 June 2009

	Note	2009 \$	2008 \$
Cash flows from operating activities			
Receipts from operating activities		7,910,067	7,132,756
Payments to suppliers and employees		(6,986,199)	(5,884,036)
Dividends received		9,872	10,640
Interest received		523,227	514,880
Income tax paid		(158,212)	(217,866)
Net cash inflow from operating activities	18(b)	1,298,755	1,556,374
Cash flows from investing activities			
Payments for plant and equipment		(212,517)	(808,389)
Payments for intangibles		(87,752)	(210,193)
Payment for available-for-sale financial assets		(2,978)	-
Proceeds from sale of available-for-sale financial assets		4,656	26,990
Net cash outflow from investing activities		(298,591)	(991,592)
Net increase in cash and cash equivalents		1,000,164	564,782
Cash and cash equivalents at the beginning of the financial year		9,929,236	9,364,454
Cash and cash equivalents at the end of the financial year	18(a)	10,929,400	9,929,236

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

Notes to the financial statements

For the year ended 30 June 2009

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies adopted in the preparation of the financial report are set out below. These policies have been consistently applied to all the years presented, unless otherwise stated.

(a) Basis of preparation

This general purpose financial report has been prepared in accordance with Australian Accounting Standards and other authoritative pronouncements of the Australian Accounting Standards Board (including Australian Accounting Interpretations), and the *Corporations Act 2001*.

Compliance with IFRS

The financial report of The New South Wales Bar Association also complies with International Financial Reporting Standards, (IFRS) as issued by International Accounting Standards Board (IASB).

Historical cost convention

This financial statement has been prepared under the historical cost convention, as modified by the revaluation of available-for-sale financial assets.

Critical accounting estimates and judgments

The preparation of financial statements in conformity with AIFRS requires the use of certain critical accounting estimates. It also requires management to exercise its judgment in the process of applying the association's accounting policies. There are no estimates and judgments that have a significant risk of causing material adjustments to the carrying amounts of assets and liabilities within the next financial year.

(b) Revenue recognition

Revenue is measured at the fair value of the consideration received or receivable. Revenue is recognised for the major activities as follows:

(i) Subscriptions and practising certificate fees

Subscriptions and Practising Certificate Fees comprise annual fees for membership and practising certificates. Subscriptions and Practising Certificate Fees are recognised on a pro rata basis through the course of the year.

(ii) Administration charges

Administration charges comprise revenue earned from the provision of administrative services. They are recognised when the fee in respect of services is receivable.

(iii) Dividends received

Revenue from dividends is recognised when the right to receive the payment is established.

(iv) Interest income

Interest income is recognised on a time proportion basis using the effective interest method.

(v) Grants

Grants comprise monies received during the year in respect of the professional conduct department and legal assistance department. Income is recognised when the grant is receivable.

(vi) Other income

Income from other sources is recognised when the fee in respect of other products or services provided is receivable.

(vii) Donations

Revenue from donations is recognised upon receipt.

Notes to the financial statements

For the year ended 30 June 2009

(c) Income tax

The association has adopted the balance sheet method of tax effect accounting.

In addition, under the mutuality provisions of the Income Tax Assessment Act, income and expenses wholly applicable to members of the association are not brought to account in calculating income for tax purposes.

Deferred income tax is provided in full, using the liability method, on temporary differences arising between the tax bases of assets and liabilities and their carrying amounts in the financial statements. Deferred income tax is determined using tax rates (and laws) that have been enacted or subsequently enacted by the reporting date, and are expected to apply when the related deferred tax assets is realised or the deferred tax liability is settled.

Deferred tax assets are recognised for deductible temporary difference and unused tax losses only if it is probable that future taxable amounts will be available to utilise those temporary differences and losses.

Deferred tax assets and liabilities are offset when there is a legally enforceable right to offset current tax assets and liabilities and when the deferred tax balances relate to the same taxation authority. Current tax assets and liabilities are offset where the entity has a legally enforceable right to offset and intends either to settle on a net basis, or to realise the asset and settle the liability simultaneously.

(d) Leases

Leases in which a significant portion of the risks and rewards of ownership are not transferred to the association as lessee are classified as operating leases (note 15). Payments made under operating leases (net of any incentives received from the lessor) are charged to the income statement on a straight-line basis over the period of the lease.

(e) Impairment of assets

Assets are tested for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use. For the purposes of assessing impairment, assets are grouped at the lowest levels for which there are separately identifiable cash inflows from other assets (cash generating units). Non-financial assets other than goodwill that suffered an impairment loss are reviewed for possible reversal of the impairment at each reporting date.

(f) Cash and cash equivalents

For cash flow statement presentation purposes, cash and cash equivalents includes cash on hand, deposits held at call with financial institutions and other short-term, highly liquid investments with original maturities of three months or less that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value.

(g) Trade and other receivables

Trade and other receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less allowance for impairment. Trade and other receivables are due for settlement no more than 60-days from the date of recognition.

Collectability of trade and other receivables is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off by reducing the carrying amount directly. An allowance account (provision for impairment of trade and other receivables) is used when there is objective evidence that the association will not be able to collect all amounts due according to the original terms of receivables.

The amount of the impairment loss is recognised in the income statement with other expenses. When a trade and other receivable for which an impairment allowance had been recognised becomes uncollectable in a subsequent period, it is written off against the allowance account. Subsequent recoveries of an amount previously written off are credited against other expenses in the income statement.

(h) Inventories

Inventories are stated at the lower of cost and net realisable value. Costs are assigned to individual items of inventory on the basis of weighted average costs. Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs necessary to make the sale.

Notes to the financial statements

For the year ended 30 June 2009

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

(i) Investments and other financial assets

Classification

The association classifies its investments in the following categories: loans and receivables; and available-for-sale financial assets. The classification depends on the purpose for which the investments were acquired. Management determines the classification of its investment at initial recognition.

(i) Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payment that are not quoted in an active market. They are included in current assets, except for those with maturities greater than 12 months after the balance sheet date which are classified as non-current assets. Loans and receivables are included in trade and other receivables in the balance sheet (note 7).

(ii) Available-for-sale financial assets

Available-for-sale financial assets, comprising principally marketable equity securities, are non-derivatives that are either designated in this category or not classified in any of the other categories. They are included in non-current assets unless management intends to dispose of the investment within 12 months of the reporting date. Investments are designated as available-for-sale if they do not have fixed maturities or fixed or determinable payments and management intends to hold them for the medium to long term.

Fair Value

The fair values of quoted investments are based on current bid prices.

Recognition and Derecognition

Investments are initially recognised at fair value plus transactions costs. When securities classified as available-for-sale are sold, the accumulated fair value adjustments recognised in equity are included in the income statement as gains and losses from investment securities.

Subsequent measurement

Loans and receivables, and held-to-maturity investments are carried at amortised cost using the effective interest method.

Available-for-sale financial assets are subsequently carried at fair value. Changes in the fair value of available-for-sale financial assets are recognised in equity.

Impairment

The association assesses at each balance date whether there is objective evidence that a financial asset or group of financial assets is impaired. In the case of equity securities classified as available-for-sale, a significant or prolonged decline in the fair value of a security below its cost is considered as an indicator that the security is impaired. If any such evidence exists for available-for-sale financial assets, the cumulative loss – measured as the difference between the acquisition cost and the current fair value, less any impairment loss on that financial asset previously recognised in profit and loss – is removed from the fair value reserve and recognised in the income statement. Impairment losses recognised in the income statement on equity instruments are not reversed through the income statement.

(j) Plant and equipment

All plant and equipment is stated at historical cost less depreciation. Historical cost includes expenditure that is directly attributable to the acquisition of the items.

Subsequent costs are included in the asset's carrying amount or recognised as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to the association and the cost of the item can be measured reliably. All other repairs and maintenance are charged to the income statement during the reporting period in which they are incurred.

Notes to the financial statements

For the year ended 30 June 2009

Depreciation on other assets is calculated using the straight line method to allocate their cost or revalued amounts, net of their residual values, over their estimated useful lives, as follows:

- Library - 20 years
- Refurbishment - 3 to 4 years
- Furniture, Computers, Office Machines and Equipment - 3 to 5 years
- Glasses, Bar and Kitchen Equipment - 5 years

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at each reporting date. An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount (note 1 (e)). Gains and Losses on disposals are determined by comparing proceeds with the carrying amount. These are included in the income statement.

(k) Intangibles

Intangibles consist of expenditure, paid to external consultants, on software used to record the association's database. The database is amortised over its estimated useful life of 3 years.

(l) Trade and other payables

These amounts represent liabilities for goods and services provided to the association prior to the end of financial year which are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

(m) Employee benefits

(i) Wages and salaries and annual leave

Liabilities for wages and salaries, including non-monetary benefits and annual leave expected to be settled within 12 months of the reporting date are recognised as payables in respect of employee's services up to the reporting date and are measured at the amounts expected to be paid when the liabilities are settled.

(ii) Long service leave

The liability for long service leave is recognised in the provision for employee benefits and measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date. Consideration is given to the expected future wage and salary levels, experience of employee departures and periods of service.

(iii) Retirement benefit obligations

The association contributes to accumulation superannuation plans. Contributions are charged against income as they are made.

(n) Subscriptions and practising certificate fees

Subscriptions and practising certificate fees are received in advance for services to be provided in the financial year subsequent to balance date.

(o) Goods and Services Tax (GST)

Revenues, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the Australian Taxation Office (ATO). In this case it is recognised as part of the cost of acquisition of the asset or as part of an item 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 ATO is included in receivables or payables in the balance sheet.

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

Notes to the financial statements

For the year ended 30 June 2009

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

(p) Comparative figures

Where required by Accounting Standards, comparative figures have been adjusted to conform with changes in presentation for the current financial year.

(q) Emerton Endowment Fund (the fund)

The association acts as trustee for the fund. In its role as trustee of the fund it incurs a liability for which a right of indemnity exists from the fund's assets. Accordingly no asset or liability relating to the fund is recognised in the financial statements of the association. Financial details relating to the activities of the fund during the year are disclosed in note 21.

(r) New accounting standards and interpretations

Certain new accounting standards and interpretations have been published that are not mandatory for 30 June 2009 reporting periods. The association's assessment of the impact of these new standards and interpretations is set out below.

Revised AABS 101 *Presentation of Financial Statements* and AASB 2007-8 *Amendments to Australian Accounting Standards arising from AASB 101* (effective from 1 January 2009).

The September 2007 revised AASB 101 requires the presentation of a statement of comprehensive income and makes changes to the statement of changes in equity, but will not affect any of the amounts recognised in the financial statements. If an entity has made a prior period adjustment or has reclassified items in the financial statements, it will need to disclose a third balance sheet (statement of financial position), this one being as at the beginning of the comparative period. The association intends to apply the revised standard from 1 July 2009. The principal effect, for the association, from the adoption of the revised AASB 101 will be the recognition of gains and losses on the holding of available-for-sale financial assets in the statement of comprehensive income.

2. FINANCIAL RISK MANAGEMENT

The association's activities expose it to a variety of financial risks; market risk (including fair value interest rate risk and price risk), credit risk and liquidity risk. The association's overall risk management focusses on maintaining sufficient cash and maximising returns on the financial assets held under the policies approved by the Board of Directors.

There is no formal established mandate or strategy to manage the above risks as the association's policy is to hold at least half of its assets in cash and cash equivalents so that there is little risk of change in value. Management is of the view that by ensuring that all cash and cash equivalents are held with financial institutions with at least an A rating, the risks are being managed.

There are no changes in the strategies used to manage the financial risks from the previous period.

(a) Market risk

Market risk is the risk that the fair value of future cash flows of financial instruments will fluctuate due to changes in market variables such as interest rates, foreign exchange and equity prices. Market risk is managed and monitored by ensuring all investment activities are undertaken in accordance with the policies approved by the Board of Directors.

(i) Price risk

The association is exposed to equity securities price risk. This arises from investments held by the association for which future prices are uncertain. These investments are classified on the balance sheet as available-for-sale financial assets. All securities investments present a risk of loss of capital.

This risk is managed through diversification and selection of securities.

The association's equity securities represent 1.23 per cent of total assets (2008: 1.64 per cent) hence price risk is not significant for the association and no sensitivity analysis has been shown.

(ii) Cash flow and fair value interest rate risk

The association's main interest rate risk arises from cash and cash equivalents; therefore the association's income and operating cash flows are subject to changes in market interest rates.

Notes to the financial statements

For the year ended 30 June 2009

The association has cash deposits and other interest bearing deposits which have floating rates. At 30 June 2009, if interest rates had changed by 100 basis points with all other variables held constant, surplus for the year would have been \$64,030 (2008: \$85,275) higher/lower as a result of higher/lower interest income.

(b) Credit risk

Credit risk represents the risk that the counterparty to a financial instrument will fail to discharge an obligation and cause the association to incur a financial loss. Credit risk is not considered to be significant to the association as it does not hold any investments in debt securities and it doesn't have any significant loans/receivables at either reporting date.

Credit quality

Main exposure to credit risk is on cash and term deposits. The credit quality of the financial assets is managed by the association by using the Standard & Poor's rating categories, in accordance with the policies of the Board. The association has investments with Rabobank Australia Limited which has an 'AAA' rating and with National Australia Bank ('AA' rating).

(c) Liquidity risk

Liquidity risk is the risk that the association will encounter difficulty in meeting obligations associated with financial liabilities. This risk is managed through investment in short term deposits and equity securities in Australian listed companies, which under normal market conditions are readily convertible in cash. In addition the association maintains sufficient cash and cash equivalents to meet normal operating requirements. Accordingly, management is of the view that the association is not exposed to any liquidity risk, as the minimum cash holdings over a 12-month period are not expected to fall below \$6.5 m. This is in excess of 10 months' funding of operational activities.

Maturity analysis for financial liabilities

Financial liabilities for the association comprise trade and other payables. Trade and other payables have no conditional maturities but are settled typically within 30 days, hence a maturity analysis hasn't been disclosed.

Total trade and other payables at reporting date were \$656,320 (2008: \$674,376).

(d) Fair value estimation

The fair value of financial assets must be estimated for recognition and measurement or for disclosure purposes.

The fair value of financial instruments traded in active markets is based on quoted market prices at the balance sheet date. The quoted market price used for financial assets held by the association is the current bid price; the appropriate quoted market price for financial liabilities is the current ask price.

The nominal value less estimated credit adjustments of trade receivables and payables approximate their fair values.

Notes to the financial statements

For the year ended 30 June 2009

	2009 \$	2008 \$
3. REVENUE FROM CONTINUING OPERATIONS		
Operating revenue		
Subscriptions and practising certificate fees	4,876,927	4,099,640
Reading programme	263,135	302,260
	<hr/> 5,140,062	<hr/> 4,401,900
Other revenue		
Interest and dividends	480,999	519,449
Donations - Emerton Endowment Fund	17,891	375,096
Seminars	112,320	83,873
Administration charge	28,445	82,617
External funding	2,164,936	2,189,722
Net gains on disposal of plant and equipment	208	-
Other	271,274	169,857
Revenue from continuing operations	<hr/> 8,216,135	<hr/> 7,822,514
4. EXPENSES		
Surplus before income tax includes the following specific expenses:		
Depreciation		
Library	23,452	23,452
Furniture, computers, office machines & equipment	132,670	145,839
Glass, bar and kitchen equipment	1,644	1,644
Amortisation		
- Refurbishment	177,656	59,861
- Database	35,825	-
Depreciation and amortisation expense	<hr/> 371,247	<hr/> 230,796
Provision for employee benefits (movement)	(13,160)	101,207
5. INCOME TAX EXPENSE		
(a) Income tax expense		
Current tax	50,421	73,929
Deferred tax	(13,972)	(2,816)
Adjustment of current tax of prior periods	4,272	134,806
Aggregate income tax expense	<hr/> 40,721	<hr/> 205,919
Deferred income tax (revenue) expense included in income tax expense comprises:		
(Increase) decrease in deferred tax assets	1,629	(939)
(Decrease) increase in deferred tax liabilities	(15,601)	(1,877)
	<hr/> (13,972)	<hr/> (2,816)

Notes to the financial statements

For the year ended 30 June 2009

	2009 \$	2008 \$
(b) Numerical reconciliation of income tax expense to prima facie tax payable		
Net surplus from continuing operations	654,353	536,366
Tax at the Australian tax rate of 30% (2008:30%)	196,306	160,909
Increase/(decrease) in income tax expense due to:		
- Net mutual expense (income)	(159,699)	(83,677)
- Imputation credits	(4,231)	(3,738)
Tax effect of amounts which are not deductible (taxable)	4,073	(2,381)
Adjustments for current tax of prior periods	4,272	134,806
Income tax expense	40,721	205,919
(c) Deferred tax liability	28,591	56,755
The balance comprises temporary differences attributable to shares in Australian listed companies:		
Movements:		
Opening balance 1 July 2008	56,755	69,145
Charged to the income statement	(15,601)	(1,877)
Recognised in fair value reserve	(12,563)	(10,513)
Closing balance 30 June 2009	28,591	56,755

6. OTHER FINANCIAL ASSETS

Non-current

Investments in associates	4	4
Available for sale – at fair value		
Shares in Australian listed companies	158,562	197,470
	158,566	197,474

Risk exposure

The association's exposure to risk for other financial assets is discussed in note 2.

(a) Investments in associates

The association holds two \$2 shares in The Barrister's Sickness and Accident Fund Pty Ltd. The sole purpose of the association is to act as trustee for the Barrister's Sickness and Accident Fund.

Notes to the financial statements

For the year ended 30 June 2009

6. OTHER FINANCIAL ASSETS (CONTINUED)

(b) Investment in Counsel's Chambers Limited

The association also holds seven deferred ordinary shares ('the shares') in Counsel's Chambers Limited ('CCL'). The shares were acquired circa 1962 and have a cost of \$14, which has not been recorded in the association's records for many years. The shares entitle the association to: one vote per share at general meetings of CCL; the receipt of dividends as declared; and any surplus assets in the event of a winding up of CCL. The association does not have any record of dividends having been paid by CCL. In addition, it does not have the ability to significantly influence the voting at general meetings of CCL. As there is no active market in the shares and other valuation techniques do not permit the calculation of a range or reasonable fair value estimates, the association is precluded from measuring or recognising such values in its financial report.

	2009 \$	2008 \$
Trade receivables	4,010	4,090
GST receivable	28,490	11,052
Other receivables	5,245	240,971
	37,745	256,113

Risk exposure

The association's exposure to risk for trade and other receivables is discussed in note 2.

8. OTHER ASSETS

Prepayments	137,303	75,710
Accrued interest	22,595	74,695
	159,898	150,405

Risk exposure

The association's exposure to risk for other assets is discussed in note 2.

9. INTANGIBLES

Database

At cost	297,945	210,193
Accumulated amortisation	(35,825)	-
Net carrying amount	262,120	210,193
Opening book amount	210,193	-
Additions	87,752	210,193
Amortisation charge for the year	(35,825)	-
Net carrying amount	262,120	210,193

Notes to the financial statements

For the year ended 30 June 2009

10. PLANT AND EQUIPMENT

	Library \$	Refurbishments \$	Furniture, computers, office machines and equipment \$	Glass, bar and kitchen equipment \$	Total \$
Year ended 30 June 2009					
At 1 July 2008, net of accumulated depreciation	304,875	630,237	270,939	3,004	1,209,055
Additions	-	38,258	174,259	-	212,517
Disposals	-	-	(4,448)	-	(4,448)
Depreciation/ amortisation charge for the year	(23,452)	(177,656)	(132,670)	(1,644)	(335,422)
At 30 June 2009, net of accumulated depreciation	281,423	490,839	308,080	1,360	1,081,702

	Library \$	Refurbishments \$	Furniture, computers, office machines and equipment \$	Glass, bar and kitchen equipment \$	Total \$
At 1 July 2008					
Cost	469,043	1,982,421	1,223,060	16,085	3,690,609
Accumulated depreciation and impairment	(164,168)	(1,352,184)	(952,121)	(13,081)	(2,481,554)
Net carrying amount	304,875	630,237	270,939	3,004	1,209,055
At 30 June 2009					
Cost	469,043	1,964,492	1,097,595	11,826	3,542,956
Accumulated depreciation and impairment	(187,620)	(1,473,653)	(789,515)	(10,466)	(2,461,254)
Net carrying amount	281,423	490,839	308,080	1,360	1,081,702

	2009 \$	2008 \$
11. TRADE AND OTHER PAYABLES		
Trade and other payables	656,320	674,376

Risk exposure

The association's exposure to risk for trade and other payables is discussed in note 2.

Notes to the financial statements

For the year ended 30 June 2009

12. EMPLOYEE BENEFITS

	2009 \$	2008 \$
The aggregate employee entitlement liability is recognised and included in the financial statements as follows:		
Current	438,821	471,381
Non Current	98,611	79,211
	537,432	550,592

13. FEES RECEIVED IN ADVANCE

Current

Subscriptions and practising certificate fees received in advance	5,120,860	4,868,048
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Risk exposure

The association's exposure to risk for fees received in advance is discussed in note 2.

14. RESERVES

Fair value reserve	50,821	80,141
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Nature and purpose of reserves

Fair value reserve

Changes in the fair value and exchange differences arising on translation of investments, such as equities, classified as available-for-sale financial assets, are taken to the fair value reserve. Amounts are recognised in the Income Statement when the associated entities are sold or impaired.

Movement during the year:

Fair value reserve

Balance as at 1 July 2008	80,141	104,672
Unrealised gain/(loss) on investments (net of tax)	(29,320)	(24,531)
	50,821	80,141

15. COMMITMENTS

Lease commitments

Operating lease commitments payable

Within one year	385,457	187,147
Later than one year but not later than five years	685,837	-
	1,071,294	187,147

The association leases from Counsel's Chambers, the premises from which it operates, on a three year lease, increasing annually by 3 per cent. The lease expires in March 2012.

Notes to the financial statements

For the year ended 30 June 2009

16. RELATED PARTY DISCLOSURES

(a) Directors

The names of persons who were directors of the association at any time during the financial year are as follows:

D Ash	L Goodchild	R Lancaster	I Temby QC
T Bathurst QC	J Gormly SC	C Loukas	D Toomey
P Boulten SC	A Haesler SC	G McGrath	S Torrington
B A Coles QC	A Healey	M McHugh	K M Traill
M Cunneen SC	R Higgins	J Needham SC	
A Dawson	M Holz	R Pepper	
T Game SC	A J Katzmman SC	D Rayment	
P Garling SC	P Khandhar	A Street SC	

(b) Key management

Key management personnel compensation for the years ended 30 June 2009 and 30 June 2008 is set out below. The key management personnel are the directors of the association, and those executives with authority and responsibility for planning, directing and controlling the activities of the association.

The key management personnel identified for the years ended 30 June 2009 and 30 June 2008 are as follows :

Philip Selth	Chris D'Aeth
Lisa Allen	Basil Catsaros
June Anderson	Jennifer Pearce
Alastair McConnachie	Anne Sinclair

No compensation was paid or payable to directors of the association during the financial year.

The compensation paid or payable to key management personnel during the financial year comprised of:

	2009	2008
	\$	\$
Short-term employee benefits	1,255,375	1,194,570
Long-term employee benefits	33,579	23,030
	1,288,954	1,217,600

Notes to the financial statements

For the year ended 30 June 2009

16. RELATED PARTY DISCLOSURES (CONTINUED)

(c) Other transactions

Transactions between related parties are on normal commercial terms and conditions no more favourable than those available to other parties unless otherwise stated.

The association paid rent (including associated air-conditioning, electricity and cleaning charges) totalling \$349,798 (2008: \$322,228) for office space to Counsel's Chambers Limited being a company of which some directors of the association are also members. This payment was at two-thirds of the normal market rate.

17. REMUNERATION OF AUDITORS

	2009	2008
	\$	\$
During the year the following fees were paid or payable for service provided by the auditor of the association:		
Audit of the financial report	38,000	36,565
Other services - Tax	6,000	7,650
Other assurance services - PCD Grant Audit	5,708	-
	<hr/> 49,708	<hr/> 44,215

18. NOTES TO THE CASH FLOW STATEMENT

(a) Reconciliation of cash

For the purposes of the cash flow statement, cash includes cash on hand and in banks and investments in money market instruments, net of outstanding bank overdrafts. Cash at the end of the financial period as shown in the cash flow statement is reconciled to the related items in the balance sheet as follows:

Cash at bank	4,524,870	1,555,710
Term deposits	6,402,956	8,371,786
Petty cash	1,574	1,740
	<hr/> 10,929,400	<hr/> 9,929,236

Notes to the financial statements

For the year ended 30 June 2009

18. NOTES TO THE CASH FLOW STATEMENT (CONT'D)

(b) Reconciliation of net cash provided by operating activities to net surplus

	2009 \$	2008 \$
Net surplus	613,632	330,447
Amortisation	213,481	59,861
Depreciation	157,766	170,935
(Profit)/Loss on disposal of plant and equipment	(208)	676
Net cash provided by operating activities before changes in assets and liabilities:	984,671	561,919
Changes in net assets and liabilities:		
(Increase)/decrease in assets:		
- Trade and other receivables	235,806	(51,436)
- Inventories	1,104	1,754
- Prepayments	(61,593)	24,648
- Deferred tax assets	1,629	443
- Accrued interest	52,100	6,071
- Net GST receivable	(17,438)	8,000
- Other financial assets	-	(9,567)
- Current tax asset	(103,522)	(49,048)
Increase/(decrease) in liabilities:		
- Subscriptions and practising certificate fees received in advance	252,812	785,051
- Provisions - employee benefits	(13,160)	101,207
- Provision for income tax payable	-	(51,259)
- Deferred tax liabilities	(15,598)	(12,390)
- Sundry creditors	(18,056)	240,981
Net cash from operating activities:	1,298,755	1,556,374

19. MEMBERS' GUARANTEE

The company is limited by guarantee. If the company is wound up, the Constitution states that each member is required to contribute to meet all outstanding obligations of the company and any such amounts as may be required, but not exceeding \$4. Total members at balance date were 2,556.

20. SUPERANNUATION

The association contributes to several defined contribution employee superannuation funds. The association contributes to the funds in accordance with its statutory obligations.

Notes to the financial statements

For the year ended 30 June 2009

21. EMERTON ENDOWMENT FUND

The Emerton Endowment Fund ('the fund') is controlled by The New South Wales Bar Association as trustee for that fund. The accounting policies as stated in the notes to the financial statements also apply to this entity.

(a) As at 30 June 2009 Emerton Endowment Fund had net assets as follows:

BALANCE SHEET AS AT 30 JUNE 2009

	2009 \$	2008 \$
CURRENT ASSETS		
Cash and cash equivalents	19,867	276
Receivables	-	37,335
	19,867	37,611
NET ASSETS	19,867	37,611

(b) The net activity of the trust fund during the year ended 30 June 2009 is a deficit of \$17,744 (2008: deficit of \$293,306). This is represented by the following:

	2009 \$	2008 \$
Revenue		
Interest income	147	6,928
Dividends received	-	2,005
Profit of sale of investment	-	72,856
Donations	(17,891)	(375,095)
Net deficit	(17,744)	(293,306)

Directors' declaration

In the opinion of the directors of The New South Wales Bar Association:

(a) the financial statements and notes set out on pages 52 to 69, are in accordance with the *Corporations Act 2001*, including:

(i) giving a true and fair view of the financial position of the association as at 30 June 2009 and of its performance, as represented by the results of its operations and its cash flows, for the year ended on that date; and

(ii) complying with Accounting Standards and the *Corporations Regulations 2001*; and

(b) there are reasonable grounds to believe that the association will be able to pay its debts as and when they become due and payable.

Signed in accordance with a resolution of directors:



A Katzmann SC

President



A Street SC

Treasurer

Sydney

27 August 2009

Independent auditor's report

To the members of The New South Wales Bar Association:

We have audited the financial report of The New South Wales Bar Association ('the association'), which comprises the balance sheet as at 30 June 2009, and the income statement, statement of changes in recognised income and expense and cash flow statement for the year ended on that date, a summary of significant accounting policies, other explanatory notes and the directors' declaration, as set out on pages 52 to 70.

Directors' responsibility for the financial report

The directors of the association are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the *Corporations Act 2001*. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

In note 1, the directors also state, in accordance with Accounting Standard AASB 101: Presentation of Financial Statements, that compliance with the Australian equivalents to International Financial Reporting Standards ensures that the financial report, comprising the financial statements and notes, complies with International Financial Reporting Standards.

Auditor's responsibility

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers 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 accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

Our audit did not involve an analysis of the prudence of business decisions made by directors or management.

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

Independence

In conducting our audit, we have complied with the independence requirements of the *Corporations Act 2001*. We confirm that the independence declaration required by the *Corporations Act 2001*, provided to the directors of The New South Wales Bar Association on 27 August 2009, would be in the same terms if provided to the directors as at the time of this auditor's report.

Independent auditor's report

Auditor's opinion

In our opinion:

- (a) the financial report of The New South Wales Bar Association is in accordance with the *Corporations Act 2001*, including:
 - (i) giving a true and fair view of the association's financial position as at 30 June 2009 and of its performance for the year ended on that date; and
 - (ii) complying with Australian Accounting Standards (including the Australian Accounting Interpretations) and the *Corporations Regulations 2001*; and
- (b) the financial report also complies with International Financial Reporting Standards as disclosed in note 1.



P B Meade

Partner



HLB MANN JUDD

(NSW Partnership)

Chartered Accountants

Sydney

28 August 2009

Barristers' Benevolent Association

Financial report for the year ended 30 June 2009

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This financial report covers Barristers' Benevolent Association of NSW as an individual entity. Its registered office and principal place of business is 174 Philip St, Sydney NSW 2000.

Income statement

For the financial year ended 30 June 2009

	Note	2009 \$	2008 \$
Revenue from continuing operations	3	364,215	428,471
Auditor's remuneration		(8,000)	(8,000)
Bank charges		(70)	-
Bar care costs		(6,058)	(3,359)
Changes in fair value of investments designated at fair value through profit or loss		(300,243)	(440,637)
Employee benefits expense		(29,964)	(6,912)
Gifts		(152,649)	(110,062)
Investment fees		(1,636)	(2,000)
Legal and professional fees		(6,918)	(16,902)
Loss on sale of investments		-	-
Promotion costs		(180)	(2,457)
Stationery		(459)	-
Surplus/(loss) before income tax		(141,962)	(161,858)
Income tax expense		-	-
Net loss		(141,962)	(161,858)

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

Balance sheet

As at 30 June 2009

	Note	2009 \$	2008 \$
CURRENT ASSETS			
Cash and cash equivalents	10(a)	1,692,806	1,629,050
Loans and receivables	4	157,642	106,497
TOTAL CURRENT ASSETS		1,850,448	1,735,547
NON-CURRENT ASSETS			
Other financial assets	5	1,309,413	1,566,647
TOTAL NON-CURRENT ASSETS		1,309,413	1,566,647
TOTAL ASSETS		3,159,861	3,302,194
CURRENT LIABILITIES			
Trade and other payables	6	9,819	10,190
TOTAL CURRENT LIABILITIES		9,819	10,190
TOTAL LIABILITIES		9,819	10,190
NET ASSETS		3,150,042	3,292,004
ACCUMULATED FUNDS			
Accumulated surplus		718,160	860,122
Reserves	7	2,431,882	2,431,882
TOTAL ACCUMULATED FUNDS		3,150,042	3,292,004

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

Statement of changes in recognised income and expense

For the financial year ended 30 June 2009

	Notes	Accumulated funds	Capital reserves	Total members funds
At 30 June 2007		1,021,980	2,431,882	3,453,862
Recognised income and expense		(161,858)	-	(161,858)
At 30 June 2008		860,122	2,431,882	3,292,004
Recognised income and expense		(141,962)	-	(141,962)
At 30 June 2009		718,160	2,431,882	3,150,042

The above statement of changes in recognised income and expense should be read in conjunction with the accompanying notes.

Cash flow statement

For the financial year ended 30 June 2009

	Note	2009 \$	2008 \$
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts from members, sponsorship and general activities		211,906	321,170
Payments to suppliers		(274,269)	(312,801)
Interest received		101,164	93,139
Net cash inflow from operating activities	10(b)	38,801	101,508
CASH FLOWS FROM INVESTING ACTIVITIES			
Proceeds from investments (transfer to main account)		66,829	220,000
Payments for investments		(41,874)	(495,545)
Net cash inflow/(outflow) from investing activities		24,955	(275,545)
Net increase/(decrease) in cash and cash equivalents		63,756	(174,037)
Cash and cash equivalents at the beginning of the year		1,629,050	1,803,087
Cash and cash equivalents at the end of the year	10(a)	1,692,806	1,629,050

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

Notes to the financial statements

For the financial year ended 30 June 2009

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies adopted in the preparation of the financial report are set out below. These policies have been constantly applied to all the years presented, unless otherwise stated.

(a) Basis of preparation

This general purpose financial report has been prepared in accordance with Australian Accounting Standards and other authoritative pronouncements of the Australian Accounting Standards Board (including Australian Accounting Interpretations). The trustees have the power to amend and re-issue the financial report.

Compliance with IFRS

The Financial Report of Barristers' Benevolent Association of NSW ('the association') also complies with International Financial Reporting Standards (IFRS), as issued by International Accounting Standards Board (IASB).

Historical cost convention

These financial statements have been prepared under the historical cost convention.

Critical accounting estimates and judgments

The preparation of financial statements in conformity with IFRS requires the use of certain critical accounting estimates. It also requires management to exercise its judgment in the process of applying the association's accounting policies. There are no estimates and judgments that have a significant risk of causing material adjustments to the carrying amounts of assets and liabilities within the next financial year.

(b) Revenue recognition

Revenue is measured at the fair value of the consideration received or receivable. Revenue is recognised as follows:

(i) Contributions

Revenue from contribution is recognised when the contribution is received.

(ii) Dividend and distribution income

Distributions and dividend are recognised as revenue when the right to receive payment is established.

(iii) Interest income

Interest income is recognised as it accrues.

(iv) Other income

Income from other sources is recognised when the income is receivable.

(v) Changes in fair value of investments

Net gains or losses in investments designated at fair value through profit or loss are calculated as the difference between the fair value at year end and the fair value at the previous valuation point. This includes both realised and unrealised gains and losses, but does not include interest or dividends.

Notes to the financial statements

For the financial year ended 30 June 2009

(c) Income tax

The association is exempt from income tax.

(d) Cash and cash equivalents

For cash flow statement presentation purposes, cash and cash equivalents includes cash on hand, deposits held at call with financial institutions and other short-term, highly liquid investments with original maturities of three months or less that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value.

(e) Loans and receivables

Loans and receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less provision for impairment. These are repayable on demand.

Collectability of loans and receivables are reviewed on an ongoing basis. Debts which are known to be uncollectible are written off by reducing the carrying amount directly. An allowance account (provision for impairment of loans and receivables) is used where there is objective evidence that the association will not be able to collect all amounts due according to the original terms.

The amount of the impairment loss is recognised in the income statement with other expenses. When a loan or receivable for which an impairment allowance had been recognised becomes uncollectable in a subsequent period, it is written off against the allowance account. Subsequent recoveries of an amount previously written off are credited against other expenses in the income statement.

(f) Other financial assets

Classification

The association classifies its financial assets as designated at fair value through profit or loss.

Recognition and derecognition

Financial assets at fair value through profit or loss are initially recognised at fair value and transaction costs are expensed in the income statement. Financial assets are derecognised when the rights to receive cash flows from the financial assets have expired or have been transferred and the association has transferred substantially all the risk and rewards of ownership.

Subsequent measurement

Financial assets at fair value through profit or loss are subsequently carried at fair value. Gains or losses arising from changes in fair value are presented in the income statement in the period in which they arise. Dividend income is recognised in the income statement as part of revenue from continuing operations when the association's right to receive the payment is established.

Fair value

The fair values of quoted investments are based on current bid prices. The fair values for investments in Australian Managed Funds are based on the redemption price advised by the relevant fund manager.

Impairment

The association assesses at each balance date whether there is objective evidence that a financial asset or group of financial assets is impaired.

(g) Trade and other payables

These amounts represent liabilities for goods and services provided to the association prior to the end of financial year which are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

(h) Goods and Services Tax (GST)

Revenue, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the Australian Taxation Office (ATO). In this case it is recognised as part of the cost of acquisition of the asset or as part of an item of the expense.

Notes to the financial statements

For the financial year ended 30 June 2009

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

(h) Goods and Services Tax (GST) (continued)

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recovered from or payable to the ATO is included in 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 ATO, are presented as operating cash flows.

(i) New accounting standards and interpretations

Certain new accounting standards and interpretations have been published that are not mandatory for 30 June 2009 reporting periods. The association's assessment of the impact of these new standards and interpretations is set out below.

(i) Revised AABS 101 *Presentation of Financial statements* and AASB 2007-8 *Amendments to Australian Accounting Standards arising from AASB 101 (effective from 1 January 2009)*

The September 2007 revised AASB 101 requires the presentation of a statement of comprehensive income and makes changes to the statement of changes in equity, but will not affect any of the amounts recognised in the financial statements. If an entity had made a prior period adjustment or has reclassified items in the financial statements, it will need to disclose a third balance sheet, this one being as at the beginning of the comparative period. The association intends to apply the revised standard from 1 July 2009.

2. FINANCIAL RISK MANAGEMENT

The association's activities expose it to a variety of financial risks; market risk (including fair value interest rate risk and price risk), credit risk and liquidity risk. The association's overall risk management focusses on maintaining sufficient cash and maximising returns on the financial assets held under the policies approved by the Committee of Management.

There is no formal established mandate or strategy to manage the above risks as the association's policy is to hold at least half of its assets in cash and cash equivalents so that there is little risk of change in value. Management is of the view that by ensuring that all cash and cash equivalents are held with financial institutions with at least an A rating, the risks are being managed.

There are no changes in the strategies used to manage the financial risks from the previous period.

(a) Market risk

Market risk is the risk that the fair value of future cash flows of financial instruments will fluctuate due to changes in market variables such as interest rates, foreign exchange and equity prices. Market risk is managed and monitored by ensuring all investment activities are undertaken in accordance with the policies approved by the Committee of Management.

(i) Price risk

The association is exposed to equity securities price risk. This arises from investments held by the association for which future prices are uncertain. These investments are classified on the balance sheet as available-for-sale financial assets. All securities investments present a risk of loss of capital.

Approximately 38 per cent of the financial assets, excluding cash and cash equivalents, are shares in Australian listed companies and the remaining 62 per cent are in Australian managed funds. This risk is managed through diversification and selection of securities.

The effect on the total accumulated funds and the surplus due to reasonably possible changes in market factors, as represented by movements in equity indices, with all other variables held constant is indicated in the table below part (iii) overleaf.

(ii) Cash flow and fair value interest rate risk

The association's main interest rate risk arises from cash and cash equivalents; therefore the association's income and operating cash flows are subject to changes in market interest rates.

The association has cash deposits and other interest bearing deposits, which have floating rates. At 30 June 2009, if interest rates had changed by 100 basis points with all other variables held constant, surplus for the year would have been \$16,413 higher/lower as a result of higher/lower interest income.

Notes to the financial statements

For the financial year ended 30 June 2009

(iii) Summarised sensitivity analysis

The following table summarises the sensitivity of the association's surplus and total accumulated funds to price risk and interest rate risk for financial assets and liabilities held at balance date. The reasonably possible movements in the risk variables have been determined based on management's best estimate, having regard to a number of factors, including historical levels of changes in interest rates and with the relevant benchmark and market volatility. However, actual movements in the risk variables may be greater or less than anticipated due to a number of factors, including unusually large market shocks resulting from changes in the performance of the economies, markets and securities in which the association invests. As a result, historic variations in risk variables are not a definitive indicator of future variations in the risk variables.

	Price risk		Interest rate risk	
	Impact on operating profit / total accumulated funds			
	-10 %	+10 %	-100 bps	+100 bps
	\$	\$	\$	\$
30 June 2009	(130,941)	130,941	(16,413)	16,413
30 June 2008	(156,664)	156,664	(16,287)	16,287

(b) Credit risk

Credit risk represents the risk that the counterparty to a financial instrument will fail to discharge an obligation and cause the association to incur a financial loss. Credit risk is not considered to be significant to the association as the association does not hold any investments in debt securities and it doesn't have any significant loans/receivables at both reporting dates.

Credit quality

Main exposure of credit risk is on cash and term deposits. The credit quality of the financial assets is managed by the association by using the Standard & Poor's rating categories, in accordance with the policies of the Management Committee. The association's cash and investments are held as follows:

Financial Institution	Rating	2009	2008
NAB	AA	1,403,999	1,377,468
Macquarie Bank Ltd	A/A-1	288,807	251,582
		1,692,806	1,629,050

(c) Liquidity risk

Liquidity risk is the risk that the association will encounter difficulty in meeting obligations associated with financial liabilities. This risk is managed through investment in short term deposits and equity securities in Australian listed companies, which under normal market conditions are readily convertible in cash. In addition the association maintains sufficient cash and cash equivalents to meet normal operating requirements. It is for this reason management is of the view that the association is not exposed to any liquidity risk, as its minimum cash holdings over a 12 - month period are not expected to fall below \$1.5 m.

Maturity analysis for financial liabilities

Financial liabilities for the association comprise trade and other payables. Trade and other payables have no conditional maturities but are settled typically within 30 days, hence maturity analysis hasn't been disclosed.

Total trade and other payables at reporting date was \$9,819 (2008: \$10,190).

Notes to the financial statements

For the financial year ended 30 June 2009

2. FINANCIAL RISK MANAGEMENT (CONTINUED)

(d) Fair value estimates

The fair value of financial assets must be estimated for recognition and measurement or for disclosure purposes.

The fair value of financial instruments traded in active markets is based on quoted market prices at balance date. The quoted market price used for financial assets held by the association is the current bid price; the appropriate quoted market price for financial liabilities is the current ask price.

	2009 \$	2008 \$
3. REVENUE FROM CONTINUING OPERATIONS		
Contributions	150,978	129,511
Distribution/dividend income	111,718	205,821
Interest income	101,164	93,139
Membership income	355	-
Revenue from continuing operations	364,215	428,471

4. LOANS AND RECEIVABLES

Current		
NSW Bar Association	110,234	100,019
Interest free loans	44,500	5,000
GST receivable	2,908	1,478
	157,642	106,497

Risk exposure

The association's exposure to risk for loans and receivables is discussed in note 2.

5. OTHER FINANCIAL ASSETS

Non-current

Designated at fair value through profit or loss

- Shares in Australian listed companies	492,734	522,393
- Australian managed funds	816,679	1,044,254
	1,309,413	1,566,647

Risk exposure

The association's exposure to risk for other assets is discussed in note 2.

6. TRADE AND OTHER PAYABLES

Trade and other payables	9,819	10,190
--------------------------	-------	--------

Risk exposure

The association's exposure to risk for trade and other payables is discussed in note 2.

Notes to the financial statements

For the financial year ended 30 June 2009

7. RESERVES

	2009 \$	2008 \$
Capital reserve	2,431,882	2,431,882

Nature and purpose of reserves

Capital reserve

Changes in the fair value of investments have been transferred from accumulated surplus to reserves in prior years. This no longer is the practice of the association. This account also includes capital profits made in the prior years.

Movement during the year:

Reserves

Balance as at 1 July	2,431,882	2,431,882
Transfer from accumulated surplus	-	-
Balance at 30 June	2,431,882	2,431,882

8. RELATED PARTY DISCLOSURES

(a) Trustees

The names of persons who were trustees of the association at any time during the financial year are as follows:

D Ash	P Garling SC	R Lancaster	I Temby
T Bathurst QC	J Gormly	C Loukas	D Toomey
P Boulten SC	A Haesler SC	G McGrath	S Torrington
B A Coles QC	A Healey	M McHugh	K M Traill
M Cunneen SC	R Higgins	J Needham SC	
S Dawson	M Holz	R Pepper	
T Game	A J Katzmman SC	D Rayment	
L Goodchild	P Khandhar	A Street SC	

The trustees are also the directors of the New South Wales Bar Association.

(b) Key management

No compensation was paid, or payable to the trustees of the association during the financial year.

(c) Other transactions

The association conducts its business from the premises of NSW Bar Association.

Notes to the financial statements

For the financial year ended 30 June 2009

9. REMUNERATION OF AUDITORS

2009 2008
\$ \$

During the year the following fees were paid or payable for services provided by the auditor of the association:

Audit of the financial report	8,000	8,000
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10. NOTES TO THE CASH FLOW STATEMENT

(a) Reconciliation of cash

For the purposes of the cash flow statement, cash includes cash on hand and in banks and investments in money market instruments, net of outstanding bank overdrafts. Cash at the end of the financial period as shown in the cash flow statement is reconciled to the related items in the balance sheet as follows:

2009 2008
\$ \$

Cash at bank	51,494	330
Cash on deposit	1,641,312	1,628,720
	1,692,806	1,629,050

Reconciliation of net cash provided by operating activities to net loss

Net loss	(141,962)	(161,858)
Distributions from managed funds reinvested	(67,964)	(166,299)
Write down of investments	300,243	440,637
	90,317	112,480
Net cash provided by operating activities before changes in assets and liabilities		
Increase in trade and other receivables	(51,145)	(14,162)
Increase/(decrease) in trade and other payables	(371)	3,190
	38,801	101,508

Trustees' declaration

In the opinion of the trustees of Barristers' Benevolent Association of NSW, the financial statements and notes as set out on pages 74 to 83:

- (a) have been drawn up in accordance with Accounting Standards and other mandatory professional reporting requirements in Australia; and
- (b) present fairly the association's financial position as at 30 June 2009 and its performance, as represented by the results of its operations, changes in recognised income and expense and cash flows, for the year ended on that date.
- (c) there are reasonable grounds to believe that the association will be able to pay its debts as and when they become due and payable.

Signed in accordance with a resolution of trustees:



A Katzmann SC

Trustee

Sydney

27 August 2009



A Street SC

Trustee

Independent auditor's report

For the financial year ended 30 June 2009

To the members of Barristers' Benevolent Association of NSW:

We have audited the accompanying financial report of Barristers' Benevolent Association ('association'), which comprises the balance sheet as at 30 June 2009, and the income statement, statement of changes in recognised income and expense and cash flow statement for the year ended on that date, a summary of significant accounting policies and other explanatory notes as set out on pages 74 to 84.

Trustees responsibility for the financial report

The Trustees are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations). This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

In note 1, the Trustees also state, in accordance with Accounting Standard AASB 101: Presentation of Financial Statements, that compliance with the Australian equivalents to International Financial Reporting Standards ensures that the financial report, comprising the financial statements and notes, complies with International Financial Reporting Standards.

Auditor's responsibility

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's 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, the auditor considers 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 accounting policies used and the reasonableness of accounting estimates made by the Trustees, as well as evaluating the overall presentation of the financial report.

Our audit did not include an analysis of the prudence of business decisions made by the Trustees or management.

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

Independent auditor's report

For the financial year ended 30 June 2009

Independence

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

Auditor's Opinion

In our opinion:

- (a) the financial report presents fairly, in all material respects, the financial position of the association as at 30 June 2009, and its performance and its cash flows for the year then ended in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations); and
- (b) the financial report also complies with International Financial Reporting Standards as disclosed in note 1.



P B Meade

Partner



HLB MANN JUDD

(NSW Partnership)

Chartered Accountants

Sydney

28 August 2009

Contributions to the Barristers' Benevolent Fund

\$4,000 and above

M A Robinson

\$3,000 - to \$3,999

W Terracini SC

A Katzmann SC

Sir Owen Dixon Chambers

\$2,000 to \$2,999

N Murray

B W Walker SC

P J Doherty SC

D W Rayment

M Cranitch SC

A J Bellanto QC

P R Boulten SC

A Healey

\$1,000 to \$1,999

S A Kerr

D Wilson

J W Durack SC

D P M Ash

P Bodor QC

S Davis

M Green

S M Stewart

J R J Lockhart

J Murphy

The Hon Justice R A Pepper

J N West QC

L Lamprati SC

P M Kite SC

T F Robertson SC

J E Maconachie QC

T K Tobin QC

T Molomby SC

B W Collins QC

I Barker QC

Mario Licha

The Hon G S Sharp

\$500 to \$999

T F Bathurst QC

B A Coles QC

B W Rayment QC

Magistrate M G Allen

K Day

M R Gracie

F Santisi

C A Bridge SC

C Barry QC

E Ito

C P Hoy SC

J A McIntyre SC

S Duggan

K W Andrews

J Shaw

D Nock SC

S Rushton SC

I Cullen

M J Darke

J R Wilson SC

J R Clarke

A M Seward

J J Garnsey QC

T Lynch

B C Oslington QC

W M Fitzsimmons

P Webb QC

A McQuillen

R Gambi

S Burley SC

J M Chicken

R Cavanagh

H P T Bevan

J O North

D A Smallbone

J C Sheahan SC

J P Gormly SC

R Lancaster

S G Campbell SC

R Royle

J Needham SC

J E Robson SC

D M Bennett AC QC

The Hon R J Ellicott QC

V M Heath

His Honour Judge S Norrish QC

R L Seiden

R M Schonell

A R Moses SC

M H Baird

M S Willmott SC

C Steirn SC

G Rich

P J Deakin QC

J Poulos QC

G Farmer

I M Neil SC

P J Frame

E Welsh

D R J Toomey

\$250 to \$499

M Gorrick

G J Jones

C R C Newlinds SC

The Hon B S J O'Keefe AM QC

A H Slater QC

P W Neil SC

M B Williams SC

L King SC

W Strathdee

C I Twomey

P J McGrath

N Manousaridis

G Moore

J B Whittle SC

M L Brabazon SC

M Tibbey

His Honour Judge J Bennett SC

D Kell

M Lynch

V F Kerr

The Hon Acting Justice R F Smart

R K M Rasmussen

P Nagle

Contributions to the Barristers' Benevolent Fund

A A Henskens
 S L C Flett
 C P Heazlewood
 The Hon Justice Cowdroy OAM
 R J Grady
 P D Doyle Gray
 D Cowan SC
 R P Greenhill SC
 M J Windsor SC
 M A Cleary
 D G Staehli SC
 D J Hooke
 A T S Dawson
 G Lucarelli
 F P Hicks
 L T Grey
 His Honour Judge L A Levy SC
 P P O'Loughlin
 O G Watt
 R W Hood
 G Nicholson QC
 A M Martin
 His Honour Judge M Bozic SC
 P H Blackburn-Hart SC
 A Stenmark SC
 P Russell
 J C Thompson
 P F Liney
 R J Taylor
 L P McFee
 E Olsson SC
 D A Buchanan SC
 D Ronzani
 J E Sexton SC
 J A Waters
 D Hirsch
 G M Gregg
 T A Game SC
 P Hastings QC
 J Kildea
 J J T Loofs
 H Kelly SC

His Honour Judge J B Phelan
 His Honour Judge M C Marien SC
 S A Benson
 R Graycar
 His Honour Judge M J King SC

\$100 to \$249

The Hon Justice R Edmonds
 C A Webster
 P G W Stitz
 H W M Stitt
 A J J Renshaw
 G Brzostowski SC
 Dr K Rewell SC
 W J Walsh
 R M Sweet
 A J Stone
 S Reuben
 P R Cummings
 T M Rowles
 The Hon J P Bryson QC
 M Dicker
 G Hoeben
 C M Simpson SC
 M G Gilbert
 I F Butcher
 D M Loewenstein
 K Morrissey
 S W Climpson
 K J Howard SC
 P J Cook
 J V Gooley
 C A Moore
 P J Livingstone
 R D McCrudden
 A J McInerney
 P J O'Connor
 D Priestley
 G R Petty SC
 M Einfeld QC
 D Burwood
 S Hughes

The Hon Associate Justice J K McLaughlin
 G J Watkins
 The Hon Justice H Nicholas
 The Hon Justice D J Collier
 C E Backhouse QC
 G Levick
 M P Cahill
 A D Campbell
 Deputy President K J O'Grady
 G Digby QC
 G K Burton SC
 G Graham
 J J Ryan
 J P Sewell
 A M Pickles
 G Van Der Vlag
 P G Mahony SC
 R C A Higgins
 Y Shariff
 The Hon J R Dunford QC
 J Berry
 K Roser
 J Phillips SC
 D R Pritchard SC
 G J Graham
 I C Duane
 J S Gleeson
 M G Craig QC
 J O Tancred
 T M Ower
 N A Nicholls
 G Curtin
 P G Maiden SC
 R A O'Keefe
 G M Gould
 J Van Aalst
 D F Jackson AM QC
 The Hon Justice M Adams
 The Hon RN Madgwick QC
 R P Battley
 R J Wilson
 The Hon Dr R Purvis AM QC

J Sheller	D P Kelly	J A Trebeck
P Callaghan SC	G Niven	N J Kidd
C C Hodgekiss SC	C A Evatt	M B J Lee
Robert Stitt QC	N H Rudland	G Donnellan
H J Marshall SC	I J McGillicuddy	G M Radburn
P Hamill SC	R H Weinstein	M G Vincent
Justin Doyle	D B O'Neil	L McManus
R Francois	L McBride	S Glascott
R Driels	B Hull	E Petersen
Philip Durack SC	P R King	P A Rowe
R N O'Neill	G T Johnson	K L Stewart
J V Nicholas SC	M J Gallagher	G T Gillett
A J Bowen	D T Drewett	M G McHugh
The Hon T J Studdert QC	C Champion	N Ghabar
D Day	D Liebhold	J Duncan
T Z Messner	A W Mooney	I Lawry
Nicholas Newton	G Kumarasinhe	M W Robinson
D Cochrane	A Miller	S B Dixon
His Honour Judge R P McLoughlin SC	P A Beale	I G A Archibald
R S Bell	R C Broadhead	A F Fernon
I Taylor	J P Redmond	M Dolenec
A Hogan	W L S Lloyd	W Austron
Dr C J Birch SC	I H Pike AM	K Chapple SC
David Brogan	The Hon Justice P Biscoe	M S Spartalis
M Oakes SC	M R Hardwick QC	K Barrett
The Hon Justice G A Palmer	J Priestley	M L Holz
P R Garling RFD SC	Dr J G Renwick	R E Quickenden
D J Thorley	Dr John Keogh	J F Heazlewood
J Keesing	S M Kettle	R K Newton
A G Todd	P J Nolan	M McAuley
D K Jordan	C Leahy SC	The Hon C S C Sheller AO QC
M A Gillies	P M Skinner	The Hon H D Sperling QC
A Jamieson	J Chapman	The Hon P J Newman RFD QC
Shane Prince	M J Stevens	A J Bulley
A Hill	R S McIlwaine SC	P Moorhouse
D G Price	B R Pape	A Williams
Avni Djemal	R S Warren	S T Hall
Tiffany L Wong	K Eastman	A M Gruzman
D J Lloyd	I H Nash	B Pluznyk
G B Beauchamp	Douglas Barry	T G Howard
G J Sarginson	A Street SC	B R Ferrari
N A Confos	R McKeand SC	G L Meehan

Contributions to the Barristers' Benevolent Fund

K J Kelleher	D Healey	G Little SC
Federal Magistrate G A Coakes	T M Mehigan	D Hogan-Doran
G Carolan	S Wheelhouse SC	T Healey
B E Haverfield	J Chambers	Her Honour Judge L M Ashford
L J Rowan	R Beech-Jones SC	C Bolger
R Montgomery	S B Piedade	G J Hickey
L Fernandez	J Moore	The Hon Justice S D Rares
J T G Gibson	R Jankowski	The Hon D D Levine RFD QC
M K Rollinson	The Hon Justice P A Johnson	Dr F R McGrath AM OBE
M F McDermott	The Hon Justice D Kirby	The Hon K P Shadbolt
A S Kostopoulos	M C Ramage QC	G E O'Connor
D A Caspersonn	A Lakeman	J A Moore
S Galitsky	G M Watson SC	The Hon Acting Justice M W Campbell
G McIlwaine	C Lonergan	The Hon R J Peterson QC
J M Harris	W Dawe QC	W D Hosking QC
R Skiller	J D McDonald	
D Forster	G Ikners	\$25 to \$99
J R Sainty	P T Newton	J A Munday
S Golledge	D M Falloon	N E Furlan
R C Beasley	G McGrath	M J Heath
M Christie	S J Buchen	C J Bannon QC
C Simpson	T Hughes	J M Stowe QC
D T Kennedy SC	R I Bellamy	R Quinn
T Jowett	B J Sharpe	R A Hewson
G Rundle	G A Bashir	J F Viney
K Deards	A Cheshire	S W Aspinall
B D Brassil	P Kintominas	N Nelson
G P McNally SC	V A Hartstein	R Kako
M Fanning	M Thangaraj	C Wood
A Cotter-Moroz	H K Dhanji	I Strathdee QC
W P Lowe	Dr M Perry QC	The Hon Justice C Hoeben AM RFD
J L Gruzman	M J Maxwell	The Hon M L Foster QC
D A Moujalli	G J Sundstrom	P R Moran
The Hon J P Slattery AO QC	T J Bates	A E Maroya
J J Webster SC	M J Perry	K G Bennett
D G Dalton SC	R L Hamilton SC	R Page
The Hon B E Hill QC	The Hon J A Nader RFD QC	R Alkadamani
J E Rowe	H Stowe	R Harper
S York	K J Pierce	L Ma
J J Fernon SC	P Batley	P Dwyer
S Russell	H Gerondis	Dr S Blount
A P L Naylor	His Honour Judge D Frearson SC	K Poulos

W P Brewer
 S Gardiner
 The Hon Justice P Brereton
 P F Flannery QC
 D Dura
 L E Judge
 G T Gorton
 T K Neill
 D Harkin
 C H Withers
 The Hon Justice P W Young AO
 B R Thorley AM
 P A Barnes
 G R Heathcote
 M Humphreys
 His Honour H H Bell
 M Castle
 S Sivaloganathan
 P Dooley
 W J Hadley
 P N Khandhar
 The Hon Judge J L O'Meally AM RFD
 K Conte-Mills
 J D E Jones
 P Urquhart QC
 The Hon Justice B M James
 A S Monzo
 P J Mooney
 A C Canceri
 Dr A L Connolly
 C P O'Donnell
 C Magee
 E Boyle
 L Brasch
 C Moschoudis
 E Beilby
 NS Carroll
 J Catsanos
 M Gunning
 D Barnett
 D Mallon
 Dr R J Webb

N S Jackson
 R T Bell
 R J Carruthers
 T McDonald
 G Blank
 Professor R Croucher
 M A Gerace
 L Shipway
 J Baxter
 T W Haines AO
 Magistrate M Macpherson
 C C Waterstreet
 The Hon Lance Wright QC
 J Reading SC
 I H Wallach
 J Bartos
 W Thompson
 The Hon Justice P M Kavanagh
 The Hon J A Miles AO
 J Redwood
 M J Bateman
 G M Barter
 S A Torpey
 T G R Parker SC
 D Shoebridge
 G R Rummary QC
 J Henness
 E J Smith
 C Stewart
 J Travassaros
 T J Dixon
 J M Galluzzo
 M Friedgut
 D Rickard
 B Miles
 The Hon Justice P R Graham
 The Hon Justice J M Boland
 The Hon Justice S Rothman AM
 N J Allan
 The Hon H P W Johnston QC
 R A Bonnici
 N Angelov

C Palmer
 L Karp
 The Hon B J K Cohen QC
 W D Thompson
 His Honour Judge D J Freeman
 G C Jones
 J Cohen

Under \$25

G Smith SC
 E H Baskerville
 B Ilkovski
 D J Currie
 T Di Francesco
 G Doherty
 M Campbell
 L B Gorham
 M Auld
 T S Davidson QC
 J Young
 A M Goodridge
 M R Cairns
 B G Docking
 G Gemmell
 A Doig
 E L Dearn
 J B de Vere Tyndall
 M G Crowley
 A Kuklik
 J Davis
 D Imlah
 M J Walsh
 C R Goodhand
 L J Byrne
 M Coleman
 J N Thompson
 C Amato

Indigenous Barristers' Trust - The Mum Shirl Fund

Financial report for the year ended 30 June 2009

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This financial report covers the Indigenous Barristers' Trust - The Mum Shirl Fund as an individual entity. Its registered office and principal place of business is 174 Phillip Street, Sydney NSW 2000.

Income statement

For the financial year ended 30 June 2009

	Note	2009 \$	2008 \$
Revenue from continuing operations	3	96,038	88,407
Audit and accounting		(5,000)	(3,000)
Bank charges		(11)	(91)
Conference expenses		(15,619)	(11,787)
Fundraising		(1,504)	(6,005)
Grants		(48,000)	(5,000)
Other expenses		(708)	-
Surplus before income tax expense		25,196	62,524
Income tax expense		-	-
Net surplus		25,196	62,524

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

Balance sheet

As at 30 June 2009

	Note	2009 \$	2008 \$
CURRENT ASSETS			
Cash and cash equivalents	7	342,853	328,154
Other receivables	4	46,866	35,369
TOTAL CURRENT ASSETS		389,719	363,523
TOTAL ASSETS		389,719	363,523
CURRENT LIABILITIES			
Trade and other payables		4,000	3,000
TOTAL CURRENT LIABILITIES		4,000	3,000
TOTAL LIABILITIES		4,000	3,000
NET ASSETS		385,719	360,523
ACCUMULATED FUNDS			
Accumulated surplus		385,719	360,523

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

Statement of recognised income and expense

For the financial year ended 30 June 2009

	2009 \$	2008 \$
As at 1 July - opening	360,523	297,999
Recognised income and expenses	25,196	62,524
As at 30 June - closing	385,719	360,523

The above statement of recognised income and expense should be read in conjunction with the accompanying notes.

Cash flow statement

For the financial year ended 30 June 2009

	Note	2009 \$	2008 \$
Cash flows from operating activities			
Receipts from sponsorship and general activities		85,541	57,058
Payments to suppliers		(70,842)	(22,883)
Net cash inflow from operating activities	7(b)	14,699	34,175
Net increase in cash and cash equivalents		14,699	34,175
Cash and cash equivalents at the beginning of the year		328,154	293,979
Cash and cash equivalents at the end of the year	7(a)	342,853	328,154

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

Notes to the financial statements

For the financial year ended 30 June 2009

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies adopted in the preparation of the financial report are set out below. These policies have been consistently applied to all the years presented, unless otherwise stated.

(a) Basis of preparation

This general purpose financial report has been prepared in accordance with Australian equivalents to Accounting Standards and other authoritative pronouncements of the Australian Accounting Standards Board (including Australian Accounting Interpretations). The trustees have the power to amend and re-issue the financial report.

Compliance with IFRS

The financial report of Indigenous Barristers' Trust - The Mum Shirl Fund ('the trust') also complies with International Financial Reporting Standards (IFRS) as issued by International Accounting Standards Board (IASB).

Historical cost convention

This financial statement has been prepared under the historical cost convention.

Critical accounting estimates and judgments

The preparation of financial statements in conformity with IFRS requires the use of certain critical accounting estimates. It also requires management to exercise its judgment in the process of applying the trust's accounting policies. There are no estimates and judgments that have a significant risk of causing material adjustments to the carrying amounts of assets and liabilities within the next financial year.

(b) Revenue recognition

Revenue is measured at the fair value of the consideration received or receivable. Revenue is recognised as follows:

(i) Contributions

Revenue from contributions is recognised when the contribution is received.

Notes to the financial statements

For the financial year ended 30 June 2009

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

(ii) Interest income

Interest income is recognised as it accrues.

(iii) Other income

Income from other sources is recognised when the income is receivable.

(c) Income tax

The trust is exempt from income tax.

(d) Cash and cash equivalents

For cash flow statement presentation purposes, cash and cash equivalents includes cash on hand, deposits held at call with financial institutions and other short-term, highly liquid investments with original maturities of six months or less that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value.

(e) Other receivables

Other receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less provision for impairment. Other receivables are usually settled within 30 days from the date of recognition.

Collectability of other receivables is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off by reducing the carrying amount directly. An allowance account (provision for impairment of other receivables) is used when there is objective evidence that the trust will not be able to collect all amounts due according to the original terms of receivables.

The amount of the impairment loss is recognised in the income statement with other expenses. When other receivables for which an impairment allowance had been recognised become uncollectable in a subsequent period, it is written off against the allowance account. Subsequent recoveries of an amount previously written off are credited against other expenses in the income statement.

(f) Trade and other payables

These amounts represent liabilities for goods and services provided to the trust prior to the end of financial year which are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

(g) Goods and Services Tax (GST)

Revenue, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the Australian Taxation Office (ATO). In this case it is recognised as part of the cost of acquisition of the asset or as part of an item 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 ATO is included in 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 flows.

(h) New accounting standards and interpretations

Certain new accounting standards and interpretations have been published that are not mandatory for 30 June 2009 reporting periods. The trust's assessment of the impact of these new standards and interpretations is set out below.

(i) Revised AABS 101 *Presentation of Financial Statements* and AASB 2007-8 *Amendments to Australian Accounting Standards arising from AASB 101 (effective from 1 January 2009)*

The September 2007 revised AASB 101 requires the presentation of a statement of comprehensive income and makes changes to the statement of changes in equity, but will not affect any of the amounts recognised in the financial statements. If an entity had made a prior period adjustment or has reclassified items in the financial statements, it will need to disclose a third balance sheet, this one being as at the beginning of the comparative period. The trust attends to apply the revised standard from 1 July 2009.

Notes to the financial statements

For the financial year ended 30 June 2009

2. FINANCIAL RISK MANAGEMENT

The trust's activities expose it to a variety of financial risks; market risk (including fair value interest rate risk and price risk), credit risk and liquidity risk. The trust's overall risk management focusses on maintaining sufficient cash and maximising returns on the financial assets held under the policies approved by the trustees.

There is no formal established mandate or strategy to manage the above risks as the trust holds majority of its assets in cash and cash equivalents so that there is little risk of change in value. Management is of the view that by ensuring that all cash and cash equivalents are held with financial institutions with at least an 'AA' rating, the risks are being managed.

There are no changes in the strategies used to manage the financial risks from the previous period.

(a) Market risk

Market risk is the risk that the fair value of future cash flows of financial instruments will fluctuate due to changes in market variables such as interest rates, foreign exchange and equity prices. Market risk is managed and monitored by ensuring all investment activities are undertaken in accordance with the policies approved by the trustees.

(i) Price risk

Given the trust has no equity securities, the trust has no exposure to equity securities price risk.

(ii) Cash flow and fair value interest rate risk

The trust's main interest rate risk arises from cash and cash equivalents; therefore the trust's income and operating cash flows are subject to changes in market interest rates.

The trust has cash deposits and other interest bearing deposits which have floating interest rates. At 30 June 2009, if interest rates had changed by 100 basis points with all other variables held constant, surplus for the year would have been \$3,059 (2008: \$2,777) higher/lower as a result of higher/lower interest income.

(b) Credit risk

Credit risk represents the risk that the counterparty to a financial instrument will fail to discharge an obligation and cause the trust to incur a financial loss. Credit risk is not considered to be significant to the trust as the trust does not hold any investments in debt securities and it doesn't have any significant loans/receivables at both reporting dates.

Credit quality

The main exposure to credit risk is on cash and term deposits. The credit quality of the financial assets is managed by the trust by using the Standard & Poor's rating categories, in accordance with the policies of the trustees. The trust has investments with National Australia Bank which has an 'AA' rating.

(c) Liquidity risk

Liquidity risk is the risk that the trust will encounter difficulty in meeting obligations associated with financial liabilities. This risk is managed through investment in short term deposits which under normal market conditions are readily convertible in cash. In addition the trust maintains sufficient cash and cash equivalents to meet normal operating requirements. It is for this reason management is of the view that the trust is not exposed to any liquidity risk, as 88 per cent of the trust's assets represent cash and cash equivalents.

Maturity analysis for financial liabilities

Financial liabilities for the trust comprise trade and other payables. Trade and other payables have no conditional maturities but are settled typically within 30 days, hence maturity analysis hasn't been disclosed.

Total trade and other payables at reporting date was \$4,000 (2008: \$3,000).

Notes to the financial statements

For the financial year ended 30 June 2009

2. FINANCIAL RISK MANAGEMENT (CONTINUED)

(d) Fair value estimation

The fair value of financial assets must be estimated for recognition and measurement or for disclosure purposes. The nominal value less estimated credit adjustments of trade receivables and payables is assumed to approximate their fair values.

	2009 \$	2008 \$
3. REVENUE FROM CONTINUING OPERATIONS		
Contributions received	73,536	69,407
Interest	20,983	19,000
Fundraising income	1,519	-
Revenue from continuing operations	96,038	88,407

4. OTHER RECEIVABLES

Current

NSW Bar Association	45,385	30,384
GST receivable	400	170
Accrued interest	1,081	4,815
	46,866	35,369

Risk exposure

The trust's exposure to risk for trade and other receivables is discussed in note 2.

5. RELATED PARTY DISCLOSURES(a) Trustees

The names of persons who were trustees of the trust at any time during the financial year are as follows:

Chris Ronalds SC	Danny Gilbert
Michael Slattery QC	Mullenjaiwakka

Anna Katzmann SC

(b) Key management

The key management personnel are the trustees of the trust.

No compensation was paid or payable to trustees of the trust during the financial year or the previous year.

Notes to the financial statements

For the financial year ended 30 June 2009

6. REMUNERATION OF AUDITORS

	2009 \$	2008 \$
During the year the following fees were paid or payable for services provided by the auditor of the trust:		
Audit of the financial report	5,000	3,000

7. NOTES TO CASH FLOW STATEMENT

(a) Reconciliation of cash

For the purposes of the cash flow statement, cash includes cash on hand and in banks and investments in money market instruments, net of outstanding bank overdrafts. Cash at the end of the financial period as shown in the cash flow statement is reconciled to the related items in the balance sheet as follows:

Cash at bank	36,937	50,446
Term deposits	305,916	277,708
	342,853	328,154

(b) Reconciliation of net cash provided by operating activities to net surplus

Net surplus	25,196	62,524
Changes in assets and liabilities:		
Increase in other receivables	(11,497)	(28,349)
Increase in trade and other payables	1,000	-
Net cash from operating activities	14,699	34,175

Trustees' declaration

For the financial year ended 30 June 2009

In the opinion of the trustees of Indigenous Barristers' Trust – The Mum Shirl Fund, the financial statements and notes as set out on pages 92 to 98:

- (a) have been drawn up in accordance with Accounting Standards and other mandatory professional reporting requirements in Australia; and
- (b) present fairly the trust's financial position as at 30 June 2009 and its performance, as represented by the results of its operations, changes in recognised income and expense and cash flows, for the year ended on that date.
- (c) there are reasonable grounds to believe that the trust will be able to pay its debts as and when they become due and payable.

Signed in accordance with a resolution of trustees:



A Katzmann SC

Trustee

Sydney

27 August 2009



C Ronalds SC

Trustee

Independent auditor's report

For the financial year ended 30 June 2009

To the members of Indigenous Barristers' Trust – The Mum Shirl Fund:

We have audited the accompanying financial report of Indigenous Barristers' Trust – The Mum Shirl Fund, which comprises the balance sheet as at 30 June 2009, and the income statement, statement of recognised income and expense and cash flow statement for the year ended on that date, a summary of significant accounting policies and other explanatory notes as set out on pages 92 to 99.

Trustees' responsibility for the financial report

The trustees are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations). This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

In note 1, the trustees also state, in accordance with Accounting Standard AASB 101: Presentation of Financial Statements, that compliance with the Australian equivalents to International Financial Reporting Standards ensures that the financial report, comprising the financial statements and notes, complies with International Financial Reporting Standards.

Auditor's responsibility

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

Independent auditor's report

For the financial year ended 30 June 2009

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers 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 accounting policies used and the reasonableness of accounting estimates made by the trustees, as well as evaluating the overall presentation of the financial report.

Our audit did not include an analysis of the prudence of business decisions made by the trustees or management.

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

Independence

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

Auditor's opinion

In our opinion:

- (a) the financial report presents fairly, in all material respects, the financial position of the Indigenous Barristers' Trust – The Mum Shirl Fund as at 30 June 2009 and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations); and
- (b) the financial report also complies with International Financial Reporting Standards as disclosed in note 1.



P B Meade

Partner



HLB MANN JUDD

(NSW Partnership)

Chartered Accountants

Sydney

28 August 2009

