

## President's Report

Tom Bathurst QC



As you are all aware I was elected president midway through the financial year, the subject of this report. Of necessity this report will focus on the events in the second half of the year. However, I would like at the outset to pay tribute to my predecessor, Justice Anna Katzmann, for the outstanding job she did on behalf of the Bar Association. The position certainly has been made much easier for me by the work she had done and the systems and procedures that she and our executive director, Philip Selth, have put in place over the past two years or so.

The most important challenge confronting the bar in this financial year has been the proposed national reform to the legal profession. The executive director in his report has dealt extensively with this issue and I don't propose to repeat what he said. However, we will continue to do our utmost to ensure that the reforms do not in anyway prejudice the independence of the bar or the profession generally.

As you will see from the accompanying financial statements, the bar's finances are in reasonably good shape. No increase in practising certificate fees is welcome but the Bar Council managed

to limit the increase last year to something a little below the increase in the Consumer Price Index. We hope that that trend will continue.

It is envisaged that there will be a substantial refurbishment of the Bar Association's premises over the December/January period. This is essential to ensure that the premises meet minimum occupational health and safety standards and to enable the association to provide services to members in a more effective manner. The refurbished premises will be designed in such a way to accommodate both educational and social events in a more effective way than is presently occurring. The bar has ample reserves to pay for the proposed refurbishment.

One service of the bar which has been met with particularly strong demand is the Bar Care service and particularly the services of Penny Johnson. I would like to personally express my appreciation to Penny for the work she has done on behalf of the association. She has enabled a number of practitioners who have suffered from depression or other stress related illnesses to continue practising in an effective and (to the extent possible) enjoyable manner.

Penny has provided an immediate resource to barristers with stress related illnesses. It has appeared that these problems often go hand in hand with difficulty in the management of the person's financial affairs. To that end the executive director and I are seeking to put together a proposal for consideration of the Bar Council whereby financial counselling can be obtained by those who need it with little or no cost at least in the short term.

The bar committees have been working extremely well this financial year.

Without being exhaustive I would like to thank the Costs & Fees Committee and particularly Mark Brabazon SC, for the work they have done in relation to the proposed national reform legislation. Two new committees have been formed this year. The first, the Practice Management Committee, has been endeavouring particularly to ascertain what can be done to make practice at the bar both easier and more efficient. Its work is still mainly at the investigative stage but I do anticipate that in the next six months or so the committee will be able to come up with recommendations that will make practice more user friendly.

The other committee which has been established is the Health, Sport & Recreation Committee. The aim of that committee was to assist in fostering a more collegiate approach to the bar. The work it has done and the functions that it has put on are testimony both to its hard work and the desire that most members have to work in a collegiate atmosphere. I am sure they will continue to do what they have been doing.

At the time of writing this report the silk selection process is again underway. As you all know the procedures were considerably revamped following the report of Roger Gyles QC. I am sure that the results will not satisfy everybody but I hope people are satisfied that the process has been transparent and as fair as possible. The Silk Selection Committee is doing everything it can to ensure that this is the case.

Finally, could I thank all members of the Bar Council, the executive director and the Bar Association staff for the unstinting assistance they all have given me during the past nine months. The job would be impossible without that assistance.

## Executive Director's Report

Philip Selth OAM



### National practice

In my report for the 2008-2009 year I outlined a process that had been established by the Council of Australian Governments (COAG) to 'achieve national regulation of the Australian legal profession'.

COAG agreed that:

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

With the approval of the Bar Council, I was nominated by the Australian Bar Association as a member of the consultative group.

The process of getting to a proposed Legal Profession National Law, which was made public in May 2010, was both difficult and iterative. It is clear that the taskforce charged with making recommendations to the Council of Australian Governments (COAG) as to

the content of the legislation, and the philosophy underlying that content, has made significant changes to its original proposals in light of the profession's response to those proposals. For that the taskforce is to be commended.

When releasing the draft National Law and National Rules for public comment, the taskforce stated that they were intended not only to unify, but also to simplify and increase the effectiveness of legal profession regulation. The goal of the taskforce has been complete, substantive and enduring uniformity that eliminates unnecessary regulatory burden and enhances consumer protection.

While many elements of the state and territory regulatory landscape will be preserved under the taskforce's proposed arrangements, a number of significant new initiatives are recommended.

*The goal of the taskforce has been complete, substantive and enduring uniformity that eliminates unnecessary regulatory burden and enhances consumer protection.*

The consultation package issued by the taskforce set out 'the key proposals' under five headings:

**Creation of a new national regulatory framework**, with new national bodies (a National Legal Services Board and National Legal Services Ombudsman) to oversee regulation of the legal profession (along with state and territory supreme courts), and to develop uniform national rules. The national bodies will operate within a delegated model, with many of the functions of the national bodies to be performed in practice by local representatives.

**Establishment of an Australian legal profession**, including admission in one jurisdiction resulting in a lawyer becoming an officer of all supreme courts, and the creation of an Australian Practising Certificate and a publicly-accessible Australian Legal Profession Register. Under the new scheme, government lawyers (except those engaging only in legal policy work) and in-house counsel will also be required to hold practising certificates, and continuing professional development rules will be uniform across jurisdictions.

**Reduction in the regulatory burden** for Australian legal practitioners and law practices. In particular, the profession will benefit from national uniformity of regulatory requirements, and the flexibility engendered by new provisions such as the option of maintaining a single general trust account for multi-jurisdictional law practices.

**Enhanced consumer protection**, including through the establishment of new powers for the National Legal Services Ombudsman to resolve disputes between lawyers and clients that are exclusively or primarily disputes about service ('consumer matters').

The National Law would also establish a requirement that law practices must charge no more than 'fair and reasonable' legal costs and that claims on state and territory fidelity funds be determined 'at arms-length' from the profession, to avoid a perceived conflict of interest.

## Executive Director's Report

**Maintenance of the independence of the legal profession:** the National Law adopts a co-regulatory model, retaining direct involvement of the profession in regulation through membership on the National Legal Services Board and its supporting advisory committees, and through professional associations continuing to act as co-regulators where considered appropriate by states and territories. The profession will also continue to develop practice, conduct, and continuing professional development rules.

The national model legislation will be enacted by one state and then each state/territory will adopt that Act. The legislation will be supported by an inter-governmental agreement. The legislation will be administered at the political level by the state and territory attorneys-general through the Standing Committee of Attorneys-General.

### Conduct rules

It is intended that the proposed board be given authority to approve the profession's conduct rules - and also to amend those rules.

After a lot of consultation and discussion, the ABA prepared a national set of barristers' conduct rules to apply across Australia. These rules were provided to the taskforce (and to federal and state attorneys-general and chief justices) in February 2010. At the same time, each bar published the rules for comment by both their members and the public, as required in most jurisdictions by legal profession legislation.

*It is intended that the proposed board be given authority to approve the profession's conduct rules - and also to amend those rules.*

In a memorandum to the bars that accompanied the proposed national rules, the immediate past president of the ABA, Tom Bathurst QC, wrote:

The Australian Bar Association, the peak representative body for all Australian barristers, has prepared a set of national rules of conduct that will apply uniformly across Australia.

Currently, for historical reasons, each State and Territory Bar has its own set of conduct rules. While there is much in common with these sets of rules, for various reasons there are some differences. Those differences have now been removed.

All Australian Bars, recognising that a national profession should be governed by a uniform set of conduct rules which the profession itself has drafted, have agreed to there being the one set of conduct rules.

The general purpose of these rules is to set out rules and standards of conduct applicable to barristers which are appropriate in the interests of the administration of justice.

These rules, like those currently in effect, have been prepared on the basis that:

- barristers owe their paramount duty to the administration of justice;
- barristers must maintain high standards of professional conduct;
- barristers as specialist advocates in the administration of justice, must act honestly, fairly, skilfully and with competence and diligence;

- barristers owe duties to the courts, to their clients and to their barrister and solicitor colleagues; and that
- barristers should exercise their forensic judgments and give their advice independently and for the proper administration of justice, notwithstanding any contrary desires of their clients.

The only rules that will not apply nationally are a few which need to differ because of (at the moment) differences in the titles of State legislation and the constitutions of several Bars.

In February 2009 the Council of Australian Governments (COAG) agreed that further work needed to be done to ensure national regulation of the legal profession in Australia. Although much has been done by the legal profession in recent years to effect improvements, aspects of the regulation of the legal profession remain overly complex and inconsistent between States and Territories. The Commonwealth/State national legal profession reform Taskforce is due to report to COAG in the next couple of months on its proposals to remove the remaining 'bumps in the road' to a uniform national system of practice for both barristers and solicitors.

The ABA had commenced its work on a national set of conduct rules for barristers before COAG established the Taskforce.

In most States and Territories there are at the moment statutory procedures setting out a formal process of consultation and ratification of proposed new conduct rules. Each Bar

## Executive Director's Report

will now publish the proposed new rules to its members and to the wider public for comment in the usual way. However, it is the Australian Bar Association's expectation – and wish – that the proposed set of national rules for barristers will be adopted by the COAG Taskforce and, along with other rules being prepared, published in draft form with the proposed Bill that is to be published for public discussion in the next few months. That is, the rules will be adopted nationally through the national legal profession reform project.

The Australian Bar Association welcomes any comments and submissions practitioners or others may wish to make on the proposed new national conduct rules for barristers.

The taskforce consultation package included the ABA's proposed national rules.

The Bar Association is a constituent member of both the ABA and the LCA. The Bar Council has had a number of discussions about the principles that should underpin the proposed Legal Profession National Law and the accompanying National Rules (which concern issues such as Unqualified legal practice; admission; foreign lawyers; business structures; trust moneys and trust accounts; legal costs; professional indemnity insurance; and continuing professional development). Separately, but as part of the consultation package, there is the proposed national Solicitors' [Conduct] Rules and Barristers' [Conduct] Rules.

The ABA (and LCA) supports the general thrust of reform in the direction of uniform legal professional structures in all states and territories. The major objectives are commendable – simplified uniform legislation and regulation, national standards policies and practices where practicable,

freedom of movement between jurisdictions to foster a truly national profession, and clear and accessible consumer protection.

The ABA, through its immediate past president, Tom Bathurst QC, who with me has been given by the ABA the role of presenting the ABA's views at the national level, has made it clear that in considering the proposed structure of the national legal profession, governments should be mindful of the importance of achieving four fundamental objectives:

- i. the independence of the judiciary and their control over the admission process;
- ii. the preservation of the independence of the national legal profession from dependence upon, or control by, the government of the day;
- iii. the maintenance of the profession's high professional standards; and
- iv. the preservation of the competitiveness of the legal profession in the legal services market.

The ABA, as does the Bar Council, believes that in any national regulatory scheme there is a compelling need to ensure that a careful balance is achieved between self-regulation of the legal profession and government intervention. The objectives of independence and accountability can be best achieved by adopting a co-regulatory model which closely resembles that which is currently in operation in New South Wales and Queensland. The 1998 report of the National Competition Policy Review of the *Legal Profession Act 1987* undertaken by NSW Attorney-General's Department, subject to some very minor adjustments, endorsed

the value of that model. Regulatory functions such as the issuing of practising certificates can (and should) be performed by either the Bar Association for barristers or by the Law Society for solicitors. Discipline in the first instance can (and should be), subject to the supervisory role of the legal ombudsman (legal services commissioner), be dealt with by the professional associations.

As Bathurst QC has told the federal attorney-general,

the ABA cannot overemphasise the position of the legal profession as a necessary part of the judicial system. A loss of independence by the legal profession also involves a loss of independence by the judicial system, something that must be preserved at all costs. In this country it is unlikely that that valuable independence will ever be lost by being usurped by a government in a single move; but it is possible that it might be lost by an incremental process resulting from the introduction of well-meant but ill-considered changes. Changes required by necessity for public accountability, increased efficiencies and competition can be achieved in a number of ways which do not impinge upon the independence of the profession. The questions Chief Justice Sir Gerard Brennan posed in an address to the Australian Bar Association Conference in August 1996 are even more pertinent today:

'Absent an independent Bar, how would the voice of the oppressed be heard? Where would one find an effective champion of an unpopular cause? How would the courts be able to able to function without the distillation of issues by skilled and independent minds? And how would any tendency towards judicial tyranny be restrained?'



## Executive Director's Report

In submissions put to both the state and federal attorneys-general the Bar Association has put a strong case for:

- i. a national board where the majority of the members are appointed from the legal profession;
- ii. the board and ombudsman, if one is appointed (the case for which the ABA does not believe has been established), being charged with the establishment of standards, but not having operational roles, which are best left to the existing local authorities, including the professional associations;
- iii. the system of admission continuing to be done at a local level, but under national standards acceptable to the Council of Chief Justices;
- iv. a reduction in the increased and unnecessary burden that is being imposed on the profession in the area of cost disclosures, compliance audits and management system directions and the application of consumer elements of the Bill to law practices and commercial and government clients; and
- v. requirements being proposed to be imposed on the profession, in particular concerning the holding of professional indemnity insurance, being made subject to the commercial realities of the market place.

As at 30 June 2010, the Australian Bar Association and the Law Council of Australia were preparing detailed responses to the consultation package, both on issues of principle and on the mechanics of the proposed scheme.

### Section 55D of the Judiciary Act 1903

In my 2008-2009 report under this heading I wrote:

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

Unfortunately, as at 30 June 2010 this Bill was still on the Senate Notice Paper. With the prorogation of the Federal Parliament prior to the 2010 election, the Bill has now lapsed.

### The Australian Taxation Office's secrecy provisions

As I have noted in a number of reports, since November 2000 the Bar Association has been endeavouring to persuade the Australian Taxation

Office and relevant Commonwealth ministers in favour of an amendment to section 16 of the *Income Tax Assessment Act 1936*. Such an amendment would enable the ATO to provide the association with *publicly available information* (for example, court records) about action it has taken against those few barristers who abuse 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 are reported in the media. The effect of this sort of publicity is devastating, to both the barrister concerned and the bar as a whole.

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'.

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

In November 2009 the Australian Government introduced the *Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009* into the House of Representatives. As at 30 June 2010 this Bill was still on the Notice Paper waiting to be debated. With the prorogation of the federal parliament

## Executive Director's Report

prior to the 2010 election, the Bill has now lapsed.

### The Law Council of Australia

The item of business on the LCA directors' agenda of most importance to the bars over the past year has been the proposed Legal Profession National Law. There was the potential for the LCA to divide over this issue. However, at both officer level and at directors' meetings parochial differences and differing views that at times arise between the bars and the law societies have, for the most part, not arisen. When differences have arisen, they have been amicably resolved. A lot of the credit for this constructive approach is due to Bill Grant OAM, the LCA secretary-general and a member of the taskforce.

### Bar Association's Constitution

In last year's annual report I noted that amendments to the Bar Association's Constitution were being considered. The purpose of these amendments was to:

- i. update references to the *Corporations Act 2001* and make a number of amendments in line with requirements of that Act;
- ii. delete provisions relating to the *Registered Clubs Act 1976*;
- iii. simplify the procedure for removal of a member's name from the register upon resignation of the member;
- iv. delete provisions relating to honorary members (there are no honorary members of the Bar Association);

- v. reduce the number of members required to form a quorum at a general meeting from 25 to 5 (to bring the provision into line with the *Corporations Act*); and
- vi. make a number of minor changes of a mechanical nature.

The proposed amendments, other than those relating to the quorum, attracted little comment.

The Bar Council, having considered all the comments received, approved a revised version of a new Constitution that was put to members at the 2009 annual general meeting held on 13 November 2009. The contentious provision concerning the quorum was not proceeded with. The AGM approved the other proposed amendments.

### 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, parliamentary committees and other law reform bodies, for example, a significant part of the association's work goes unpublicised. I am grateful for the extensive contribution made by members 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; as scrutineers for the Bar Council election count; 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 seeking assistance outside working hours, including at weekends. These requests are invariably met with a helpfulness and tolerance that is greatly appreciated. My sincere thanks are also due to the clerks and staff of barristers whose assistance we have called upon during the year.

I should like here to also publicly acknowledge the assistance and support given to me and the association's staff by the former President, now Justice Anna Katzmann of the Federal Court, and since November 2009 by the current president, Tom Bathurst QC. I am also appreciative of the assistance given to me by members of the Executive and other members of the Bar Council whenever it has been requested.

### The Bar Association's staff

Few members know the extent of the contribution made to the bar by the association's staff. Each year the staff strive to support the association and support those who seek the association's assistance. Once more, I note with pride and thanks the work of the association's staff.

## 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.

## Directors of the Bar Association

### BAR COUNCIL 2010

Tom Bathurst QC  
Bernie Coles QC  
Phil Boulten SC  
Ian Temby QC  
Garry McGrath  
Sandy Street SC  
Tim Game SC  
Jeremy Gormly SC  
Jane Needham SC  
Peter Maiden SC  
Kate Traill  
Gregory Curtin  
Chrissa Loukas  
Anne Healey  
David Ash  
Paresh Khandhar  
Michael McHugh  
Dominic Toomey  
Louise Goodchild  
Kylie Day  
Warwick Hunt



Tom Bathurst QC  
President



Bernie Coles QC  
Senior Vice-President



Ian Temby QC  
Treasurer



Phil Boulten SC  
Junior Vice-President



Garry McGrath  
Secretary

## Our aims

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

- Promote, maintain and improve the interests and standards of local practising barristers
- Make recommendations and promote the administration of justice
- Arrange and promote continuing professional development
- Inquire into questions as to professional conduct and etiquette of barristers

## Our people

As at 30 June 2010

### Office of the Executive Director

<b>Executive Director</b>	Philip Selth OAM BA (Hons) LLB
<b>Executive Assistant</b>	Corinne Brown

### Legal Assistance Referral Scheme

<b>Legal Assistance Manager</b>	Heather Sare
<b>Administrative Assistant</b>	Wendy Incoll BA

### Administration Department

<b>Administration Manager</b>	June Anderson
<b>Administrative Assistant</b>	Patrina Malouf Dip. Business
<b>Receptionist</b>	Maree Fitzgerald B Design JP
<b>Admin. Officer (Records)</b>	Kim Ellis
<b>Administrative Officer</b>	Fay Braddick
<b>Systems Administrator</b>	Matthew Vickers
<b>IT Consultant</b>	Darren Covell

### Professional Conduct Department

<b>Director</b>	Jennifer Pearce BEc LLB
<b>Deputy Directors</b>	Helen Barrett LLB
	Emma Day LLB
<b>Administrative Assistant</b>	Lisa Waterworth

### Bar Library

<b>Librarian</b>	Lisa Allen B App Sc (Info) M Inf Stud
<b>Assistant Librarian</b>	Jennifer Nott BA DIM
<b>Technical Services Librarian</b>	Leonie Anderson B App Sc (Info)
<b>Library Technician</b>	Sandra Vynes Dip Lib Inf Stud

### Professional Development Department

<b>Director</b>	Chris D'Aeth LLB (Hons) MBA
<b>Deputy Director</b>	Jo Musumeci BA (Hons)
<b>PD &amp; Events Coordinator</b>	Katie Hall BM
<b>Education Assistants</b>	Irene Puntillo
	Stella Giandiri

### Finance Department

<b>Finance Manager</b>	Basil Catsaros B Comm CA
<b>Deputy Finance Manager</b>	Tess Santos B Sc (Business Admin.)
<b>Certification Officer</b>	Barrie Anthony JP

### Law Reform and Public Affairs

<b>Director</b>	Alastair McConnachie LLB
<b>Publications Manager</b>	Chris Winslow BA (Hons) MIntS
<b>Principal Policy Lawyer</b>	Stephanie Mancell BA (Hons) LLB
<b>Policy Lawyer</b>	Cindy Penrose B Comm LLB
<b>Projects Officers</b>	Kim Kemp LLB
	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.

### MEMBERS

As at 30 June 2010 there were 2816 members.

Members who hold a NSW practising certificate (including members based interstate & overseas and eight life members who have a current NSW PC)	
Male	1727
Female	398
<b>Total</b>	<b>2125</b>
Number of senior counsel (QC or SC)*	
Male	314
Female	22
<b>Total</b>	<b>336</b>
Number of 'junior' barristers**	
Male	1413
Female	376
<b>Total</b>	<b>1789</b>

Practising address of members who hold a NSW PC	
New South Wales	2109
Australian Capital Territory*	6
Queensland*	5
Victoria*	4
Overseas*	1

Members (inc. honorary life members, judges and non-practising barristers)	
Male	571
Female	120
<b>Total</b>	<b>691</b>
(Includes 25 honorary life members who don't have a current NSW PC)	

Occupation of non-practising members	
Academic	14
Clerk	20
Crown prosecutor (interstate / Commonwealth)	5
Former barrister	128
Former judge / magistrate	95
Interstate / overseas barrister	184
Judge	164
Judicial officer	6
Magistrate	36
Member of parliament	1
Other	38

### PRACTITIONERS

As at 30 June 2010 there were 2154 barristers with a NSW PC.

Practitioners holding NSW practising certificates (including practitioners based interstate and overseas)	
Male	1750
Female	404
<b>Total</b>	<b>2154</b>
Practitioners who are senior counsel (QC or SC)	
Male	315
Female	22
<b>Total senior counsel</b>	<b>337</b>
Junior barristers	
Male	1435
Female	382
<b>Total junior barristers</b>	<b>1817</b>

Location of holders of a New South Wales PC					
	Juniors		Silks		Total
	Male	Female	Male	Female	
New South Wales	1422	380	313	22	2137
ACT	6	0	0	0	6
Queensland	2	1	1	0	4
WA	1	0	0	0	1

Overseas practitioners by country of residence					
	Juniors		Silks		Total
	Male	Female	Male	Female	
United Kingdom	2	0	1	0	3
New Zealand	2	0	0	0	2
Solomon Islands	0	1	0	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 who have advised that NSW is their principal place of practice.

## Promoting the interests of practising barristers

### Health, Sport and Recreation

The committee held its inaugural meeting at the beginning of 2010. Since that time, it has worked on initiatives across its three broad areas of responsibility.

#### Health

Two blood donations sessions have already been held this year at the Red Cross 'inlet' under the State Bank building. There is a proposal to hold a third.

There is a proposal afoot for a healthy breakfast series to be held in the Common Room prior to court hours. The format would be similar to that of the Great Bar Breakfast in March 2008, where Zoe Bingley-Pullin - nutritionist, chef and owner of Nutritional Edge – presented on ideas for maintaining a healthy lifestyle and maximising energy levels for greater workplace productivity. All 80 places were sold out.

### *There has been a surprisingly enthusiastic response to the suggestion of a bar offshore fishing trip.*

Cafes in the vicinity of the courts were encouraged to have 'grab and go' meals available for barristers with the intention being that the meal could be ordered ahead and/or quickly, and be healthy. Three cafes offered 'meal deal' as a result of representations made by the committee

Negotiations are continuing with local gyms in order that members and employees can take advantage of 'group' or 'corporate' discount offers.

#### Sport

The committee has been assisting in the coordination of the Bar Football Team, which is entered in the 'DSL' (Domain



The NSW Bar Football Team following their 3-1 victory over the Victorian Bar, in Melbourne, in September 2009 to retain the Suncorp Challenge Cup.

Soccer League) lunchtime competition. The team tasted success in the match against ASIC, but were less successful in others. The game has attracted male and female participants, with some 'SP' (senior player) participation. A tentative date of 11 September 2010 has been set for a day of soccer competition against the Victorian and Queensland

In a similar vein, the committee is supporting a team entry into the Sydney-Gong bicycle ride to be held on 7 November 2010, and members of the committee have been active in promoting the forthcoming Lawyers Ski Weekend in Thredbo.

The committee will also provide indirect assistance to the organisers of the Great Bar Boat Race, the Solicitors v Bench and Bar Golf Day and the Bench and Bar Tennis Day.

Members of the bar will participate as a team in the Oxfam Trailwalk. Whilst it is not a 'New South Wales Bar' team, members of the committee will be among the support crew during the event.

#### Recreation

There has been a warm response to the institution of a Bar Book Club in 2010. The club meets in the Bar Library and discusses their selected book over appropriate refreshments. The books to date have been *Crime and Punishment* by Fyodor Dostoyevsky, *Ransom* by David Malouf and *The Good Man Jesus and the Scoundrel Christ* by Philip Pullman. Librarian Lisa Allen is the enthusiastic host. There has been an

average about 15 at each meeting.

There has been a surprisingly enthusiastic response to the suggestion of a bar fishing trip. It is proposed that members would go outside the Heads on a day fishing trip aboard a chartered fishing vessel. It is expected that a date for this event will be set shortly, most likely in spring or early summer.

The committee is investigating a proposal for informal piano recitals during lunchtime in the Bar Common Room. Students from the New South Wales Conservatorium would be invited to practise in front of an audience.

The Bench and Bar lunches continue and yoga in the Bar Common Room attracts ongoing interest.

The committee thanks the unceasing efforts of Cindy Penrose in undertaking, all of the administrative tasks involved in the committee's work. It is always done, done well, and done with a smile.

### The New Barristers Committee

During 2009-10 the New Barristers Committee has focused its activities mainly on:

- Organising a workshop on cross-examining expert witnesses in commercial cases
- Arranging general CPD seminars on other practical topics (to which all barristers have been welcome to attend)
- Making contact with the new readers from the Bar Practice Course
- Encouraging under-sixes to attend the Bench and Bar lunches

#### **Workshop on cross-examining an expert witness in a commercial case**

In June and July 2010, the committee ran a workshop on cross-examining expert witnesses. More than 100 junior barristers (under-sixes) registered to participate, and a number of more senior barristers asked if they could do so (although the workshop was specifically limited to under-sixes).

This is the third year that the committee has organised a cross-examination workshop for under-sixes.

Each year the number of participants has increased, and we have built on the work done in previous years. A substantial amount of work is involved with each workshop, and great credit is due to Elizabeth Raper, Gillian Mahony and Louise Goodchild for their work in previous years (and to Gillian also for her continued assistance with this year's workshop).

However, the principal credit for the success of this year's workshop is due to Jo Shepard, who prepared excellent materials, liaised with the presenters and participants, chaired the sessions, and did everything possible to ensure the quality and success of the workshop.

This year's workshop involved an initial seminar on cross-examining experts, presented by Justice Pembroke and Tony Meagher SC, in the Bar Association Common Room on 29 June 2010 (all barristers were welcome to attend this seminar, regardless of their seniority, and it was very well attended).

Small groups of participants got together with a more senior person from their floor (if possible, to act as a 'coach' or 'tutor') to conduct mock

cross-examination over the following few weeks.

The committee is also grateful to Chris D'Aeth and Jo Musumeci of the Bar Association for their excellent assistance with all of the logistical matters involved in the workshop.

It is pleasing to note that the feedback from participants, following the seminar, has been extremely positive.

#### **Welcoming new readers**

The committee has continued its practice of making contact with the new readers in each Bar Practice Course, and letting them know about the committee's activities and how it aims to assist them.

Members of the Committee attended drinks with the new readers on 7 and 27 May 2010 and on 21 May 2010 the chair attended the lunch held by the Women Lawyers Association for new female readers.

#### **Promoting the Bench and Bar lunches**

The committee has continued to be involved in promoting the Bench and Bar lunches, particularly amongst the under-sixes.

## Promoting the interests of practising barristers

### Indigenous Barristers' Strategy Working Party

The Indigenous Barristers' Strategy Working Party is a special committee set up to implement the Indigenous Lawyers' Strategy at the New South Wales Bar. The membership of the working party is comprised of barristers and representatives of the law schools of the University of New South Wales and the University of Technology. Implementation of the strategy is a major focus of the working party. The IBS Working Party meets on an irregular basis when required.

Developing part-time employment opportunities for Indigenous law students and employment and mentoring opportunities for new Indigenous law graduates continues to be a significant focus for the working party.

Following the release of the Law Council's *Policy Statement on Indigenous Australians and the Legal Profession*, the members are drafting a policy statement to be considered by the Bar Council as the Bar Association's response.

A mentoring scheme was established in February 2009 and there are now 25 Indigenous law students being mentored by NSW barristers. Both students and barristers are gaining significant benefits from these relationships, with the students reporting a significant increase in their understanding of the ways the legal system works and the role of barristers in that system. Some report an increase in confidence in dealing with legal issues through their discussions with their mentors.

On 18 March 2010, a function for mentors and students was held and Rebecca McGrath a recent UTS law graduate and currently the tipstaff to Justice Simpson of the NSW Supreme

Court spoke on Indigenous children and care issues.

An employment scheme for Indigenous law students has been successfully run for the last eight years. Students work part-time, usually one day a week during term time, for individual barristers or chambers. They do administrative work and research. There are five students currently working for barristers. This scheme is designed to provide some experience for students who have no other connection with the law and show them the work of a barrister close up. It is hoped that this will encourage them to properly consider the Bar as a career option. An accidental benefit has been access to a referee from within the profession when applying for jobs as solicitors after graduation.

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 and lawyers. The fund has deductible gift recipient as a public benevolent institution under the *Income Tax Assessment Act 1936* (Cth).

There are four trustees: the current president of the New South Wales Bar Association, Tom Bathurst QC, 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.

The fourth National Indigenous Legal Conference in Adelaide in September 2009 continued to build on the success

of first Sydney conference in 2006.

Those members who attended found it a stimulating and interesting forum and an opportunity to share experiences and discussions with Indigenous lawyers and law students from around Australia. The trust funded 20 Indigenous law students to attend the conference to provide them with an opportunity they would not have had otherwise.

The students participating in the University of New South Wales Indigenous Pre-Law Program attended the Bar Association for a day in December 2009 and were taken to chambers and introduced to the work of a barrister. They spoke with Justice Slattery of the NSW Supreme Court who shared his experiences as both a barrister and a judge. Some barristers join the students informally over lunch in the boardroom. 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.

On 2 June 2010, the trust hosted a function for 50 significant donors. Isaac Gibbs, an Indigenous solicitor at Allens Arthur Robinson, and Amala Groom, an Indigenous first year law student, spoke about the grants they had received and the way the Bar Association has helped them at different times and in different ways during their legal studies. The evening was enthusiastically received by the barristers and judges in attendance. An Aboriginal art work valued at \$2,000 was raffled and won by a senior counsel.



### Equal Opportunity Committee

The Equal Opportunity Committee's charter is to examine EEO issues as they relate to the organisation, structure, practice and procedures of the Bar Association and ensure equal opportunity for any person at the bar or who wishes to come to the bar. The committee has been active in a number of areas over the past 12 months.

#### Equal opportunity

##### Equitable briefing

On 9 February 2010 the Bar Association, in conjunction with his Honour Chief Justice Black AC of the Federal Court of Australia, hosted a drinks function at the court to re-launch the equitable briefing policy. Many representatives of law firms and other agencies (such as government agencies, banks and telecommunications companies) attended the function. The committee then followed up each firm/agency with a letter signed by the president bringing the Law Council's equitable briefing implementation kit to their attention.

##### University visits

Over 60 female law students from the University of New England, the University of Sydney, University of Wollongong, Macquarie University and the University of Western Sydney attended the Bar Association on 30 April 2010. Fourteen female judges took part in the day, welcoming the students into their courts and chambers. Feedback from the students has been overwhelmingly positive. Many report that they are now actively considering a career at the Bar.

##### Female mentoring scheme

The mentoring scheme for women barristers in their second year at the bar has been very successful. In the

past year 19 women out of a possible 28 took up the opportunity to be mentored. The scheme will continue in the next 12 months under the guidance of Julia Baird SC, who although no longer a member of the committee, has kindly offered to continue to administer the scheme with the assistance of members of the committee.

#### Disability

##### Access

The Committee has put together a spreadsheet which has been placed on the Association's website giving details of disabled access to all NSW chambers, including access to nearby disabled parking and toilets.

##### Access across Sydney

The committee is aware that, following correspondence from the Bar Association, Sydney City Council is currently investigating the wheelchair accessibility of the crossings at Martin Place.

#### Other issues

##### Review of Senior Counsel Protocol

The committee made a submission to the Hon Roger Gyles AO QC in respect of the review of the Senior Counsel Protocol. The committee will continue to monitor the process of the appointment of senior counsel in respect of equal opportunity issues.

##### Successful speakers program

The committee, in conjunction with the Women Barristers Forum, has invited a number of accomplished speakers to address the bar. The successful speakers series will commence in September 2010.

#### Collegiality events

Together with the Health Sport and Recreation Committee, the committee has taken on the role of fostering collegiality at the bar by arranging social events.

##### Film nights

In 2009 there were three film nights, which attracted an audience of more than 30 barristers. In 2010 the film nights have been put aside to focus on the trivia night, which (along with the Christmas party) will be the committee's big event for the year.

##### Trivia night

A fund-raising trivia night is planned for Thursday, 12 August 2010. The event will raise funds for the committee's nominated charity – 'Righteous Pups' which provides assistance dogs to autistic (and other disabled) children free of charge to their families.

##### Pink Ribbon Breakfast

The 2009 Pink Ribbon Breakfast was a highly successful event which raised almost \$1,500 for breast cancer research. Another breakfast is planned for Friday, 29 October 2010 and will be held in the Common Room.

##### Christmas party

The 2009 Christmas party was well attended, with over 50 people (as well as 30 barristers' children) attending. The committee will host this year's function at a venue off-site.

##### Melbourne Cup Lunch

The committee is planning a Melbourne Cup luncheon on Tuesday, 2 November 2010 at a venue to be confirmed.

## Promoting the interests of practising barristers

BarCare is a completely confidential service for barristers who are experiencing difficulties such as stress or depression. There has been a 10 per cent increase in calls to the service in the last twelve months. It has been encouraging to see that many barristers are seeking professional help early before their problems become overwhelming. The service is operated independently of the Bar Association by the director, care and assistance.

BarCare provides a triage service where support options can be discussed by a phone call or over a cup of coffee. It does not offer a clinical service, although barristers in need of professional assistance can access the treating clinicians from the BarCare panel of specialists. The Benevolent Fund covers the cost of the first consultation. Any information collected from barristers in the course of BarCare work by the director, care and assistance is not disclosed to the Bar Association without the express permission of the barrister involved.

There is a dedicated telephone line and email address. The director's office is located away from the Bar Association offices to ensure privacy of any discussions. Calls are received from colleagues, family members and Bar Association staff who are concerned about the health or welfare of a barrister. In some situations the reporting person is reluctant to approach the barrister directly. In



these cases the director will contact the barrister and see if any form of assistance is required. The name of the reporting person is not disclosed. A goal of BarCare is to provide collegiate support to barristers with discretion and respect.

Approximately 50 per cent of all calls this year were self-referrals, with barristers recognising their need to obtain support. The types of presenting problems were the perennial issues of psychological, depression, marital and bereavement. It is not unusual for several problems to be present,

generally including financial difficulties. Last year the financial stress was often associated with a physical illness and an inability to work. This year financial stress was more commonly linked with the lack of consistent work. The Benevolent Fund has assisted with funds in a number of cases of financial stress.

The ongoing demand for BarCare services reflects the level pressure experienced by barristers practising at the bar. This model of support is assisting individual barristers and those who are concerned for their colleagues.

Primary presenting problem	2008-2009	2009 -2010
Bereavement	8	5
Psychological	7	19
Depression	12	7
Stress/anxiety	6	3
Marital difficulties	5	7
Gambling	1	1
Physical health	11	3
Financial	3	7
Advice and no further action	4	8
Rejected offer of assistance	2	5
<b>Total</b>	<b>59</b>	<b>65</b>

### 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 2010 the fund advanced three loans totalling \$30,000. Two previous loans totalling \$40,000 were forgiven. Grants totalling \$66,731 were made to six parties.

## Promoting the interests of practising barristers

### The Bar Library



During 2009-2010 the Bar Library continued to provide a valuable service to barristers and members of the Bar Association. The library's objectives are to:

- Support the practice of the members of the New South Wales Bar by identifying, acquiring, cataloguing and lending relevant resources that form part of an up-to-date and well-balanced collection
- Provide legal resources in a timely and accurate manner and in the most appropriate medium
- Assist members in the effective use of library resources

The Bar Library does this by developing and maintaining the collection, providing legal reference services for members, exam candidates and Bar Association staff, arranging library orientation and legal research training, and maintaining an index of current legal web links.

#### Reference service

The Bar Library answered a total of 5,982 reference queries during 2009-2010. This remains an invaluable service to the profession and occupies a large part of the librarians' working day.

The Reference Management System, through which the staff record members' reference queries and responses to them, was upgraded. It helps the librarians to better plan their responses to reference enquiries, based upon trends in the subject, type of information requested and the resources required. Members may now lodge and follow the progress of their requests via the online catalogue.

#### Online catalogue

In 2010, the Bar Library's catalogue was made available online to members. Password access via the website allows members to search for, locate and reserve items of interest. They can also renew items currently on loan.

Members can also download available unreported judgments from the library's collection as well as seminar papers from CPD sessions.

#### The Bar Book Club

The library has also been the venue for the Health, Sport & recreation Committee's Bar Book Club initiative. The meetings proved to be very popular and provide a 'non-legal' break in the month.

## Promoting the interests of practising barristers

### The Women Barristers Forum

The Women Barristers Forum is a section of the New South Wales Bar Association. All female members of the bar are members of the WBF, however, in practice the WBF operates with the dedicated efforts of a small committee of volunteers who meet monthly.

WBF exists to promote awareness, discussion and resolution of issues which particularly affect women barristers, identify, highlight and seek to eradicate discrimination against women in law, advance substantive, and not merely formal, equality for women at the bar and in the legal profession generally, to provide a professional and social network for women barristers and promote their interests and skills and to support diversity and flexibility at the bar.

WBF seeks to work closely with the Equal Opportunity Committee of the Bar Association and the Women Lawyers Association. Margaret Holz, a committee member of WBF, is a committee member of NSW Women Lawyers and assists in the liaison between WLA and WBF. Julia Baird SC, chair of WBF, informally liaises with Liz Olsson SC, the chair of EOC, and other members of the EOC.

During 2009–10, the WBF worked on a number of important projects.

On 28 August 2009 it co-hosted a 'Women in Law' dinner with Sydney University Women's College to promote women in the law. It was attended by approximately 100 people. The next Women In Law dinner will be held in August 2011, and WBF will be looking for sponsorship funds for the event.

The WBF co-hosted the biannual women readers lunches held at Buena Vista café in the Law Courts Building, held on 23 October 2009 and on 21 May 2010, at which the women of the bar and the WLA welcome (and



pay for) the female bar readers from the May/October Bar Practice Course. The next lunch is tentatively set for 21 October 2010. To date WBF committee members and other female barristers and WLA members have fully funded the event.

There were informal drinks functions held at 'Dolci' café restaurant in Phillip Street, Sydney open to all members of the bar to encourage collegiality and support amongst women at the bar – held on 22 October 2009, following earlier functions held on 19 March 2009 and 18 June 2009.

On 12 November 2009 the Women silks drinks were held at Moonshadow Grille, MLC Centre. This annual function is organised by the WBF to celebrate the appointment of women barristers as senior counsel and attended by over 60 members of the legal profession. In 2009 the WBF celebrated the appointment of four women as senior counsel. WBF looks forward to holding a similar function in November 2010.

The WBF and the Federal Court of Australia held a late afternoon reception on 23 February 2010 for the women at the New South Wales Bar to meet the judges and staff of the Federal Court. The event was organised with the co-operation and assistance of the court and hosted by Chief Justice Black. The function was exceptionally well attended - with over 120 barristers accepting the invitation.

On 19 May 2010, the chair of WBF, Julia Baird SC, secretary, Amy-Douglas-Baker and committee member, Margaret Holz, appeared on a panel with Hon Catherine Branson QC, president of the Australian Human Rights Commission, at the seminar 'Coming to the Bar' held by WLA as part of Law Week.

Perhaps the most important project undertaken by WBF over the past 12 months and continuing is the oral history project '*The First NSW Women Barristers*'. The WBF has researched and identified the women to be admitted and to practise at the New South Wales Bar in the first 50 years following the first woman to practice, Sybil Munro Morrison, admitted 2 June 1924. WBF, with seed funding from the Bar Association, has commissioned Ms Juliette Brodsky to undertake interviews with those of the women able and willing to participate, and to create a multimedia slideshow record of the experiences of those first women barristers. Ms Brodsky is the creator of a similar record for the Victorian Bar in 2007, which can be viewed on its website. The records of interviews will be retained by the New South Wales Bar Association library as a resource and will be accessible through its website. WBF anticipates that it will be a valuable resource as a record of the history of women barristers and to encourage women to come to the bar. WBF proposes to organize a function to launch the First Women Barristers Project slideshow,



and also to acknowledge and thank the many senior practitioners and retired practitioners who have contributed their experiences to the project.

A further ongoing project has been to update the WBF website, which is in its final implementation.

WBF has assumed the conduct of the Women's Mentoring Scheme, co-operatively with the EOC. In past years the scheme has been organised by Julia Baird SC, as a committee member of EOC, and in 2009 as

chair of WBF, with the assistance of an able sub-committee. This year WBF will take a more forward role in the mentoring scheme, and is in the process of organising the information night (to take place in August 2010), and mentoring matching for those women of the bar readers 2008/2 and 2009/1 courses. In 2008 and 2009 a drinks night was organised to celebrate the mentoring matches and also to acknowledge graduates of the programme from the previous year. WBF proposes to organise a

similar function this year, scheduled for September 2010.

In 2009 WBF redrafted its constitution to streamline it and ensure its appropriateness for WBF's position as a section of the Bar Association.

### Practice Development Committee

The Practice Development Committee's meetings have involved discussions of a wide range of topics, which it considers relevant to the development of the practice of the bar as a whole.

#### Issues being examined

The committee is in the process of preparing reports for The Bar Council's consideration in relation to the following topics.

#### Recent changes to the practice of barristers in the UK

The UK Legal Services Board recently issued three decisions changing the Bar Code of Conduct applicable to barristers in England and Wales. A report on the changes and their relevance, if any, to barristers' practice in New South Wales will be finalised later in 2010.

#### A survey of members

The committee made preliminary inquiries regarding a survey of members to determine their attitudes towards, and needs relating to, flexible working arrangements and developments in practice. In the committee's view a survey should be postponed until the committee has acquired a better understanding of the issues affecting the various practice areas at the bar. At each of the committee's meetings new issues have emerged for discussion, which may be appropriate to include in a broader survey.

The committee would benefit from the inclusion of a member with a significant common law practice (preferably a senior junior) as this is one area of practice which has experienced much change over recent times. The committee is seeking the assistance of the Common Law Committee in that regard.

#### Direct access briefs

In the course of its discussions regarding the recent changes in the UK the committee identified direct access briefs as an issue of interest. In the interim, the executive director forwarded the Supreme Court of Queensland's practice direction and requested that the committee look into the feasibility of the courts in NSW introducing a similar direction. The committee is currently seeking the assistance of a criminal law barrister to help analyse the practical ramifications of adopting the Queensland model for direct access work as it currently exists before preparing a report for discussion.

#### Virtual practice

The Bar Council has requested a report on the issue of virtual or web-based practices.

## Arranging & promoting continuing professional development

### The Professional Development Department

The Professional Development Department provides educational and other services to all practising barristers in NSW. The main responsibilities of the department are to:

- Coordinate the bar exams, the Bar Practice Course and the Reading Programme
- Provide continuing professional development (CPD) for members
- Arrange various events and social functions for members

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

a knock-on effect to the number of judges and barristers required to assist with its administration: more than 200 people graciously gave their time to support the course. Of the 60 readers who took part, the average age was 34, and 31 per cent were female. Thirty-five readers took part in the October 2009 course, with the average age slightly higher at 37, and a slightly lower percentage of women taking part (22 per cent). The number of women choosing the bar as a profession continues to grow and both courses had a percentage of women higher than the ratio of the general bar population. As detailed in previous reports, at the conclusion of the BPC all readers return to the Bar Association each month to attend further 'extension sessions' which offer an opportunity to look at new and emerging jurisdictions

*May 2010 saw the biggest Bar Practice Course (BPC) for a number of years, with 60 readers taking part.*

#### Bar exams

For the July 2009 bar examinations 124 candidates submitted a registration form to sit for one or more of the exams. The three examinations are: Practice and Procedure; Evidence; and Ethics. In the end 99 candidates sat the examinations – up (22 per cent) on the number twelve months ago. In February 2010, 122 candidates attempted one or more of the examinations, up from 92 candidates the previous year. A total of 43 members of the Bar Association assisted in the preparation and marking of papers in July 2009 and 45 assisted with the February 2010 examinations.

#### Bar Practice Course

May 2010 saw the biggest Bar Practice Course (BPC) for a number of years, with 60 readers taking part. This had

or revisit existing or common areas of practice for a reader. Furthermore, all readers undertake two advocacy workshops: after three months and nine months. The purpose of the workshops is to develop advocacy skills introduced in the BPC and to reinforce concepts of case analysis, case theory and presenting evidence.

#### National events

In January 2010 the fourth Australian Bar Association Residential Advocacy Course was conducted in Brisbane, building on the successes of previous courses. As in previous years, the New South Wales Bar Association worked closely with the ABA and course directors to facilitate the successful running of the course. The quality of the national and international coaches

### 2009

#### July

Tutors and Readers Dinner  
Bar exams

#### 15 Bobbers

The Hon Justice R Pepper  
His Honour Judge Colefax SC

#### August

Common Law Dinner

#### September

Mediation Workshop  
Career at the Bar Open Day  
Judiciary Drinks  
EOC Film Night  
Bar Council and High Court Dinner

#### 15 Bobbers

The Hon Justice Forster  
The Hon Justice Slattery  
The Hon Justice Davies  
His Honour Judge Bozic SC

#### October

Senior counsel appointments  
Bar Practice Course 2/09  
Pink Ribbon Breakfast

#### November

Under Sixes Cocktail Party  
Lecture by Annabel Crabb  
Appellate Advocacy Series  
Rule of Law Conference  
Administrative Law Section Dinner

#### December

Great Bar Boat Race  
Bar Tennis Day  
Appellate Advocacy Series  
Equal Opportunity Committee  
Christmas Party



The class of May 2010

who provide their time so generously underpins the course. Planning for the fifth course, taking place in January 2011 in Melbourne, is well underway. Anyone who wishes to improve their advocacy skills in court is encouraged to register and attend the course.

### Continuing professional development

In 2009-2010 the department offered three workshops and five regional conferences. The regional conference programme continued to enjoy strong support from all members. Conferences were run throughout February and March in Orange, Newcastle, Parramatta and Ballina. The conference programmes were designed to offer a wide range of topics and speakers that would be of interest to all members.

In addition to these, the third 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 in the design and preparation of the conference. Working in conjunction with other committees, the department plans to offer further specialist conferences in the coming year. The first 'Rule of Law' conference took place in 2009.

Sixty CPD seminars were held in the domestic CPD programme, with seminars covering all four CPD strands. Seven of the seminars comprised the 'Constituting Law: Law's Dependence on Social Values' seminar series, which was held in March – June 2010. The department continued its critical appraisal of the services offered to ensure that the goal of the department – to provide relevant, practical or intellectual content to members to improve their practice – was met.

### Other events and social functions

The department also provided a full calendar of events, with the Bench and Bar Dinner again being the highlight of the year. A wide variety of social functions including 15 Bobbers, the Tutors' and Readers' Dinner, the Great Bar Boat Race and the Under Sixes Cocktail Party were held for members. Also, for the second year running, the department also held a 'Career at the Bar' Open Day, an event to introduce university students to life at the bar. For a full list of events, refer to the Highlights section of the report.

## 2010

### January

ABA Advocacy Training Course  
Bar v Solicitors Golf Day

### February

American Bar Association  
Conference in Sydney  
Bar Association Personal Injury  
Conference  
CPD regional conferences begin  
Bar exams

Indigenous Barristers' Trust  
Mentoring Drinks  
Personal Injury Conference

### March

Sir Maurice Byers Address  
Constituting Law seminar series  
(until June)

### 15 Bobber

The Hon Justice Katzmann

### April

Fifth World Bar Conference

### May

Bench and Bar Dinner  
Bar Practice Course 1/10

### 15 Bobber

The Hon Justice Craig  
Law Week

### June

EOC Film Night  
New Barristers Committee Cross  
Examination Workshop

# Making recommendations and promoting the administration of justice

## Law Reform and Public Affairs

The question of sentencing is always a vexed one. But one has to bear in mind that there is a discretion in the judge. There are particular circumstances, in particular cases, which aren't often publicised in the press, which lead to a particular result.

And what the director has to do is to form a judgment of whether the sentence is, to use the vernacular, outside the range and whether any appeal is likely to be successful. There's no point taking futile appeals.

These were the words of President Tom Bathurst QC earlier this year, defending the independence of Director of Public Prosecutions Nick Cowdery AM QC on Radio 2UE.

Among the specific aims of the Bar 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 Bar Association's public promotion and defence of the essential tenets of our justice system are a crucial part of its activities.

One of the more controversial issues with which the Bar Association became involved during the reporting year concerned the *Mining and Petroleum Legislation Amendment (Land Access) Bill 2010*, which was introduced into the New South Wales Parliament in April 2010.

The Bill purported to overturn a Supreme Court decision which had found that mining exploration licences issued to BHP were invalid. In *Brown & Anor v Coal Mines Australia* Justice Schmidt upheld the right of all relevant



Margaret Alcorn and Les Alcorn with near neighbours, Sharon Rey and Geoff Rey, on the Alcorn's property in Quirindi. They won a court case against BHP which stopped the mining company exploring their property for natural resources. Photo: Renee Nowytarger / Newspix.

landholders to be consulted about access arrangements by the mining company to explore the property.

In a Bar Association media release, Senior Vice-President Bernard Coles QC criticised the moves by the state government to retrospectively overturn the legal rights of farmers which had been upheld by the Supreme Court:

It is one thing for the government to propose changes which could overcome the effects of the judgment in future cases, but it is unacceptable for government to overturn existing legal property rights with the stroke of a legislative pen.

Appeal rights exist to allow parties to protect their interests in the court system. It is fundamentally undemocratic for the government to retrospectively intervene and take sides in private litigation.

The senior vice-president also appeared on Radio National and ABC News Radio to argue the Bar Association's case against the legislation.

After a protracted campaign against the Bill by the Bar Association and civil liberties and farmers' organisations, the government agreed to put the progress of the Bill on hold for a period of further consultation, and then subsequently accepted a number of amendments to the Bill in the Legislative Council.

Over the reporting year, former President Anna Katzmann SC made a number of media appearances to discuss a variety of issues concerning the bar.

Among these was a half hour appearance on the *Law TV* programme on Sky TV Business News for a wide ranging discussion dealing with the

*The Bar Association's public promotion and defence of the essential tenets of our justice system are a crucial part of its activities.*





My learned friend: Barrister John Weaver meets his match in the Barristers in Schools Programme, May 2010. Photo: Murray Harris

need for mentoring at the bar, the challenges faced by women at the bar and the strategies the Bar Association has in place for dealing with depression-related illness in the profession:

We've made it a high priority to address stress and depression at the Bar. For too long I think, we have tried to pretend it wasn't an issue, that barristers were somehow a different class of person from the rest of people working in stressful jobs. So we have ... encouraged people to get early assistance. We have encouraged barristers to assist their colleagues whom they might see to be in difficulty to get that assistance and we have hired a person whose sole responsibility it is, to assist barristers to get the help that they need.

In 2009-10 the Barristers in Schools Programme continued to be successful in raising the profile of the bar. 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.

*[T]he Bar Association will always have an important role to play in presenting an alternative voice based on objective analysis and legal principle.*

The programme was again run in consultation with Department of Education and Training, and sessions were held in suburban and regional schools during Law Week. Once more, the Bar Association received uniformly positive feedback from teachers, students and Department of Education representatives, and one of the regional events received favourable coverage in the *Newcastle Herald*. Margaret Cunneen SC also conducted a lengthy interview about the programme on the 2UE *Legal Matters* show during Law Week. Thanks are due to Cunneen SC, Karen Conte-Mills and John Weaver for presenting the programme during Law Week.

As mentioned earlier, the Bar

Association has a central role in upholding the independence of the criminal justice system and promoting the rule of law. In this context, the Bar Association maintained a high public presence in relation to a number criminal law and legal policy issues which came to prominence during the reporting year. Apart from the media work done by both the immediate past and current presidents in this regard, particular thanks are extended to Stephen Odgers SC and Philip Boulten SC who both assisted with media engagements, often at very short notice.

In addition to the direct media appearance work undertaken by the president and other senior members of the bar, another crucial part of the Bar Association's public affairs activities

involves the briefing of journalists by officeholders and senior staff. Such work is conducted both proactively and in response to media requests, and is an important element in trying to eliminate errors in the coverage of often complex legal issues in the press and electronic media.

In a media environment where essential tenets of our system such as the presumption of innocence and the independence of the judiciary are commonly glossed over, the Bar Association will always have an important role to play in presenting an alternative voice based on objective analysis and legal principle.

# Making recommendations and promoting the administration of justice

## Criminal Law Committee

The Criminal Law Committee has remained active in responding to proposed changes in the area of criminal justice, at both state and federal levels.

The committee drafted the Bar Association's submissions to the Attorney General John Hatzistergos in respect of a number of Bills and legislative amendments as well as to the NSW Law Reform Commission and the NSW Sentencing Council. These include;

- i. the *Crimes (Appeals Review) Act 2001* regarding appeal rights in relation to sentences imposed in the Local Court;
- ii. the *Crimes Amendment (Fraud and Forgery) Bill 2009*;
- iii. judge alone trials under s 132 of the Criminal Procedure Act;
- iv. proposed amendments to the Model Uniform Evidence Bill; and
- v. a submission to the NSW Sentencing Council regarding review of Standard Non-Parole Period Scheme.

Members of the committee also represented the Bar Association at briefings and public hearings.



Stephen Odgers SC represented the Bar Association at a briefing with the shadow attorney general and cross-benchers regarding the *Crimes (Sentencing Legislation) Amendment (Intensive Correction Orders) Bill 2010*. Additionally, Warwick Hunt appeared on behalf of the Bar Association at the NSW Legislative Council Standing Committee on Law and Justice public hearing to discuss the issues surrounding spent convictions for juvenile offenders convicted of minor sexual offences.

The committee also assists the Law Council of Australia, particularly with a submission to the Australian Law Reform Commission inquiry into family violence.

The committee has also been actively involved in the planning of the NSW Criminal Justice Reform Conference, to be held at the Bar Association on 10 September 2010. The object of the conference will be to develop possible reforms to substantive law and criminal procedure in New South Wales.

## Human Rights Committee

The Human Rights Committee has in 2009–2010 been focussed upon legislation, proposed legislation and inquiries, which have a potential impact upon human rights. The committee has also been involved in events involving human rights issues, both within and without the Bar Association. The following are some of the major issues pursued by the committee in the course of the year.

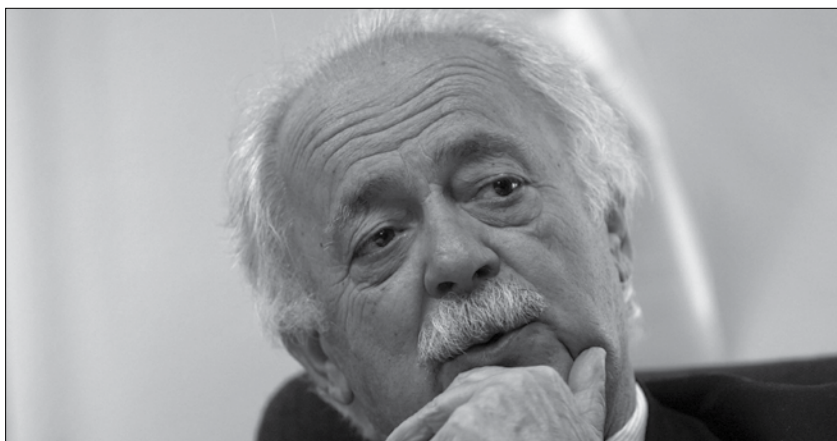
### Consultation with the bar

This year the committee has encouraged members of the Bar Association to come forward with issues that may be of relevance to the committee. On 24 March the committee issued a notice in the daily news bulletin, *In Brief*, inviting members to contact the committee, if they are working on, or are aware of, cases or legislation that raise important human rights issues.

The committee prepared a detailed submission to the NSW Department of Health in April 2010, which raised important issues involving the interaction between public health policy and privacy, anti-discrimination and other human rights-related concerns arising from draft amendments contained in the Public Health Bill Consultation Paper.

Members of the committee contributed substantially to the Law Council's May 2010 submission to the Senate inquiry concerning the future operation of the Senate Scrutiny of Bills Committee.

The committee drafted correspondence for the president to Attorney-General Robert McClelland, supporting the Administrative Review Council's role and seeking the attorney's assurance that its activities were not in jeopardy. The attorney subsequently responded indicating his continuing support for the role of the ARC and announcing the



George Bizos: Photo: Alexander Joe /Getty Images

appointment of a new president.

The committee has also been monitoring progress on current human rights issues, such as:

- A federal bill or charter of rights
- The human rights implications of the *Zhang* Case
- The Northern Territory intervention and the application of the *Racial Discrimination Act 1975*

The committee prepared a detailed submission to the NSW Parliament's Legislation Review Committee in response to its Discussion Paper on Public Interest and the Rule of Law. It was considered by Bar Council and forwarded to the parliamentary committee.

A submission is being prepared in response to the White Paper on Counter Terrorism and it is expected to be

*Members of the committee contributed substantially to the Law Council's May 2010 submission to the Senate inquiry concerning the future operation of the Senate Scrutiny of Bills Committee.*

### Address by George Bizos

The committee was involved in the breakfast talk by renowned South African human rights lawyer George Bizos SC, held on Monday, 8 March 2010 in the Bar Association Common Room. The session was hosted by the committee's chair and was very well attended. The New South Wales Attorney General John Hatzistergos introduced Mr Bizos.

finalised by the committee soon.

Sarah Pritchard, a member of the committee, chaired an evening seminar on Indigenous people's land rights and the Chittagong Hill Tracts, on 28 June presented by Raja Devasish Roy, King of the Chakmas. The seminar was held jointly by the committee and the Diplomacy Training Program at the University of New South Wales.

## Making recommendations and promoting the administration of justice

Alternative Dispute Resolution Committee



Attorney General Hatzistergos at the opening of the Australian International Disputes Centre in Sydney.

### Overview

Alternative Dispute Resolution continued as an emerging and expanding practice area during the 2009–10 period. ADR has been at the forefront of access to justice initiatives and inquiries at both state and commonwealth level during the past twelve months and the ADR Committee has made a number of submissions to both governments in relation to ADR-related issues papers and proposed legislation. Angela Bowne SC continued to chair the ADR Committee, which has worked hard to deal with the government inquiries and legislation as well ensuring that barristers had many opportunities to become better informed about and equipped to deal with ADR through the provision of CPD seminars, an all day advanced workshop, various accreditation processes and the dissemination of important legislative and policy information.

### Advanced Mediation Workshop

The NSW Bar Association's all day Advanced Mediation Workshop was held in September in the association's Common Room. Following on from the sold out workshop in 2008, the 2009 workshop featured prominent UK mediator David Richbell as keynote

speaker. Mr Richbell is one of the UK's most experienced and highly regarded mediators and the founder of the UK based organisation, MATA (Mediation and Training Alternatives). Joanna Kalowski and Alan Limbury, also very experienced mediators, spoke at the workshop. The workshop was well attended by 75 participants who earned seven points towards both the bar's CPD points and mediator points. Feedback from the workshop was very positive and the 2010 workshop will be broadened to cover all aspects of ADR.

### Educating barristers about ADR

In addition to the all-day workshop, the committee presented a number of seminars throughout the year. In August 2009, a seminar entitled 'Effective and Ethical Settlement Negotiations' was held. This seminar discussed ways in which barristers can conduct effective settlement negotiations, without losing sight of their ethical obligations. The seminar examined the issue of

ethical behaviour in the context of negotiations and the dire consequences for both lawyers and their clients of misrepresentations made in the course of negotiations. The presenter was Campbell Bridge SC, who practises extensively as a mediator and in a wide range of first instance and appellate litigation.

In November, the committee hosted a very popular Mediator Masterclass presented by Sir Laurence Street AC KCMG KStJ. Sir Laurence gave tips and techniques from an experts perspective in an in-depth question and answer session. Also in November, the committee held a CPD entitled 'The Duty of Good Faith – Is Honesty Enough?' Presented by John West QC and Campbell Bridge SC, the seminar examined the complexities and practical application of the doctrine of good faith. In March 2010, Robert Angyal SC addressed the important issue of advocacy in mediations. In June, two expert determination workshops were conducted by Robert Hunt, Stephen Goldstein, Mary Walker, Sam Reuben, Maria Gerace, Ian Bailey SC, Angela Bowne SC and Malcolm Gracie (see further under Dispute Resolution Service).

Following a joint announcement on 3 March 2010 by the Commonwealth and NSW attorneys general of the establishment of the Australian International Disputes Centre, the ADR Committee hosted a CPD seminar in June entitled 'International Commercial Arbitration – What the Bar Needs to Know'. Presented by the Hon Justice

*ADR has been at the forefront of access to justice initiatives and inquiries at both state and commonwealth level during the past twelve months...*



J L B Allsop, president of the Court of Appeal, Malcolm Holmes QC and Alex Baykitch, Hollman Fenwick Willan, the seminar was an opportunity for members to hear how the Sydney Bar can increase its expertise and role in international commercial arbitrations.

### Dispute Resolution Service

In February 1999, the former Barristers' Resolution Service was launched by the then president of the Bar Association, Ian Barker QC to provide greater access to practitioners accredited by the Bar Association to act as arbitrators, experts, referees, appraisers, evaluators and mediators. A kit of documents was developed and published by the Bar Association containing a brochure promoting the service and short form agreements for use in arbitrations, references, evaluations and mediations in the private arena, which were to be amended to suit the specific needs of the parties in each case.

The service has not operated for some years and the ADR Committee formed the view that, in the light of the increasing emphasis on ADR by the New South Wales and Australian governments and the courts and also in light of the needs of the public, a new dispute resolution service should be provided by the bar to assist in this area. The committee sought approval earlier this year to set up a new dispute resolution service, initially covering mediation, expert determination and arbitration. Further types of ADR may be included at a later stage. President Tom Bathurst QC approved this proposal in May 2010, with the service to be launched later in the year.

To this end, the ADR Committee scheduled the Expert Determination workshops referred to above. A



series of Arbitration workshops have been organised by the committee, in particular, Ian Bailey SC and Peter Callaghan SC, in July through September 2010 with the purpose of equipping applicants seeking approval as expert determiners and/or arbitrators with up-to-date knowledge and the required skill set in their chosen field.

*The committee sought approval earlier this year to set up a new dispute resolution service, initially covering mediation, expert determination and arbitration...President Tom Bathurst QC approved this proposal in May 2010, with the service to be launched later in the year.*

Applications for approval as expert determiners were due in early August 2010 and for approval as arbitrators in early October 2010. Mediators who are accredited by the Bar Association under the National Standards will be eligible for inclusion in the list of approved mediators.

The committee proposes that a kit of documents be available at the premises of both the Bar Association and the New South Wales Bar Dispute Resolution Centre and any other appropriate

venues. The documents will also be available on the websites of the association and the Dispute Resolution Centre, with links to lists of accredited mediators, approved expert determiners and approved arbitrators.

The proposed service will complement the New South Wales Bar Dispute Resolution Centre launched in

December 2008. The service will be offered both independently of and in conjunction with the centre.

### Barristers as accredited mediators

As a Recognised Mediator Accreditation Body (RMAB) under the National Mediator Standards, the Bar Association is able to accredit barristers as new mediators or experienced qualified mediators under the standards. The first accreditation intake was in October

2008. It was decided that year that applications for inclusion on the bar's Supreme Court and District Court mediation panels (which are selected in alternate years) would be called for at the same time and that the names accredited mediators only would be put forward to the courts.

In August 2009, the Bar Association called for applications for barristers wishing to be accredited under the National Standards and/or to be selected for the Supreme Court mediation panel. The committee, in particular Malcolm Gracie and Richard Bell, and Project Officer Jo Wilton undertook the task of ensuring that the three necessary application forms and information sheets were available and initial vetting of applications. In addition to the 67 mediators accredited in the first year of the new standards in 2008, a total of 17 'new' and eight 'experience qualified' mediators were accredited by Bar Council in October 2009, making a total of 92. Mediators accredited in 2008 will need to apply for re-accreditation in 2010, and these applications will be called for in August 2010 together with new applications for accreditation. Eighty-one barristers were included on the Bar Association's Supreme Court list of mediators.

Once the Bar Association has 100 accredited mediators, it is entitled to a second representative on the National Mediator Standards Board. This is likely to be the case after the October 2010 accreditations.

The Bar Association is concerned to ensure that its accredited mediators and those seeking accreditation as experienced qualified mediators

have access to ongoing education about all aspects of ADR. Accredited mediators are required to gain 20 continuing education points over the two year period of their accreditation. To assist barristers towards achieving these points, the ADR Committee has endeavoured to ensure that a number of its CPD seminars and workshops each year and, in particular, its annual all day workshop fall within the National Standards' criteria for continuing education points. In addition, the committee has continued its mentoring scheme for mediators and barristers interested in mediation issues, participation in which can also accrue mediator continuing education points.

#### **NSW Bar Dispute Resolution Centre**

Following its opening in December 2008, the NSW Bar Dispute Resolution Centre operated successfully throughout 2009–10, with the day to day running of the centre carried out by Counsel's Chambers Limited. The ADR Committee continued to promote the use of the centre through regular *In Brief* articles, broadcast e-mails to accredited mediators, verbal reminders at CPD seminars and workshops, and through the placement of a direct link to the centre on the ADR page of the association's website.

*[T]he ADR Committee has endeavoured to ensure that a number of its CPD seminars and workshops each year and, in particular, its annual all day workshop fall within the National Standards' criteria for continuing education points.*

#### **NADRAC Inquiry into ADR and the Civil Justice System**

Following a number of submissions by the Bar Association and others in relation to the NADRAC inquiry, the chair of the ADR Committee attended Parliament House in Canberra in September 2009 for the release of the NADRAC report to the attorney-general *The Resolve to Resolve – Embracing ADR to Improve Access to Justice in the Federal Jurisdiction*.

The report dealt with a number of issues relating to barristers' work and recommended a legislative obligation for practitioners to advise parties about ADR options similar to Rule 17A of the *New South Wales Barristers' Rules*. The report did not support mandatory ADR or sitting judges acting as mediators.

As a result of the report, further consultations to NADRAC stakeholders and representatives continued in early 2010. One such consultation, 'Integrity of ADR Processes' saw a submission made by the ADR Committee in March. In early June 2010, the Commonwealth attorney-general introduced into parliament the Civil Dispute Resolution Bill which, if passed, will implement a number of the key recommendations in the NADRAC report in relation to civil litigation in the Federal Court and the Federal Magistrates Court.

### NSW ADR Blueprint

In May 2009, the New South Wales Attorney General's Department (now Department of Justice and Attorney General) published an ADR Blueprint Discussion Paper. The Bar Association, through the ADR Committee made a number of submissions in relation to various topics covered in the discussion paper. In late 2009, the department released a number of ADR Blueprint Draft Recommendations including Report 1: Pre-action Protocols and Standards, in response to which the ADR Committee prepared a submission. Further draft recommendations for comment are expected to be received over the next 12 months.

### Mediation and LARS

Accredited mediators continued to be

involved in the Legal Assistance Referral Service ('LARS') program during 2009–10. The ADR Committee promotes the LARS pro bono assistance program to the Bar Association's accredited mediators. As at 30 June 2010, 43 mediators were registered with LARS and a number of mediations had been conducted through the service.

### Website sub-committee

The Website Sub-committee, headed by Maeve McCarthy and Maria Gerace, is working towards improving access to information about ADR to members of the public, solicitors and barristers on the ADR area of the Bar Association's website which located at [www.nswbar.asn.au/docs/professional/adr/adr\\_index.php](http://www.nswbar.asn.au/docs/professional/adr/adr_index.php). Proposed enhancements include emphasising the Bar Dispute Resolution

Centre's availability to the public and the provision of useful links and other ADR resources for barristers including standard form mediation, arbitration and expert determination agreements in order to facilitate the participation of barristers in these forms of ADR, and updating information about the ADR capabilities of barristers which is easily accessible by solicitors and members of the public; providing more detailed ADR information for the public.

The sub-committee's work is to be completed in stages in consultation with the committee's project officer and the Bar Association's website manager.

The committee is administered by Project Officer Jo Wilton, whose assistance is invaluable.

### Legal Aid Committee

In 2009-10 the Legal Aid Committee focussed its attention on:

- i. the Trial Efficiency Working Group's implementation strategy, insofar as it relates to case management strategies and forming panels of barristers for appeals and complex trials
- ii. the Legal Aid Commission's case management and billing system; and
- iii. continuing discussion with the Legal Aid Commission about support for direct access matters, as well as fees for barristers, particularly those undertaking care and protection and criminal matters.

The committee acknowledges the spirit of co-operation demonstrated by Legal Aid NSW. In early 2010 President Tom Bathurst QC wrote to the Legal Aid Commission regarding a review of - and increase in - fees for legal aid matters, particularly in serious criminal matters in the District and Supreme courts. This issue has a long story. Legal Aid did receive a significant increase in funding in the federal budget. But, effectively, there has not been a fee increase since 2007. Correspondence is ongoing and a meeting will be held with the CEO of the Legal Aid Commission, Alan Kirkland, to discuss an actuarial inquiry into fees. The committee has also made representations to the commission in

respect of fees in care and protection matters.

By the end of the reporting year, the committee was responding to a proposed specialist panel of barristers for complex trials. There are difficult issues to do with the nature of the panel, the selection criteria and remuneration for its members. The Bar Association has declined a role in directly supervising the panel, but is discussing a number of options with the Legal Aid Commission.

## Making recommendations and promoting the administration of justice

### The Family Law Committee

Photo: Angela Wylie / Fairfaxphotos



This year marks the 10<sup>th</sup> anniversary of the establishment of the Federal Magistrates Court, which grew both in size and jurisdiction and came to determine a significant proportion of the less-complicated family law cases. Although separate from the Family Court, it exercised a significant parallel jurisdiction. From the outset it was obvious that such duplication would create unnecessary barriers and impose additional costs.

The 10<sup>th</sup> anniversary also coincided with the Australian Government's proposals for the most significant structural reform of the courts and their services since the *Family Law Act 1975* was passed. The *Access to Justice (Family Court Restructure and Other Measures) Bill 2010* is the proposed vehicle for this reform. It reflects to a significant degree the report *Future Governance Options for Federal Family Law Courts in Australia – Striking the Right Balance*.

The committee is confident that family law practitioners will benefit from the court merger. Essentially, the family law jurisdiction of the Federal Magistrates court will disappear, but for a limited opportunity for the Family Court to refer a particular matter to it. Assuming the Bill becomes law, the Family Court of Australia shall become the single court dealing with all family

law matters. It will be comprised of the Appellate and Superior Division and the General Division.

The General Division will hear the majority of first instance family law cases, including those where the court has jurisdiction in respect of child support matters. It is proposed that existing federal magistrates who hear family law matters will be offered appointments as judges of the General Division. They will be appointed according to the present terms and conditions for federal magistrates.

The Appellate and Superior Division will hear complex first instance cases as well as appeals. All existing judges of the Family Court will be appointed as judges of that Division and the current Appeal Division members will be appointed as appellate judges in the Appellate and Superior Division.

The restructured court will have a chief justice and a deputy chief justice. There will be appointed an administrative judge in the Appellate and Superior Division and an administrative judge in the General Division, who will assist the chief justice in the management of the business of the court in those divisions. Whilst the Family Court will continue to be a superior court of record the judges of the General Division will not

be considered as judges of a superior court.

The Federal Magistrates Court will retain jurisdiction to hear federal law matters and will be administered by the Federal Court.

In recent years the judges' ranks in the Family Court were depleted because retirees often were not replaced. In late June the Sydney and Parramatta benches were complemented by the elevation of the last two remaining judicial registrars in the Family Court, Bill Johnston and Ian Loughnan. Further, Judge Ainslie-Wallace (of the District Court), was appointed a judge of the Family Court and judge of the Appeal Division. Ms Margaret Cleary is the further appointment. Each is to be congratulated, as is Attorney General Robert McClelland for providing this much-needed support for the court.

During the course of this year the Family Law Committee has:

- Made submissions regarding fees
- Provided submissions on a code of ethical conduct for case workers in care proceedings in the Children's Court
- Provided delegates to serve on the New South Wales Legal Aid Review Committee and the Care and Protection Panel Selection Committee

The committee has participated in: consultations in the Family Court relating to listing procedures and case management; a review of the Family Violence Consolidation Paper released by the Australian and New South Wales law reform commissions; and has hosted CPD advocacy events with the generous assistance of justices Rose, Collier, Johnston and Loughnan, the Hon John Ellis AM and Chester Porter QC.



## The Common Law Committee

Over the last few years the Common Law Committee has focused upon discrete, incremental reforms to personal injury laws, which would make a realistic difference for injured people. Ross Letherbarrow SC continued as chair of the committee and a number of new members were brought in to augment its work.

### Formal submissions

#### Workers compensation

A number of submissions prepared to the minister for finance concerning aspects of NSW Workers Compensation system including:

- i. the position of the dependants of deceased workers under the *Law Reform (Miscellaneous Provisions) Act 1965*
- ii. amending the definition of 'retirement age' in workers compensation matters
- iii. the need for amendment to the *Workers Compensation Regulation 2003* in the light of the judgment of the Court of Appeal in *Pacific Steel Constructions Pty Limited v Barahona (No 2)* [2010] NSWCA 9; and
- iv. further submissions to the minister were also prepared on the implications of the Court of Appeal decisions in the motor accidents matters *Zotti v Australian Associated Motor Insurers Limited* (2009) NSWCA 323 and *Doumit v Jabbs Excavations Pty Limited* [2009] NSWCA 360.

#### Motor accidents

The committee made an initial submission to the Motor Accidents Authority on Working Party Review of Legal Costs in Motor Accidents Matters.

A submission was made to the Motor



Accidents Authority on the implications of the judgment in *Gudelj v Motor Accidents Authority of NSW* [2010] NSWSC 436 for late motor accidents claims in the CARS system.

The committee also prepared a submission to the Standing Committee On Law & Justice Tenth Review Of The Exercise Of The Functions Of The Motor Accidents Authority And Motor Accidents Council and Andrew Stone and the acting executive director appeared before the committee to give evidence. As in previous years, a major focus of the submission was the high level of insurer profits which are being made under the motor accidents scheme. This year the committee showed particular interest in this issue, although it remains to be seen how the matter will be addressed in the committee's final report later this year.

### Other significant issues

Committee members have also dealt with the following significant issues in the course of 2010:

- i. inequities in costs penalties where an offer of compromise has been made;
- ii. draft *Workers Compensation Amendment Bill 2009 and Workers Compensation Amendment (Commission Members) Bill 2010*;

- iii. developing and presenting the programme for the Bar Association's Personal Injury Conference in February 2010;
- iv. providing input into the Law Council of Australia's position in relation to the Australian Government's current consultation process involving a possible National Disability Scheme; and
- v. organising a dinner for the Common Law Bar which was held in August 2009 to coincide with the anniversary of *Donoghue v Stevenson*. The event was extremely successful in promoting collegiality at the Common Law Bar, and another dinner will be held later in 2010.

### Thanks

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.



## Promoting access to justice

### Legal Assistance Referral Scheme (LARS)



As in previous years, the Bar Association's staff received in the order of 500-600 enquiries about legal assistance and related matters. Many enquiries were made by persons visiting the Bar Association's offices unannounced. All legal assistance enquiries were addressed to be the best of our ability.

For the 2009–2010 financial year, 253 formal applications for assistance were received and processed. This is a drop of approximately nine per cent for the same period last year. Of these applications, 122 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 1300 hours through the scheme, with 39 matters still in the court system. An additional approximately 2,000 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 34,000 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:

- i. no fee matters comprised the largest category of those matters handled on a continuing basis;
- ii. just over 60 per cent of matters referred to barristers were considered to have legal merit/prospects of success;
- iii. 77.5 per cent of the applications to the scheme were refused Legal Aid as being outside the commission's guidelines;
- iv. the number of matters received in the Equity Division increased 100 per cent, but the overall number of Supreme Court applications remained about the same;
- v. the number of matters received in child care and protection in the District Court of New South Wales increased by 100 per cent;
- vi. the number of matters received in the Childrens' Court increased by 100 per cent;

- vii. a 100 per cent increase in matters received in the Administrative Appeals Tribunal but a slight drop in the overall number of matters received in Commonwealth and state tribunals;
- viii. a 73 per cent increase in the number of matters received from community legal centres;
- ix. a 100 per cent increase in the number of referrals received from the eastern metropolitan area;
- x. a 60 per cent decrease in the number of referrals received across the board in the Federal Court and Federal Magistrates Court, the biggest drop being in immigration matters in the Federal Court (21.5 per cent);
- xi. a 60 per cent decrease in the number of matters received in the Common Law Division of the Supreme Court; and
- xii. a 35 per cent decrease in the number of matters received from the Villawood Detention Centre.

#### Changes to the scheme's guidelines

In May this year a plain English version of the guidelines was introduced. As part of this change, mediation was also included to cover those matters which had been referred specifically for that reason, or which, in the view of the manager of the scheme, lent themselves to a mediation-based outcome.

To date, four matters have been referred to mediation.

#### Volunteers encouraged

In 2009–2010, the executive director and the manager of the scheme spoke to readers about the scheme at the

bi-annual Bar Practice courses, 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 Bar Association's website under 'Find a Barrister', which was visited 347,817 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 schemes**

The manager and staff of LARS manage 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)**

The pilot project was the recipient of the runner-up award in the partnership category at the Law and Justice Foundation's Pro Bono Awards Night held in October 2009.

There have been ongoing referrals throughout the year with an increasing

## **Case studies**

A young British backpacker approached the scheme for assistance in relation to a charge he was facing of resist police/hinder police/incite another to assault/resist/hinder police. After finishing work as a DJ late in the evening he was walking along a main street in the CBD when he came across two men having, he thought, a harmless push and shove. Police intervened and, in the young man's view, were using excessive force on the two men in the course of their arrest. He verbally tried to calm the situation but was physically injured and handcuffed by police and placed under arrest himself. As there were three co-accused being represented

by the ALS, the hearing took many months to come before the court. A barrister represented the young man through the process and at the hearing was successful in obtaining a section 10 from the magistrate.

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The pro bono solicitor of the Law Society referred an elderly gentleman to the scheme for assistance in relation to a matter where his Housing Commission flat had been extensively damaged by a blockage in sewage pipes, which flooded. He alleged that the department's negligence caused the overflow of sewage into his flat. He also alleged that as a result of the

flooding, the Department of Housing organised the removal of items in his flat that were subsequently damaged and lost. He was not at home at the time of the incident and as he could not be located the department arranged for the removal of the client's possessions in order to clean up the flat and to prevent further damage. The client alleged the contractors used to remove the items from his flat were unqualified which subsequently resulted in the further damage and loss to his possessions. The matter was referred for arbitration at Gosford Local Court and it was ultimately determined unfavourably to the client  
(Continued next page.)

## Promoting access to justice

### Legal Assistance Referral Scheme (LARS)

number of matters being heard outside the parameters of the original pilot project. We have supplied the statistics of our involvement in the pilot project to Women's Legal Service who will use them as part of their submissions to government with a view to obtaining specific public funds for legal representation of complainants and to determine if legislative changes need to be made.

#### 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 Pro Bono Solicitor and a solicitor from PILCH, the manager of the scheme on two occasions this year met with customer service officers at LawAccess 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 Bar 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 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 Prisoner's 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.

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. Reception staff of the Bar Association also have to deal with the applicants who attend unannounced. There have been several unpleasant scenes where senior staff or security have had to intervene. Staff have received 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.

#### Conclusion

The pro bono landscape has changed significantly since the inception of the scheme in 1994. There are now more organisations, including courts, offering assistance. LARS is a scheme which operates at the coalface of offering legal services to necessitous people requiring legal help. We feel that the scheme embodies and reflects the strongly held view of the profession that a person's rights and access to justice should not be diminished because of impecuniosity.

The general increase in the numbers of unrepresented litigants, due in the main to the lack of Legal Aid funding, has contributed significantly to the workload (and stress) of LARS and other Bar Association staff who manage walk-in applicants.

#### Case studies (cont'd)

with an adverse costs order. The client then applied himself for a re-hearing of the arbitration before the court, which was set down for hearing in early 2010. A barrister was asked to advise on the prospects of success on the rehearing of the arbitration. He came to the view that it was necessary for the local council, the relevant government instrumentality

responsible for the sewerage system, to be joined as a co-defendant to the proceedings. He travelled to Gosford to appear. The court acceded to the submission, vacated the rehearing of the arbitration and granted the client leave to file an amended statement of claim joining the council as a party to the proceedings. The matter continues before the court.

## Promoting access to justice

### Legal Assistance Referral Scheme statistics

	2008-09	2009-10
<b>High Court</b>		
Application for special leave	5	5
Original jurisdiction	2	1
<b>Total</b>	<b>7</b>	<b>6</b>

<b>Federal Court</b>		
Full bench appeals	2	1
Immigration	14	3
Administrative	1	4
Discrimination	-	1
Intellectual property	-	-
Trade practices	1	2
Native title	2	1
Bankruptcy	3	-
<b>Total</b>	<b>23</b>	<b>12</b>

<b>Federal Magistrates Service</b>		
Discrimination	2	1
Family law - access	8	5
Family law - child support	-	3
Family law - residency	5	3
Family law - property settlement	1	2
Immigration	6	4
Bankruptcy	3	-
<b>Total</b>	<b>25</b>	<b>18</b>

<b>Supreme Court</b>		
Court of Appeal	9	10
Court of Criminal Appeal	6	8
Common Law	33	20
Administrative	3	4
Equity	17	31
Criminal	1	2
Corporations List	-	-
Commercial	1	-
Family Provisions	4	4
Defamation	5	-
Professional Negligence	1	2
<b>Total</b>	<b>80</b>	<b>81</b>

<b>Land and Environment Court</b>	7	2
<b>Australian Industrial Rels. Comm.</b>	-	-
<b>NSW Industrial Rels. Comm.</b>	6	6

	2008-09	2009-10
<b>Family Court of Australia</b>		
Full bench appeals	-	-
Access	7	5
Residency	6	6
Child support	2	2
Spousal maintenance	-	-
Property settlement	-	3
Costs hearing	-	-
<b>Total</b>	<b>15</b>	<b>16</b>

<b>District Court</b>		
Criminal	18	15
Civil	25	19
Care proceedings	2	5
Defamation	1	4
Victims' compensation	-	-
Professional negligence	-	1
<b>Total</b>	<b>46</b>	<b>44</b>

<b>Local Court</b>		
Criminal	23	21
Civil	13	13
<b>Total</b>	<b>36</b>	<b>34</b>

<b>Children's Court</b>	<b>2</b>	<b>4</b>
<b>Coroner's Court</b>	<b>8</b>	<b>5</b>

<b>Tribunals</b>		
Administrative Appeals Tribunal	4	9
Administrative Decisions Tribunal	14	10
Consumer Trader Tenancy Tribunal	3	5
Guardianship Tribunal	2	-
Nurses & Midwife Tribunal	1	-
Refugee Review Tribunal	1	-
Victims Compensation Tribunal	1	-
Anti-Discrimination Board	2	1
<b>Total</b>	<b>28</b>	<b>25</b>

# Promoting access to justice

## Legal Assistance Referral Scheme statistics

	2008-09	2009-10
<b>Referral source</b>		
Community legal centre	30	41
Instructing solicitor	35	39
Law Society	28	31
Member of the public	60	40
Legal Aid	23	23
LawAccess	32	25
Judge / magistrate / registrar	30	30
Member of the bar	20	9
Member of parliament	5	2
PILCH	9	1
Pro bono director of a large firm	10	10
DPP	1	-
Welfare / community group	-	1
Attorney General's Department	5	1
Web site hits	14900	14355

<b>Client location</b>		
Sydney Metropolitan Area		
West	73	61
North	66	53
South	37	34
East	7	15
Inner City	27	19
Central Coast	9	15
Country	28	22
Prison	12	15
Villawood Detention Centre	14	5
Interstate	10	14
<b>Total</b>	<b>283</b>	<b>253</b>

<b>Types of work done</b>		
Merit assessment	130	122
Advice (over and above initial merit assessment)	101	81
Conferences	57	45
Appearances	35	26
Matters settled	12	7
Appearances at hearing	41	32
Other (inc. second opinion & preparation of submission)	31	25

	2008-09	2009-10
<b>Rejection / No action</b>		
Outside guidelines	85	61
No further information received / no further contact from applicant	42	38
No longer requires LARS assistance	-	8
Subject to Federal Court RRT LAS	8	1
Subject to Fed. Ct Pro Bono Scheme	-	1
Referred to community legal centre	-	1
Briefed barrister to appear privately	3	3
Briefed solicitor to appear privately	4	2
Matter discontinued	2	2
Unable to refer - insufficient resources	2	1
Too late notification	4	9
Matter settled	3	3
Conflict of interest	-	1
<b>Total</b>	<b>153</b>	<b>131</b>

<b>Turnaround</b>		
Same day	24	20
Less than a week	18	19
1-2 weeks	33	29
2 weeks plus	55	54
<b>Total</b>	<b>130</b>	<b>122</b>

<b>Basis brief accepted</b>		
No fee - merit assessment	130	122
No fee - continuing involvement	99	79
Reduced fee - continuing involvement	17	25
Speculative / costs recovery - continuing involvement	13	16
Market rates - continuing involvement	1	2

<b>Refused legal aid on basis of</b>		
Merit	30	30
Financial	30	27
Outside guidelines	223	196

<b>Matters considered by a barrister to have legal merit / prospects of success</b>		
Yes	76	76
No	54	46



## Questions as to professional conduct

### The Professional Conduct Department

The role of the Professional Conduct Department is to:

- i. facilitate the investigation of complaints against barristers, show cause events, and other disclosures;
- ii. provide advice and policy support to the Bar Council in respect of the council's functions under the legal profession legislation;
- iii. facilitate the provision of ethical guidance to barristers;
- iv. respond to queries from solicitors and members of the public regarding regulatory provisions and the conduct of barristers; and
- v. assist the Bar Council in connection with reports submitted to the Legal Profession Admission Board.

#### Complaints

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

In 2009–2010 the Bar Council received 60 new complaints for investigation – 57 complaints were referred by the legal services commissioner and three complaints were made by the Bar Council. The largest source of complaints was the client or former client of the barrister.

The Bar Council has established 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.

In the course of 2009–2010 the Bar Council investigated 118 complaints – 60 complaints that were made during the year and 58 complaints made in previous years but ongoing as at 1 July 2009. Of those investigations, 68 were finalised during the year – 50 complaints were dismissed, three resulted in the barrister being reprimanded, five barristers were cautioned. Proceedings were commenced in the Administrative Decisions Tribunal in respect of seven complaints. One matter was out of time, one was returned to the legal services commissioner for investigation and another was a consumer dispute that was resolved without formal mediation.

In 2009–2010 the legal services commissioner completed reviews of 17 Bar Council decisions to dismiss a complaint (nine of those decisions were made in the year 2008–2009). In each matter the commissioner confirmed the council 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. The Bar Council is required to investigate show cause events and determine whether the barrister or applicant is a fit and proper person to hold a barrister's practising certificate. In 2009–2010 two barristers and two applicants for a barrister's practising certificate notified show cause events related to bankruptcy matters and three barristers notified convictions for tax offences. No barrister notified the Bar Council of a

conviction for a serious offence.

#### Professional conduct committees

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.

Community representation on the committees is vital to the proper functioning of the complaints handling process. The Bar Council would like to thank Judith Butlin whose appointment expired in late 2009, for her significant contribution 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, Rosemary Allsopp, Pam Clay, John Davison, Sandra Fleischmann OAM, Geoff Geraghty AM, Simon Hayes, Anthony Pang, Bill Purdue, Patrick Smith and Rachel Williams. The Bar Association appointed one new community member to fill a vacancy on the committees in January 2009 and is pleased to welcome Brian Gold and thank him for his contribution.

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

The Bar Council wishes to express its sincere appreciation to all the barrister members of the PCCs. 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 professional standards and maintaining public confidence in the profession.

## Professional conduct statistics

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	6
Acting without instructions	1
Breach of Barristers' Rule	12
Incompetence	3
Misleading conduct	8
Other unethical conduct	6
Overcharging/overservicing	2
Personal conduct	2
Failure to account	2
Rudeness/discourtesy	3
Unsatisfactory advice/representation	12
Other	3
<b>Total number of complaints</b>	<b>60</b>

### Source of complaints made to the Bar Council during the year

Complainant	Number
Bar Council	3
Barrister	4
Client/former client	31
Instructing solicitor	2
Opposing party	16
Opposing solicitor	3
Other	1
<b>Total number of complaints</b>	<b>60</b>

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

Nil

## Professional conduct statistics

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	6	4
Acting without instructions	1	1
Breach of Barristers' Rule	12	8
Conflict of interest	-	4
Incompetence	3	12
Misleading conduct	8	7
Other unethical conduct	6	5
Overcharging/overservicing	2	1
Personal conduct	2	-
Failure to account	2	2
Rudeness/discourtesy	3	1
Unlawful conduct	-	3
Unsatisfactory advice/representation	12	8
Other	3	2
<b>Sub-totals:</b>	<b>60</b>	<b>58</b>
<b>Total number of complaints investigated:</b>		<b>118</b>

## Professional conduct statistics

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	2	4
Acting without instructions	1	1
Breach of Barristers' Rule	2	3
Conflict of interest	0	3
Incompetence	2	7
Misleading conduct	5	3
Other unethical conduct	0	2
Overcharging/overservicing	0	1
Practising without a practising certificate	0	1
Rudeness/discourtesy	2	0
Unlawful conduct	0	2
Unsatisfactory advice/representation	3	5
Failure to account	0	1
<b>Sub-totals</b>	<b>17</b>	<b>33</b>
<b>Total number of complaints dismissed:</b>		<b>50</b>

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
Breach of Barristers' Rule	1	2
Incompetence	0	1
Other unethical conduct	0	2
Unsatisfactory advice/representation	0	2
<b>Sub-totals</b>	<b>1</b>	<b>7</b>
<b>Total number of reprimands or cautions:</b>		<b>8</b>

## Professional conduct statistics

### Number and type of complaints withdrawn during the year

Nil

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 Barristers' Rule	0	1
Incompetence	0	3
Misleading conduct	0	1
Unlawful conduct	0	1
Failure to account	0	1
Sub-totals	0	7
<b>Total number of complaints referred to ADT:</b>		<b>7</b>

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
Breach Barristers’ Rule	1
Incompetence	3
Misleading conduct	1
Unlawful conduct	1
Failure to account	1
<b>Total number of proceedings instituted in the ADT:</b>	<b>7</b>

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

### 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 four persons who held or had held a barrister's practising certificate were finalised in 2009/2010. The tribunal made orders that:

- The name of one lawyer was removed from the Roll of Local Lawyers
- Two barristers be reprimanded
- One Bar Council reprimand be set aside
- One fine of \$5000 be imposed
- One barrister undergo further legal training
- Conditions be attached to one practising certificate

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

50

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
Up to six months	24
Between seven & twelve months	17
Between thirteen & eighteen months	3
Between nineteen & twenty four months	2
Up to three years	4
<b>Total</b>	<b>50</b>

## Professional conduct statistics

### 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	17
Between seven & twelve months	25
Between thirteen & eighteen months	7
Between nineteen & twenty four months	7
Up to three years	7
Up to four years	2
<b>Total</b>	<b>65*</b>

\* In addition, three complaints were otherwise concluded - one was out of time, one was referred to the legal services commissioner for investigation and one was a consumer dispute that was resolved.

### Other proceedings

In July 2009 the Court of Appeal, in proceedings commenced by the Council of the New South Wales Bar Association, made orders that a former barrister was guilty of professional misconduct, was not a fit and proper person to remain on the Roll of Local Lawyers and that his name be removed from the Roll of Local Lawyers.

## Committees of the Bar Association

The following lists show committee membership during the 2009–2010 financial year.

### Alternative Dispute Resolution

#### July–December 2009

Angela Bowne SC (chair)  
John West QC  
Peter Callaghan SC  
Campbell Bridge SC  
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

#### January–June 2010

Angela Bowne SC (Chair)  
Peter Callaghan SC  
Campbell Bridge SC  
Ian Bailey SC  
Ian Davidson SC  
Richard Bell  
Mary Walker  
Malcolm Gracie  
Susan Phillips  
Maria Gerace  
Maeve McCarthy

#### Bar Association staff member

Jo Wilton

### Bar News

#### July–December 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

#### January–June 2010

Andrew Bell SC (editor)  
Keith Chapple SC  
Mark Speakman SC  
Arthur Moses SC  
Jeremy Stoljar SC  
Chris O'Donnell  
Duncan Graham  
Carol Webster  
Ingmar Taylor  
Richard Beasley  
David Ash  
Kate Williams  
Kylie Day  
Jenny Chambers  
Catherine Gleeson

#### Bar Association staff member

Chris Winslow

### Criminal Law

#### July–December 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

#### January–June 2010

Stephen Odgers SC (chair)  
Tim Game SC  
Ian McClintock SC  
Daniel Howard SC  
Philip Boulten SC  
Chris Hoy SC  
John Stratton SC  
Robert Bromwich SC  
Phillip Ingram  
Greg Farmer  
Ian Bourke  
Sally Dowling  
Nicole Noman  
Grant Brady  
Gaby Bashir  
Sarah Hugget  
Richard Wilson  
Warwick Hunt  
Lester Fernandez

#### Bar Association staff member

Cindy Penrose

### Common Law

#### July–December 2009

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

#### Bar Association staff member

Alastair McConnachie

#### January–June 2010

Ross Letherbarrow SC (chair)  
Steve Campbell SC  
Hayden Kelly SC  
Simon Harben SC  
Lorna Mcfee  
Greg Hickey  
William Fitzsimmons  
Richard Sergi  
Eugene Romaniuk  
Andrew Stone  
Richard Cavanagh  
Elizabeth Welsh  
Adam Casselden  
Paresh Khandhar  
Shaun McCarthy

#### Bar Association staff member

Alastair McConnachie

### Costs and Practice Management

#### July–December 2009

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

#### Bar Association staff member

Jennifer Pearce

### Costs and Fees

#### January–June 2010

Mark Brabazon SC (chair)  
Stephen Campbell SC  
Garry McGrath  
Patrick Griffin  
Philippe Doyle Gray  
Janet McDonald  
Michelle Castle

#### Bar Association staff member

Jennifer Pearce

### Equal Opportunity Committee

#### July–December 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

#### January–June 2010

Elizabeth Olsson SC (chair)  
Elizabeth Wilkins SC  
Geoffrey Johnson  
Richard Weinstein  
Trish McDonald  
Kate Eastman  
David J Price  
Peter Bruckner  
Melissa Fisher  
Anthony Cheshire  
Jennifer Single  
Elizabeth Picker

#### Bar Association staff member

Stephanie Mancell



## Committees of the Bar Association

The following lists show committee membership during the 2009–2010 financial year.

### Family Law

#### July–December 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

#### January–June 2010

Grahame Richardson SC (chair)  
Robert Lethbridge SC  
Alison Stenmark SC  
Peter Maiden SC  
Margaret Cleary  
Warwick Tregilgas  
Mark Anderson  
Paul Sansom  
Richard Schonell  
Peter Campton  
Liz Boyle  
Roger Harper

#### Bar Association staff member

June Anderson

### Health, Sport and Recreation

#### January–June 2010

David Jordan (chair)  
Simon Kalfas SC  
Robert Newlinds SC  
Anthony Lo Surdo  
Penny Sibtain  
Louise Clegg  
Julian O'Sullivan  
Carlos Mobellan  
Lucinda Wilson  
Nicholas Newton  
Andrew Scotting  
Paul Daley  
Troy Sachs OAM

#### Bar Association staff member

Cindy Penrose

### Human Rights

#### July–December 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 Lenahan  
Reg Graycar  
Miranda Nagy  
Professor Andrew Byrnes

#### Bar Association staff member

Cindy Penrose

#### January–June 2010

John Griffiths SC (chair)  
Melissa Perry QC  
Nicholas Cowdery QC  
Mark Ierace SC  
Richard Lancaster SC  
Jonathan Kay Hoyle  
Simeon Beckett  
Kate Eastman  
Sarah Pritchard  
Craig Lenahan  
Reg Graycar  
Miranda Nagy  
Genevieve Wilkinson  
Nicholas Broadbent  
Prof. Andrew Byrnes

#### Bar Association staff member

Cindy Penrose

### Finance Investment & Audit

#### July–December 2009

Tom Bathurst QC (chair)  
Bernard Coles QC  
Ian Temby QC  
Alexander Street SC  
Anne Healey  
Michael McHugh

#### Bar Association staff member

Basil Catsaros

#### January–June 2010

Tom Bathurst QC (chair)  
Bernie Coles QC  
Ian Temby QC  
Anne Healey  
Michael G McHugh  
Dominic Toomey

#### Bar Association staff member

Basil Catsaros

## Indigenous Barristers Strategy Working Party

### July–December 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

### January–June 2010

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 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

### January–June 2010

Ian McClintock SC (Chair)  
 Geoff Lindsay SC  
 Tim Game SC  
 Philip Boulten SC  
 Andrew Haesler SC  
 Stephen Hanley  
 Anne Healey  
 Neil Jackson  
 Nicole Carroll  
 Louise Goodchild  
 Nathan Steel

Esther Lawson  
 Warwick Hunt  
**Bar Association staff member**  
 Cindy Penrose

## New Barristers July–December 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

Chris D'Aeth  
 Jo Musumeci

### January–June 2010

Kylie Day (chair)  
 Louise Goodchild  
 Penny Thew  
 Joanne Shepard  
 Richard Jefferis  
 Gillian Mahony  
 Phoebe Arcus  
 David Mackay  
 Warwick Hunt  
 Jennifer English  
 Ramena Kako  
 Sam Adair  
 Patrick Knowles  
**Bar Association staff member**  
 Chris D'Aeth

## Practice Development

### January–June 2010

Richard McHugh SC (chair)	Michael McHugh
Katrina Howard SC	Kylie Day
Richard McHugh SC	Eugene Romaniuk
Robert Dick SC	Nick Tiffen
Sandra Duggan	<b>Bar Association staff member</b>
Gail Furness	Stephanie Mancell

## Committees of the Bar Association

The following lists show committee membership during the 2009–2010 financial year.

### Professional Conduct Committee 1

#### July–December 2009

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

#### Academic member

Dorne Boniface

#### Lay members

Denise Aldous  
John Davison  
Bill Purdue

#### Secretary

Emma Day

#### January–June 2010

Tim Game SC (chair)  
David Higgs SC  
David Russell SC  
Mark Dempsey SC  
Tony Payne SC  
Chris Hoy SC  
Geoffrey Johnson  
Greg Farmer  
Richard Weinstein  
Jeremy Morris  
Kylie Nomchong  
Penelope Sibtain  
Edward Muston  
Madeleine Avenell  
Michael Izzo

#### Academic member

Michael Legg

#### Lay members

Denise Aldous  
John Davison  
Bill Purdue

#### Secretary

Emma Day

### Professional Conduct Committee 2

#### July–December 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

#### Academic member

Professor Hilary Astor

#### Lay members

Geoff Geraghty AM  
Pam Clay  
Anthony Pang

#### Secretary

Helen Barrett

#### January–June 2010

Ian Temby AO QC (chair)  
Bruce Collins QC  
Malcolm Holmes QC  
James Stevenson SC  
Gregory Nell SC  
Jay Anderson  
Sandra Duggan  
Trish McDonald  
Dominic Toomey  
Vahan Bedrossian  
Edward Cox  
Rashelle Seiden  
David McLure  
Jeanette Richards

#### Academic member

Dr Arlie Loughnan

#### Lay members

Pam Clay  
Geoff Geraghty AM  
Anthony Pang

#### Secretary

Helen Barrett

### Professional Conduct Committee 3

#### July–December 2009

Phillip Boulten SC (chair)  
David Higgs 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  
Louise Goodchild

#### Professional Conduct Committee 4

##### Academic member

Maxine Evers

##### Lay members

Rosemary Allsopp  
Sandra Fleischmann OAM  
Patrick Smith

##### Secretary

Emma Day

##### January-June 2010

Jane Needham SC (chair)  
Liz Olsson SC  
Mark Hobart SC  
John Halley SC  
James Lockhart SC  
Garry McGrath  
David Robertson  
Janet Oakley  
David Jordan  
Ian Bourke  
Sarah McNaughton  
Natalie Adams  
Angela Seward  
Anthony Cheshire

##### Academic member

Maxine Evers

##### Lay members

Rosemary Allsopp  
Sandra Fleischmann OAM  
Patrick Smith

##### Secretary

Emma Day

##### July-December 2009

Jeremy Gormly SC (chair)  
David Williams 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

##### Academic members

Dr Peter Radan

##### Lay members

Judy Butlin  
Simon Hayes  
Rachel Williams

##### Secretary

Helen Barrett

##### January-June 2010

Jeremy Gormly SC (Chair)  
David Williams SC  
Peter Hamill SC  
Phillip Mahony SC  
Robert Beech-Jones SC  
Julia Baird SC  
Brendan Hull  
Anthony Spencer  
Igor Mescher  
Mark Best  
Elizabeth Cheeseman  
Patrick Griffin  
Garry Wilson  
Kate Williams  
Yaseen Shariff

##### Academic member

Dr Peter Radan

##### Lay members

Brian Gold  
Simon Hayes  
Rachel Williams

##### Secretary

Helen Barrett

##### Senior Counsel Selection 2010

Tom Bathurst QC  
Bernard Coles QC  
Christine Adamson SC  
Ross Letherbarrow SC  
Peter Hamill SC  
The Hon Keith Mason AC QC

#### Sections of the Bar Association

##### Administrative Law

Convenor: Alan Robertson SC

##### Industrial Law

Convenor: John West QC  
Secretary: Shane Prince

##### Constitutional Law

Convenor: Stephen Gageler SC  
Secretaries: Stephen Lloyd SC &  
Katherine Richardson

##### Women Barristers Forum

President: Julia Baird SC  
Vice-president: Sue Kluss  
Treasurer: Kerrie Leotta  
Secretary: Amy Douglas-Baker

## Members appointed to state and federal courts

For the year ended 30 June 2010

### Supreme Court of New South Wales

The Hon Justice Monika Schmidt  
The Hon Justice Michael Pembroke  
The Hon Justice Peter Garling  
The Hon Associate Justice Philip Hallen

### Land and Environment Court

The Hon Justice Malcolm Craig

### Local Court of New South Wales

Magistrate Glenn Walsh  
Magistrate Mark Buscombe  
Magistrate John Chicken  
Magistrate Gregory Grogin  
Magistrate Harriet Grahame  
Magistrate David Degnan

### Federal Court of Australia

The Hon Justice John Nicholas  
The Hon Justice David Yates  
The Hon Justice Anna Katzmann

### Family Court

The Hon Justice Stewart Austin

## Court committees and users groups

For the year ended 30 June 2010

### Supreme Court committees

#### Uniform Rules Committee

Geoff Lindsay SC

#### Rule Committee

Geoff Lindsay SC  
Elizabeth Olsson SC (deputy)

#### Admiralty Users Group Committee

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

#### ADR Steering Committee

Mary Walker

#### Criminal Trial Efficiencies Working Group

Stephen Odgers SC

#### Commercial List Users Committee

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

#### Probate Users Group

Michael Willmott SC

#### Court of Appeal Users Group

John Maconachie QC  
David Davies SC  
Justin Gleeson SC

#### Court of Criminal Appeal Users Group

Stephen Odgers SC

### Land and Environment Court

#### Users Group

Jeffrey Kildea

### 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

### Federal Court of Australia User Committee

Malcolm Oakes SC

Richard Cobden SC

Rhonda Henderson

### Local Court

#### Civil Claims Rule Committee

Andrew Kostopoulos

#### Criminal Rule Committee

Elizabeth Beilby

### Dust Diseases Tribunal Rules Committee

Wendy Strathdee

Brian Ferrari (deputy)

### Family Court of Australia Case Management Committee

Grahame Richardson SC

### Workers Compensation Commission Users Group

Gregory Beauchamp

## Court liaison members

For the year ended 30 June 2010

### Supreme Court 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

### Industrial Relations Commission

Max Kimber SC

### Local Court

Lester Fernandez

### High Court of Australia

David Jackson AM QC

### Federal Court

Malcolm Oakes SC

Richard Cobden SC

Rhonda Hendersen

### Family Court of Australia

Grahame Richardson SC

### Federal Magistrates Court

Kate Morgan

### Refugee Review Tribunal

Nick Poynder

## Appointments to national legal professional bodies

For the year ended 30 June 2010

<b>Law Council of Australia</b>		
<b>Director</b>	<b>Young Lawyers Committee</b>	<b>Model Conduct Rules Working Group</b>
Tom Bathurst QC	Joshua Knackstredt	Jennifer Pearce
<b>Alternate Director</b>	<b>Client Legal Privilege Advisory Committee</b>	<b>Military Justice Working Group</b>
Philip Selth OAM	Cameron Moore	Dr James Renwick
<b>Access to Justice Committee</b>	Dr Ruth Higgins	<b>Model Equal Opportunity Briefing Policy Working Group</b>
Christopher Whitelaw	<b>Constituent Body Policy Staff</b>	Trish McDonald
<b>AustLII Working Group</b>	Jennifer Pearce	Dominique Hogan-Doran
Philip Selth OAM	<b>Equalising Opportunities in the Law Committee</b>	<b>National Criminal Law Committee</b>
Jennifer Pearce	Patricia McDonald	Tim Game SC
<b>Indigenous Legal Issues Committee</b>	<b>FOI Reform Working Group</b>	Bret Walker SC
Chris Ronalds SC	Mark Robinson	Stephen Odgers SC
Dr Sarah Pritchard	Philip Selth OAM	Phillip Boulten SC
Anthony McAvoy	<b>National Occupational Health and Safety Review Working Group</b>	<b>National Profession Harmonisation Committee</b>
<b>Alternative Dispute Resolution Committee</b>	Mark Cahill	Philip Selth OAM
Mary Walker	Ingmar Taylor	<b>Bill of Rights Adviser</b>
<b>Anti-Money Laundering Working Group</b>	<b>Judicial Issues Working Group</b>	Nicholas Cowdery AM QC
Tim Game SC	Philip Selth OAM	

### Australian Advocacy Institute Board

Her Honour Judge Ann Ainslie-Wallace

## Bar Association representatives on educational bodies

For the year ended 30 June 2010

### Legal Profession Admission Board

Jeremy Gormly SC

Garry McGrath

### Legal Qualifications Committee

John Fernon SC

Susan Leis

Elizabeth Picker

### Law Examinations Committee

Michael Christie

### University of Sydney

#### Faculty of Law

Peter Garling SC

### University of Technology, Sydney

#### Faculty of Law

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

## Statutory appointments

For the year ended 30 June 2010

### Administrative Appeals Tribunal

Peter Taylor SC (senior member)  
Dean Letcher QC (senior member)

### Administrative Decisions Tribunal

#### Community Services Division

Sigrid Higgins (deputy president)  
Louise Goodchild (judicial member)

#### General Division

##### Deputy presidents

Peter Callaghan SC  
Jane Needham SC  
Sigrid Higgins

##### Judicial members

Gail Furness  
Robert Wilson

##### Guardianship & Protected Estates List

Julian Millar

#### Legal Services Division

Sharron Norton SC  
Lionel Robberds QC  
Wendy Robinson QC  
Paul Blacket SC  
Robertson Wright SC

#### Equal Opportunity Division

Jane Needham SC (deputy president)  
Gail Furness  
Richard Perrignon

#### Retail Leases Division

Peter Callaghan SC (deputy president)  
Liz Olsson SC  
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)  
Ian Jackman SC  
Geoff Lindsay SC  
Peter Brereton SC  
Sophie Callan SC

### DNA Review Panel

Kenneth Shadbolt (chairperson)  
Richard Button SC  
Nicholas Cowdery QC

### 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

### Legal Aid Commission

#### Board members

Ian McClintock SC  
Alternate: Phillip Boulten SC

#### Legal Aid Review Committees

##### Committee No.1

John McCarthy QC  
1st alternate: Paul Menzies QC  
2nd alternate: Paul Blacket 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  
**Legal Aid Monitoring Committee**

Phillip Boulten SC

### Public Interest Human Rights Committee

Sarah Pritchard  
Alternate: Nick Poynder

### Law and Justice Foundation Board

John Sheahan SC

### Law Week Board

Philip Selth OAM

### NSW Sentencing Council

Nicholas Cowdery AM QC  
Mark Ierace SC

### Patent and Trade Marks Attorneys Disciplinary Tribunal

Sigrid Higgins

### Professional Standards Council

Brian Rayment QC (chair)

### Public Interest Law Clearing House (PILCH)

Garry McGrath (director)  
Phillip Boulten SC (alternate)

### Workers Compensation Commission

#### Full-time arbitrators

Brett Batchelor  
Elizabeth Beilby  
Grahame Edwards  
Michael McGrowdie  
Deborah Moore  
Michael Snell  
Part-time arbitrator  
Carolyn Rimmer

#### Sessional arbitrators

Jeffrey Phillips SC  
Bruce McManamey  
Christopher Wynyard

## Directors' report

	Page
<b>Directors' report</b>	<b>52</b>
<b>Auditor's independence declaration</b>	<b>55</b>
<b>Statement of comprehensive income</b>	<b>56</b>
<b>Statement of financial position</b>	<b>57</b>
<b>Statement of changes in accumulated funds</b>	<b>58</b>
<b>Statement of cash flows</b>	<b>59</b>
<b>Notes to the financial statements</b>	<b>60</b>
<b>Directors' declaration</b>	<b>77</b>
<b>Independent auditor's report</b>	<b>77</b>

These financial statements cover the New South Wales Bar Association as an individual entity. The financial statements are presented in Australian currency.

The financial statements were authorised for issue by the directors on 2 September 2010. The association has the power to amend and reissue the financial statements.

### Directors' report

The directors present their report together with the financial statements of the New South Wales Bar Association ('the association') for the year ended 30 June 2010 and the auditors' 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	T Game SC	P Khandhar	J Needham SC
T Bathurst QC	J Gormly SC	C Loukas	A Street SC
P Boulten SC	L Goodchild	G McGrath	I Temby QC
B A Coles QC	A Healey	M McHugh	D Toomey
K M Traill			

The following persons were directors from the beginning of the financial year to the 14 November 2009

A Katzmann SC	R Higgins	R Lancaster	D Rayment
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The following persons were directors from 19 November 2009 up to the date of this report

G Curtin	K Day	W Hunt	P Maiden SC
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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.

## Directors' report

### 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 2010 was \$474,605 (2009: \$613,632). This result represents a \$139,027 decrease 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.

### 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, except for the amortisation of the premises refurbishment, 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 to 14/11/09 )	7	7
Tom Bathurst QC (president from 19/11/09) (senior VP to 14/11/09)	20	20
Bernard Coles QC (senior VP from 19/11/09) (junior VP to 14/11/09 )	17	20
Paresh Khandhar (secretary to 14/11/09)	11	20
Alexander Street SC (treasurer to 14/11/09)	18	20
Kate Traill	15	20
Chrissa Loukas	14	20
Anne Healey	18	20
David Ash	14	20
Phillip Boulten SC (junior VP from 19/11/09)	19	20
Jane Needham SC	17	20
Garry McGrath (secretary from 19/11/09)	18	20
Michael McHugh	16	20



## Directors' report

Ruth Higgins	3	7
Richard Lancaster	6	7
Timothy Game SC	18	20
Jeremy Gormly SC	15	20
Ian Temby QC (treasurer from 19/11/09)	16	20
David Rayment	6	7
Louise Goodchild	11	20
Dominic Toomey	15	20
Peter Maiden SC	11	13
Kylie Day	11	13
Warwick Hunt	12	13
Gregory Curtin	13	13

From 1 July 2009 to 30 June 2010 there were 20 meetings.

### Meetings of the Finance, Investment and Audit Committee

Name	Meetings Attended	Meetings Held
Tom Bathurst QC president from 19/11/09) (senior VP to 14/11/09)	3	4
Bernard Coles QC (senior VP from 19/11/09) (junior VP to 14/11/09 )	1	4
Ian Temby QC (treasurer since 19 November 2009)	3	3
Anne Healey	3	4
Michael McHugh	3	4
Alexander Street SC (treasurer to 14 November 2009 )	1	1
Dominic Toomey (appointed 10 June 2010)	0	0

From 1 July 2009 to 30 June 2010 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 2010 and the association has paid premiums in respect of such insurance contracts until 30 April 2011. 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 55.

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



**T Bathurst QC**

*President*

**Sydney**

**2 September 2010**



**I Temby QC**

*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 2010, 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.



**HLB MANN JUDD**

**Chartered Accountants**



**P B Meade**

**Partner**

**Sydney**

**2 September 2010**

## Statement of comprehensive income

For the year ended 30 June 2010

	Note	2010 \$	2009 \$
Revenue from continuing operations	3	7,707,133	8,216,135
Employee benefits expense		(3,410,301)	(3,436,518)
Legal and professional fees		(1,014,304)	(1,589,543)
Subscriptions		(607,801)	(558,224)
Communications and information technology expense		(222,181)	(244,292)
Depreciation and amortisation expense	4	(449,928)	(371,247)
Occupancy expense		(611,030)	(399,791)
Advertising and marketing expense		(137,335)	(172,289)
Financial expense		(134,341)	(142,671)
Other expenses from ordinary activities		(611,838)	(647,207)
Surplus before income tax expense		508,074	654,353
Income tax expense	5	(33,469)	(40,721)
<b>Net surplus</b>		<b>474,605</b>	<b>613,632</b>
<b>Other comprehensive income</b>			
Net gain/(loss) from available-for-sale financial assets		14,471	(41,883)
Income tax relating to other comprehensive income	5	(4,341)	12,563
<b>Other comprehensive income for the year, net of tax</b>		<b>10,130</b>	<b>(29,320)</b>
<b>Total comprehensive income</b>		<b>484,735</b>	<b>584,312</b>

*The above statement of comprehensive income 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 2009-2010 amounted to \$1,235,269.

## Statement of financial position

As at 30 June 2010

	Note	2010 \$	2009 \$
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	19(a)	3,289,073	10,929,400
Trade and other receivables	8	23,517	37,745
Held-to-maturity investments	6	7,952,769	-
Inventories		2,606	2,404
Current tax assets		49,913	152,570
Other assets	9	271,438	159,898
<b>TOTAL CURRENT ASSETS</b>		<b>11,589,316</b>	<b>11,282,017</b>
<b>NON-CURRENT ASSETS</b>			
Held-to-maturity investments	6	1,000,000	-
Other financial assets	7	180,033	158,566
Deferred tax assets		6,230	4,470
Intangibles	10	168,042	262,120
Plant and equipment	11	890,057	1,081,702
<b>TOTAL NON-CURRENT ASSETS</b>		<b>2,244,362</b>	<b>1,506,858</b>
<b>TOTAL ASSETS</b>		<b>13,833,678</b>	<b>12,788,875</b>
<b>LIABILITIES</b>			
<b>CURRENT LIABILITIES</b>			
Trade and other payables	12	953,789	656,320
Employee benefits	13	521,481	438,821
Fees received in advance	14	5,300,300	5,120,860
<b>TOTAL CURRENT LIABILITIES</b>		<b>6,775,570</b>	<b>6,216,001</b>
<b>NON-CURRENT LIABILITIES</b>			
Employee benefits	13	59,346	98,611
Deferred tax liabilities	5	68,355	28,591
<b>TOTAL NON-CURRENT LIABILITIES</b>		<b>127,701</b>	<b>127,202</b>
<b>TOTAL LIABILITIES</b>		<b>6,903,271</b>	<b>6,343,203</b>
<b>NET ASSETS</b>		<b>6,930,407</b>	<b>6,445,672</b>
<b>ACCUMULATED FUNDS</b>			
Accumulated surplus		6,869,456	6,394,851
Reserves	15	60,951	50,821
<b>TOTAL ACCUMULATED FUNDS</b>		<b>6,930,407</b>	<b>6,445,672</b>

The above statement of financial position should be read in conjunction with the accompanying notes.

## Statement of changes in accumulated funds

For the year ended 30 June 2010

	Note	Accumulated Surplus	Reserves	Total Accumulated Funds
<b>At 30 June 2008</b>		<b>5,781,219</b>	<b>80,141</b>	<b>5,861,360</b>
Total comprehensive income for the year		613,632	(29,320)	584,312
<b>At 30 June 2009</b>		<b>6,394,851</b>	<b>50,821</b>	<b>6,445,672</b>
Total comprehensive income for the year		474,605	10,130	484,735
<b>At 30 June 2010</b>		<b>6,869,456</b>	<b>60,951</b>	<b>6,930,407</b>

*The above statement of changes in accumulated funds should be read in conjunction with the accompanying notes.*



## Statement of cash flows

For the year ended 30 June 2010

	Note	2010 \$	2009 \$
<b>Cash flows from operating activities</b>			
Receipts from operating activities		7,206,516	7,910,067
Payments to suppliers and employees		(6,087,585)	(6,986,199)
Dividends received		7,992	9,872
Interest received		259,436	523,227
Income tax paid		102,821	(158,212)
Net cash inflow from operating activities	<b>19(b)</b>	1,489,180	1,298,755
<b>Cash flows from investing activities</b>			
Payments for plant and equipment		(178,953)	(212,517)
Payments for intangibles		(6,720)	(87,752)
Payment for term deposits		(8,964,106)	(2,978)
Proceeds from sale of plant and equipment		20,272	4,656
Net cash outflow from investing activities		(9,129,507)	(298,591)
Net increase/(decrease) in cash and cash equivalents		(7,640,327)	1,000,164
Cash and cash equivalents at the beginning of the financial year		<b>10,929,400</b>	<b>9,929,236</b>
<b>Cash and cash equivalents at the end of the financial year</b>	<b>19(a)</b>	<b>3,289,073</b>	<b>10,929,400</b>

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

## Notes to the financial statements

For the year ended 30 June 2010

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

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

#### (a) Basis of preparation

These general purpose financial statements have been prepared in accordance with Australian Accounting Standards, other authoritative pronouncements of the Australian Accounting Standards Board, including Australian Accounting Interpretations and the *Corporations Act 2001*.

##### *Compliance with IFRS*

The financial statements of the New South Wales Bar Association also comply 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, as modified by the revaluation of available-for-sale financial assets.

##### *Critical accounting estimates and judgments*

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

##### *Financial statement presentation*

The company has applied the revised AASB 101 Presentation of Financial Statements which became effective on 1 January 2009. The revised standard requires the separate presentation of a statement of comprehensive income and statement of changes in accumulated funds.

#### (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 charge*

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

## Notes to the financial statements

For the year ended 30 June 2010

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.

### **(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 end of the reporting period 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 16). Payments made under operating leases (net of any incentives received from the lessor) are charged to the statement of comprehensive income 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 the end of each reporting period.

### **(f) Cash and cash equivalents**

For purposes of presentation in the statement of cash flows, 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.

### **(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.

## Notes to the financial statements

For the year ended 30 June 2010

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 profit or loss 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 amount previously written off are credited against other expenses in the profit or loss.

### **(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.

### **(i) Investments and other financial assets**

#### *Classification*

The association classifies its investments in the following categories: loans and receivables, available-for-sale financial assets and held-to-maturity investments. 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 end of the reporting period which are classified as non-current assets. Loans and receivables are included in trade and other receivables in the statement of financial position (note 8).

#### *(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 end of the reporting period. 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.

#### *(iii) Held-to-maturity investments*

The association classifies its term deposits as held-to-maturity investments. Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the association's management has the positive intention and ability to hold to maturity. Held-to-maturity financial assets are included in current assets except those with maturities greater than 12 months from the end of the reporting period, which are classified as non-current assets.

#### *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 market value reserve are included in the statement of comprehensive income as gains and losses from available-for-sale financial assets.

## Notes to the financial statements

For the year ended 30 June 2010

### *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 statement of comprehensive income.

### *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 profit or loss. Impairment losses recognised in the profit or loss on equity instruments are not reversed through the profit or loss.

### **(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 profit or loss during the reporting period in which they are incurred.

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 - 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 the end of each reporting period. 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 carrying amount. These are included in the profit or loss.

### **(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 end of the reporting period are recognised as payables in respect of employee's services up to the end of the reporting period and are measured at the amounts expected to be paid when the liabilities are settled.



## Notes to the financial statements

For the year ended 30 June 2010

### *(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 end of the reporting period. 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 statement of financial position.

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.

### **(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 23.

### **(r) New accounting standards and interpretations**

Certain new accounting standards and interpretations have been published that are not mandatory for 30 June 2010 reporting periods. The association has assessed the impact of these new standards and interpretations and concluded that none of the upcoming changes will have a significant impact on the presentation and disclosure of the financial statements.

#### *(i) AASB 2009-5 Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project [AASB 5, 8, 101, 107, 117, 118, 136 and 139] (effective from 1 July 2010)*

In May 2009 the AASB issued a number of improvements to AASB 5 Non-current Assets Held for Sale and Discontinued Operations, AASB 8 Operating Segments, AASB 101 Presentation of Financial Statements, AASB 107 Statement of Cash Flows, AASB 117 Leases, AASB 118 Revenue, AASB 136 Impairment of Assets and AASB 139 Financial Instruments: Recognition and Measurement. The association will apply the revised Standards from 1 July 2010. The association does not expect that any adjustments will be necessary as a result of applying the revised rules.

## Notes to the financial statements

For the year ended 30 June 2010

### *(ii) AASB 9 Financial Instruments and AASB 2009-11 Amendments to Australian Accounting Standards arising from AASB 9 (effective from 1 January 2013)*

AASB 9 Financial Instruments addresses the classification and measurement of financial assets. The standard is not applicable until 1 January 2013. The current four categories of financial assets, stipulated in AASB 139 Financial Instruments: Recognition and Measurement, will be replaced with two measurement categories: fair value and amortised cost. AASB 9 only permits the recognition of fair value gains/(losses) in other comprehensive income if they relate to equity investments that are not held for trading. Fair value gains/(losses) on debt investments, for example, will therefore have to be recognised directly in profit or loss. The association does not expect any significant impact on the association's financial statements arising from an adoption of the Standard.

### *(iii) AASB 2010-3 Amendments to Australian Accounting Standards arising from the Annual Improvements Project and AASB 2010-4 Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project (effective from 1 July 2010/1 January 2011)*

In June 2010, the AASB made a number of amendments to Australian Accounting Standards as a result of the IASB's annual improvements project. The association will apply the amendments from 1 July 2010. It does not expect that any adjustments will be necessary as the result of applying the revised rules.

## 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 focuses 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 statement of financial position 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 1.30% of total assets (2009: 1.23%) 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. The association has cash deposits which have floating rates. At 30 June 2010, if interest rates had changed by 100 basis points all other variables held constant, surplus for the year would have been \$89,528 (2009:\$64,030) higher/lower as a result of higher/lower interest income.

## Notes to the financial statements

For the year ended 30 June 2010

### (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 the end of each reporting period.

#### 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, 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 \$5m. This is in excess of 8 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 the end of the reporting period were \$953,789 (2009: \$656,320).

### (d) Fair value measurement

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.

### (e) Fair value hierarchy

The association has adopted the amendments to AASB 7, effective 1 January 2009. This requires the association to classify fair value measurements using a fair value hierarchy that reflects the subjectivity of the inputs used in making the measurements. The fair value hierarchy has the following levels:

- Quoted prices (unadjusted) in active markets for identical assets or liabilities (level 1).
- Inputs other than quoted prices included within level 1 that are observable for the asset or liability, either directly (that is, as prices) or indirectly (that is, derived from prices) (level 2).
- Inputs for the asset or liability that are not based on observable market data (that is, unobservable inputs) (level 3).

The determination of what constitutes "observable" requires significant judgement by management. Management considers observable data to be that market data that is readily available, regularly distributed or updated, reliable and verifiable, not proprietary, and provided by independent sources that are actively involved in the relevant market.

All of the association's financial assets measured at fair value are classified as level 1 in the fair value hierarchy as at 30 June 2010 and totals \$180,029. Comparative information has not been provided as permitted by the transitional provisions of the new rules.

## Notes to the financial statements

For the year ended 30 June 2010

	2010 \$	2009 \$
<b>3. REVENUE FROM CONTINUING OPERATIONS</b>		
<b>Operating revenue</b>		
Subscriptions and practicing certificate fees	5,141,471	4,876,927
Reading programme	399,320	263,135
	<u>5,540,791</u>	<u>5,140,062</u>
<b>Other revenue</b>		
Interest and dividends	385,421	480,999
Donations – Emerton Endowment Fund	19,542	17,891
Seminars	124,043	112,320
Administration charge	18,396	28,445
External funding	1,418,636	2,164,936
Net gains on disposal of plant and equipment	-	208
Other	200,304	271,274
	<u>7,707,133</u>	<u>8,216,135</u>
<b>Revenue from continuing operations</b>	<b>7,707,133</b>	<b>8,216,135</b>
<b>4. EXPENSES</b>		
Surplus before income tax includes the following specific expenses:		
Depreciation		
Library	23,452	23,452
Furniture, computers, office machines & equipment	149,097	132,670
Glass, bar and kitchen equipment	1,210	1,644
Amortisation		
- Refurbishment	175,371	177,656
- Database	100,798	35,825
	<u>449,928</u>	<u>371,247</u>
<b>Depreciation and amortisation expense</b>	<b>449,928</b>	<b>371,247</b>
Provision for employee benefits - movement	43,395	(13,160)

## Notes to the financial statements

For the year ended 30 June 2010

### 5. INCOME TAX EXPENSE

#### (a) Income tax expense

Current tax	-	50,421
Deferred tax	33,663	(13,972)
Adjustment of current tax of prior periods	(194)	4,272
<b>Aggregate income tax expense</b>	<b>33,469</b>	<b>40,721</b>
Deferred income tax (revenue) expense included in income tax expense comprises:		
(Increase)decrease in deferred tax assets	(1,760)	1,629
Increase(decrease) in deferred tax liabilities	35,423	(15,601)
	<b>33,663</b>	<b>(13,972)</b>

#### (b) Numerical reconciliation of income tax expense to prima facie tax payable

Net surplus from continuing operations	508,074	654,353
Tax at the Australian tax rate of 30 per cent (2009:30 per cent)	152,422	196,306
Increase/(decrease) in income tax expense due to:		
- Net mutual expense (income)	(133,673)	(159,699)
- Imputation credits	-	(4,231)
Tax effect of amounts which are not deductible (taxable)	14,914	4,073
Adjustments for current tax of prior periods	(194)	4,272
Income tax expense	<b>33,469</b>	<b>40,721</b>

#### (c) Deferred tax liability

The balance comprises temporary differences attributable to shares in Australian listed companies:

Movements:		
Opening balance 1 July 2009	28,591	56,755
Charged to the profit or loss	35,423	(15,601)
Recognised in fair value reserve	4,341	(12,563)
Closing balance 30 June 2010	<b>68,355</b>	<b>28,591</b>

## Notes to the financial statements

For the year ended 30 June 2010

### (d) Tax losses

Unused tax losses for which no deferred tax asset has been recognised	57,034	-
Potential tax benefit @ 30 per cent	17,110	-

## 6. HELD-TO-MATURITY INVESTMENTS

### Term Deposits

Current	7,952,769	-
Non Current	1,000,000	-
	<b>8,952,769</b>	<b>-</b>

### Risk exposure

The association's exposure to risk for held-to-maturity investments is discussed in note 2.

	2010	2009
	\$	\$

## 7. OTHER FINANCIAL ASSETS

### Non-Current

Investments in associates	4	4
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### Available for sale – at fair value

Shares in Australian listed companies	180,029	158,562
	<b>180,033</b>	<b>158,566</b>

### 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 this company is to act as trustee for the Barrister's Sickness and Accident Fund.

### (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 statements.



## Notes to the financial statements

For the year ended 30 June 2010

	2010 \$	2009 \$
<b>8. TRADE AND OTHER RECEIVABLES</b>		
Trade receivables	7,471	4,010
GST receivable	-	28,490
Other receivables	16,046	5,245
	<b>23,517</b>	<b>37,745</b>

### Risk exposure

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

## 9. OTHER ASSETS

Prepayments	130,850	137,303
Accrued interest	140,588	22,595
	<b>271,438</b>	<b>159,898</b>

### Risk exposure

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

## 10. INTANGIBLES

### Database

At cost	304,665	297,945
Accumulated amortisation	(136,623)	(35,825)
	<b>168,042</b>	<b>262,120</b>
<b>Net carrying amount</b>		
Opening book amount	262,120	210,193
<b>Additions</b>	6,720	87,752
Amortisation charge for the year	(100,798)	(35,825)
	<b>168,042</b>	<b>262,120</b>
<b>Net carrying amount</b>		

## Notes to the financial statements

For the year ended 30 June 2010

### 11. PLANT AND EQUIPMENT

	Library \$	Refurbishments \$	Furniture, computers, office machines and equipment \$	Glass, bar and kitchen equipment \$	Total \$
<b>Year ended 30 June 2010</b>					
At 1 July 2009, net of accumulated depreciation	281,423	490,839	308,080	1,360	1,081,702
Additions	-	39,195	139,758	-	178,953
Disposals	-	(21,468)	-	-	(21,468)
Depreciation/ amortisation charge for the year	(23,452)	(175,371)	(149,097)	(1,210)	(349,130)
<b>At 30 June 2010, net of accumulated depreciation</b>	<b>257,971</b>	<b>333,195</b>	<b>298,741</b>	<b>150</b>	<b>890,057</b>

	Library \$	Refurbishments \$	Furniture, computers, office machines and equipment \$	Glass, bar and kitchen equipment \$	Total \$
<b>At 30 June 2009</b>					
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)
<b>Net carrying amount</b>	<b>281,423</b>	<b>490,839</b>	<b>308,080</b>	<b>1,360</b>	<b>1,081,702</b>
<b>At 30 June 2010</b>					
Cost	469,043	1,981,762	996,477	10,373	3,457,655
Accumulated depreciation and impairment	(211,072)	(1,648,567)	(697,736)	(10,223)	(2,567,598)
<b>Net carrying amount</b>	<b>257,971</b>	<b>333,195</b>	<b>298,741</b>	<b>150</b>	<b>890,057</b>

## Notes to the financial statements

For the year ended 30 June 2010

	2010 \$	2009 \$
<b>12. TRADE AND OTHER PAYABLES</b>		
Trade and other payables	924,707	656,320
GST Payable	29,082	-
Trade and other payables	<b>953,789</b>	<b>656,320</b>

### Risk exposure

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

	2010 \$	2009 \$
<b>13. EMPLOYEE BENEFITS</b>		
The aggregate employee entitlement liability recognised and included in the financial statements as follows:		
Current	521,481	438,821
Non Current	59,346	98,611
	<b>580,827</b>	<b>537,432</b>

## 14. FEES RECEIVED IN ADVANCE

### Current

Subscriptions and practicing certificate fees received in advance	<b>5,300,300</b>	<b>5,120,860</b>
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### Risk exposure

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

## 15. RESERVES

Fair value reserve	<b>60,951</b>	<b>50,821</b>
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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 2009	50,821	80,141
Unrealised gain/(loss) on investments (net of tax)	10,130	(29,320)
	<b>60,951</b>	<b>50,821</b>

## Notes to the financial statements

For the year ended 30 June 2010

### 16. COMMITMENTS

#### Lease commitments

##### Operating lease commitments payable

Within one year	397,020	385,457
Later than one year but not later than five years	288,816	685,837
	<b>685,836</b>	<b>1,071,294</b>

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

### 17. 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	A Street SC
T Bathurst QC	J Gormly SC	C Loukas	I Temby QC
P Boulten SC	A Healey	P Maiden SC	D Toomey
B A Coles QC	R Higgins	G McGrath	K M Trail
G Curtin	W Hunt	M McHugh	
K Day	A Katzmman SC	J Needham SC	
T Game SC	P Khandhar	D Rayment	

#### (b) Key management

Key management personnel compensation for the years ended 30 June 2010 and 30 June 2009 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 2010 and 30 June 2009 are as follows :

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

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

## Notes to the financial statements

For the year ended 30 June 2010

### (b) Key management (cont'd)

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

	2010	2009
	\$	\$
Short-term employee benefits	1,147,108	1,255,375
Long-term employee benefits	24,076	33,579
	<b>1,171,184</b>	<b>1,288,954</b>

### (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 \$485,706 (2009: \$349,798) for office space to Counsel's Chambers Limited being a company of which some directors of the association are also members. The bulk of this payment was at two-thirds of the normal market rate.

2010	2009
\$	\$

## 18. REMUNERATION OF AUDITORS

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

Audit of the financial statements	39,450	38,000
Other services - tax	6,200	6,000
Other assurance services - PCD grant audit	3,100	5,708
	<b>48,750</b>	<b>49,708</b>

## 19. NOTES TO THE STATEMENT OF CASH FLOW

### (a) Reconciliation of cash

For the purposes of the presentation in the statement of cash flows, cash includes cash on hand and in banks net of outstanding bank overdrafts. Cash at the end of the financial year as shown in the statement of cash flows is reconciled to the related items in the statement of financial position as follows:

Cash at bank	520,365	4,524,870
Term deposits	2,767,408	6,402,956
Petty cash	1,300	1,574
	<b>3,289,073</b>	<b>10,929,400</b>

## Notes to the financial statements

For the year ended 30 June 2010

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

<b>Net surplus</b>	474,605	613,632
Amortisation	100,798	213,481
Depreciation	349,130	157,766
(Profit)/loss on disposal of plant and equipment	1,196	(208)
Net cash provided by operating activities before changes in assets and liabilities:	<b>925,729</b>	<b>984,671</b>
Changes in net assets and liabilities:		
(Increase)/decrease in assets:		
- Trade and other receivables	(43,343)	235,806
- Inventories	(202)	1,104
- Prepayments	6,453	(61,593)
- Deferred tax assets	(1,760)	1,629
- Accrued Interest	(117,993)	52,100
- Net GST receivable	57,571	(17,438)
- Current tax asset	102,657	(103,522)
Increase/(decrease) in liabilities:		
- Subscriptions and practicing certificate fees received in advance	179,440	252,812
- Provisions – employee benefits	43,396	(13,160)
- Deferred tax liabilities	39,764	(15,598)
- Sundry creditors	297,468	(18,056)
Net cash from operating activities	<b>1,489,180</b>	<b>1,298,755</b>

### 20. 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 2,774.

### 21. SUPERANNUATION

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

### 22. EVENTS OCCURRING AFTER THE REPORTING PERIOD

In July 2010, the Bar Council approved refurbishment costs estimated at \$3m. The association expects the accumulated funds to be impacted by approximately \$300k each year if amortised over 10 year period.



## Notes to the financial statements

For the year ended 30 June 2010

### 23. 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. During the financial year the fund was wound down with the remaining funds donated to the NSW Bar Association for the refurbishment of the library.

As at 30 June 2010 Emerton Endowment Fund had net assets as follows:

#### BALANCE SHEET

##### AS AT 30 JUNE 2009

	2010 \$	2009 \$
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	-	19,867
Receivables	-	-
	-	19,867
<b>NET ASSETS</b>	-	<b>19,867</b>

The net activity of the trust fund during the year ended 30 June 2010 is a deficit of \$19,867 (2009: deficit of \$17,744). This is represented by the following:

	2010 \$	2009 \$
<b>Revenue</b>		
Interest income	-	147
<b>Expenses</b>		
Donations	(19,867)	(17,891)
<b>Net deficit</b>	<b>(19,867)</b>	<b>(17,744)</b>

## Directors' declaration

1. In the directors' opinion:

(a) the financial statements and notes set out on pages 56 to 76, are in accordance with the *Corporations Act 2001*, including:

(i) complying with Accounting Standards (including the Australian Accounting Interpretations) and the *Corporations Regulations 2001*; and

(ii) giving a true and fair view of the company's financial position as at 30 June 2010 and of its performance for the financial year ended on that date; and

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

2. The notes to the financial statements include a statement of compliance with International Financial Reporting Standards.

This declaration is made in accordance with a resolution of the directors:



**T Bathurst QC**

*President*

**Sydney**

2 September 2010



**I Temby QC**

*Treasurer*

## Independent auditors' 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 statement of financial position as at 30 June 2010, and the statement of comprehensive income, statement of changes in accumulated funds and statement of cash flows 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 77.

### ***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.

## Independent auditor's report

### *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 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 2 September 2010, would be in the same terms if provided to the directors as at the time of this 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 2010 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**  
**Chartered Accountants**  
**Sydney**  
**3 September 2010**

## Barristers' Benevolent Association

Financial report for the year ended 30 June 2010

	Page
Statement of comprehensive income	79
Statement of financial position	80
Statement of changes in accumulated funds	81
Statement of cash flows	81
Notes to the financial statements	82
Trustee's declaration	90
Independent auditor's report	91

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.

## Statement of comprehensive income

For the financial year ended 30 June 2010

	Note	2010 \$	2009 \$
Revenue from continuing operations	3	299,880	364,215
Auditor's remuneration		(8,300)	(8,000)
Bank charges		(70)	(70)
Bar care costs		(4,803)	(6,058)
Changes in fair value of investments designated at fair value through profit or loss		119,558	(300,243)
Employee benefits expense		(50,015)	(29,964)
Gifts		(66,731)	(152,649)
Investment fees		(2,182)	(1,636)
Legal and professional fees		(8,528)	(6,918)
Loan forgiveness		(40,000)	-
Promotion costs		-	(180)
Stationery		(536)	(459)
Surplus/(loss) before income tax		238,273	(141,962)
Income tax expense		-	-
<b>Net surplus/(Loss)</b>		<b>238,273</b>	<b>(141,962)</b>
<b>Other comprehensive income</b>		<b>-</b>	<b>-</b>
<b>Total comprehensive income/(loss)</b>		<b>238,273</b>	<b>(141,962)</b>

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

## Statement of financial position

As at 30 June 2010

	Note	2010 \$	2009 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	11(a)	70,165	1,692,806
Held-to-maturity investments	5	1,245,705	-
Loans and receivables	4	153,508	157,642
<b>TOTAL CURRENT ASSETS</b>		<b>1,469,378</b>	<b>1,850,448</b>
<b>NON-CURRENT ASSETS</b>			
Held-to-maturity investments	5	605,000	-
Other financial assets	6	1,324,238	1,309,413
<b>TOTAL NON-CURRENT ASSETS</b>		<b>1,929,238</b>	<b>1,309,413</b>
<b>TOTAL ASSETS</b>		<b>3,398,616</b>	<b>3,159,861</b>
<b>CURRENT LIABILITIES</b>			
Trade and other payables	7	10,301	9,819
<b>TOTAL CURRENT LIABILITIES</b>		<b>10,301</b>	<b>9,819</b>
<b>TOTAL LIABILITIES</b>		<b>10,301</b>	<b>9,819</b>
<b>NET ASSETS</b>		<b>3,388,315</b>	<b>3,150,042</b>
<b>ACCUMULATED FUNDS</b>			
Accumulated surplus		956,433	718,160
Reserves	8	2,431,882	2,431,882
<b>TOTAL ACCUMULATED FUNDS</b>		<b>3,388,315</b>	<b>3,150,042</b>

The above statement of financial position should be read in conjunction with the accompanying notes.

## Statement of changes in accumulated funds

For the financial year ended 30 June 2010

	Notes	Accumulated funds	Capital reserves	Total members funds
<b>At 30 June 2008</b>		860,122	2,431,882	3,292,004
Total comprehensive income/(loss)		(141,962)	-	(141,962)
<b>At 30 June 2009</b>		718,160	2,431,882	3,150,042
Total comprehensive income		238,273	-	238,273
<b>At 30 June 2010</b>		<b>956,433</b>	<b>2,431,882</b>	<b>3,388,315</b>

The above statement of changes in accumulated funds should be read in conjunction with the accompanying notes.

## Statement of cash flows

For the financial year ended 30 June 2010

	Note	2010 \$	2009 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Receipts from members, sponsorship and general activities		348,917	211,906
Payments to suppliers		(339,382)	(274,269)
Interest received		74,655	101,164
<b>Net cash inflow from operating activities</b>	11(b)	84,190	38,801
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Proceeds from investments (transfer to main account)		444,644	66,829
Payments for term deposits		(2,151,475)	(41,874)
<b>Net cash (outflow) inflow from investing activities</b>		(1,706,831)	24,955
Net increase/(decrease) in cash and cash equivalents		(1,622,641)	63,756
Cash and cash equivalents at the beginning of the year		<b>1,692,806</b>	<b>1,629,050</b>
<b>Cash and cash equivalents at the end of the year</b>	<b>11(a)</b>	<b>70,165</b>	<b>1,692,806</b>

The above statement of cash flows should be read in conjunction with the accompanying notes



## Notes to the financial statements

For the financial year ended 30 June 2010

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

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

#### (a) Basis of preparation

These general purpose financial statements have 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 statements of Barristers' Benevolent Association of NSW ('the association') also comply 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 judgements*

The preparation of financial statements requires the use of certain critical accounting estimates. It also requires management to exercise its judgement 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.

##### *Financial statement presentation*

The association has applied the revised AASB 101 *Presentation of Financial Statements* which became effective on 1 January 2009. The revised standard requires the separate presentation of a statement of comprehensive income and statement of changes in accumulated funds.

#### (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.

#### (c) Income tax

The association is exempt from income tax.

## Notes to the financial statements

For the financial year ended 30 June 2010

### **(d) Cash and cash equivalents**

For purposes of presentation in the statement cash flows, 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) 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 amounts previously written off are credited against other expenses in the income statement.

### **(f) Other financial assets**

#### ***Classification***

The association classifies its financial assets in the following categories: financial assets designated at fair value through profit or loss and held-to-maturity investments.

#### **(i) Financial assets 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 profit or loss. 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.

#### **(ii) Held-to-maturity investments**

The association classifies its term deposits as held-to-maturity investments. Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the association's management has the positive intention and ability to hold to maturity. Held-to-maturity financial assets are included in current assets except those with maturities greater than 12 months from the end of the reporting period, which are classified as non-current assets.

Held-to-maturity investments are carried at amortised cost using effective interest method.

## Notes to the financial statements

For the financial year ended 30 June 2010

### (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.

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 statement of financial position.

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 2010 reporting periods. The association has assessed the impact of these new standards and interpretations and concluded that none of the upcoming changes will have a significant impact on the presentation and disclosure of the financial statements.

*(i) AASB 2009-5 Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project [AASB 5, 8, 101, 107, 117, 118, 136 and 139] (effective from 1 July 2010)*

In May 2009 the AASB issued a number of improvements to AASB 5 Non-current Assets Held for Sale and Discontinued Operations, AASB 8 Operating Segments, AASB 101 Presentation of Financial Statements, AASB 107 Statement of Cash Flows, AASB 117 Leases, AASB 118 Revenue, AASB 136 Impairment of Assets and AASB 139 Financial Instruments: Recognition and Measurement. The association will apply the revised Standards from 1 July 2010. The association does not expect that any adjustments will be necessary as a result of applying the revised rules.

*(ii) AASB 9 Financial Instruments and AASB 2009-11 Amendments to Australian Accounting Standards arising from AASB 9 (effective from 1 January 2013)*

AASB 9 Financial Instruments addresses the classification and measurement of financial assets. The standard is not applicable until 1 January 2013. The current four categories of financial assets, stipulated in AASB 139 Financial Instruments: Recognition and Measurement, will be replaced with two measurement categories: fair value and amortised cost. AASB 9 only permits the recognition of fair value gains/(losses) in other comprehensive income if they relate to equity investments that are not held for trading. Fair value gains/(losses) on debt investments, for example, will therefore have to be recognised directly in profit or loss. The association does not expect any significant impact on the association's financial statements arising from an adoption of the Standard.

*(iii) AASB 2010-3 Amendments to Australian Accounting Standards arising from the Annual Improvements Project and AASB 2010-4 Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project (effective from 1 July 2010/1 January 2011)*

In June 2010, the AASB made a number of amendments to Australian Accounting Standards as a result of the IASB's annual improvements project. The association will apply the amendments from 1 July 2010. It does not expect that any adjustments will be necessary as the result of applying the revised rules.

## 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 focuses on maintaining sufficient cash and maximising returns on the financial assets held under the policies approved by the Committee of Management.

## Notes to the financial statements

For the financial year ended 30 June 2010

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 and short term deposits with terms not exceeding six months, so that there is little risk of change in value. Management is of the view that by ensuring that all cash and cash equivalents and short term deposits exceeding \$10,000 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 63 per cent of the financial assets, excluding cash and cash equivalents, are securities in Australian listed companies and the remaining 37 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) below.

#### (ii) Cash flow and fair value interest rate risk

The association's main interest rate risk arises from cash and cash equivalents and the held-to-maturity investments; therefore the association's income and operating cash flows are subject to changes in market interest rates. The association has cash deposits and held-to-maturity investments which have floating rates. At 30 June 2010, if interest rates had changed by 100 basis points with all other variables held constant, surplus for the year would have been \$18,507 (2009:\$16,413) higher/lower as a result of higher/lower interest income.

#### (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 2010	(132,424)	132,424	(18,507)	18,507
30 June 2009	(130,941)	130,941	(16,413)	16,413

## Notes to the financial statements

For the financial year ended 30 June 2010

### (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, accordance with the policies of the Management Committee. The association's cash and investments are held as follows:

Financial Institution	Rating	2010	2009
NAB	AA	1,629,119	1,403,999
Macquarie Bank Ltd	B	6,751	288,807
CBA	AA	100,000	–
Westpac	AA	185,000	–
		1,920,870	1,692,806

### (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 and short term deposits over a 12 month period are not expected to fall below \$1.3m

### 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 \$10,301 (2009:\$9,819).

### (d) Fair value measurements

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.

### (e) Fair value hierarchy

The association has adopted the amendments to AASB 7, effective 1 January 2009. This requires the association to classify fair value measurements using a fair value hierarchy that reflects the subjectivity of the inputs used in making the measurements. The fair value hierarchy has the following levels:

- Quoted prices (unadjusted) in active markets for identical assets or liabilities (level 1).
- Inputs other than quoted prices included within level 1 that are observable for the asset or liability, either directly (that is, as prices) or indirectly (that is, derived from prices) (level 2).
- Inputs for the asset or liability that are not based on observable market data (that is, unobservable inputs) (level 3).

The determination of what constitutes 'observable' requires significant judgement by management. Management considers observable data to be that market data that is readily available, regularly distributed or updated, reliable and verifiable, not

## Notes to the financial statements

For the financial year ended 30 June 2010

proprietary, and provided by independent sources that are actively involved in the relevant market.

All of the association's financial assets measured at fair value are classified as level 1 in the fair value hierarchy as at 30 June 2010 and totals \$1,324,238. Comparative information has not been provided as permitted by the transitional provisions of the new rules.

	2010 \$	2009 \$
<b>3. REVENUE FROM CONTINUING OPERATIONS</b>		
Contributions	137,232	150,978
Distribution/ dividend income	87,862	111,718
Interest income	74,655	101,164
Membership Income	131	355
<b>Revenue from continuing operations</b>	<b>299,880</b>	<b>364,215</b>

	2010 \$	2009 \$
<b>4. LOANS AND RECEIVABLES</b>		
<b>Current</b>		
NSW Bar Association	117,303	110,234
Interest free loans	34,500	44,500
GST receivable	1,705	2,908
	<b>153,508</b>	<b>157,642</b>

### Risk Exposure

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

## 5. HELD-TO-MATURITY INVESTMENTS

### Term Deposits

Current	1,245,705	-
Non Current	605,000	-
	<b>1,850,705</b>	<b>-</b>

### Risk exposure

The association's exposure to risk for held-to-maturity investments is discussed in note 2.



## Notes to the financial statements

For the financial year ended 30 June 2010

### 6. OTHER FINANCIAL ASSETS

#### Non-Current

Designated at fair value through profit or loss

- Fixed interest securities	300,770	-
- Shares in Australian listed companies	535,422	492,734
- Australian managed funds	488,046	816,679
	<b>1,324,238</b>	<b>1,309,413</b>

#### Risk exposure

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

### 7. TRADE AND OTHER PAYABLES

#### Trade and other payables

<b>10,301</b>	<b>9,819</b>
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#### Risk exposure

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

### 8. RESERVES

Capital reserve

<b>2010</b>	<b>2009</b>
<b>\$</b>	<b>\$</b>

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

<b>2,431,882</b>	<b>2,431,882</b>
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## Notes to the financial statements

For the financial year ended 30 June 2010

### 9. 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 Khandhar	A Street SC	I Temby QC
T Bathurst QC	J Gormly SC	C Loukas	D Toomey
P Boulten SC	T Game SC	G McGrath	L Goodchild
B A Coles QC	A Healey	M McHugh	K M Traill
A Katzmann SC	R Higgins	J Needham SC	D Rayment
R Lancaster	W Hunt	K Day	P Maiden SC
G Curtin			

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

#### (b) Key management

The key management personnel are the trustees of the association.

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 the New South Wales Bar Association.

### 10 REMUNERATION OF AUDITORS

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

	2010 \$	2009 \$
Audit of the financial report	8,300	8,000

### 11. NOTES TO THE STATEMENT OF CASH FLOWS

#### (a) Reconciliation of cash

For the purposes of the presentation in the statement cash flows, cash includes cash on hand and in bank, net of outstanding bank overdrafts. Cash at the end of the financial year as shown in the statement cash flows is reconciled to the related items in the statement of financial position as follows:

Cash at bank	70,165	51,494
Cash on deposit	-	1,641,312
	<b>70,165</b>	<b>1,692,806</b>

## Notes to the financial statements

For the financial year ended 30 June 2010

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

<b>Net surplus/ (loss)</b>	238,273	(141,962)
Distributions from managed funds reinvested	(39,143)	(67,964)
(Revaluation)/write down of investments	(119,556)	300,243
Net cash provided by operating activities before changes in assets and liabilities	<b>79,574</b>	<b>90,317</b>
Decrease/(increase) in trade and other receivables	4,135	(51,145)
Increase/(decrease) in trade and other payables	481	(371)
Net cash from operating activities	<b>84,190</b>	<b>38,801</b>

## Trustees' declaration

In the opinion of the trustees of Barristers' Benevolent Association of NSW, the financial statements and notes as set out on pages 79 to 90.

- (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 2010 and its performance, as represented by the results of its operations, changes in accumulated funds 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:



**T Bathurst QC**

Trustee

Sydney

2 September 2010



**I Temby QC**

Trustee

## Independent auditor's report

### **To the members of Barristers' Benevolent Association of NSW:**

We have audited the accompanying financial report of Barristers' Benevolent Association (association), which comprises the statement of financial position as at 30 June 2010, and the statement of comprehensive income, statement of changes in accumulated funds and statement of cash flows for the year ended on that date, a summary of significant accounting policies and other explanatory notes as set out on pages 79 to 90.

#### *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 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.

## Independent auditor's report

### *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 2010, 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.



**HLB MANN JUDD**  
**Chartered Accountants**



**P B Meade**  
**Partner**  
**Sydney**  
**3 September 2010**

## Contributions to the Barristers' Benevolent Fund

### **\$4,000 and above**

P R Boulten SC

### **\$3,000 to \$3,999**

W Terracini SC

### **\$2,000 to \$2,999**

B W Walker SC

A J Bellanto QC

M Cranitch SC

M Inglis

M A Robinson

A Healey

M Green

### **\$1,000 to \$1,999**

N Murray

D P M Ash

A Bannon SC

I Barker QC

B A Coles QC

B W Collins QC

P J Deakin QC

P J Doherty SC

J J Cauchi SC

J Murphy

P W Neil SC

T F Robertson SC

C R C Newlinds SC

The Hon G Sharpe

The Hon J E Brownie QC

J Stoljar SC

S Loughnan

M J Darke

M Licha

### **\$500 to \$999**

P M Kite SC

J Van Aalst

J E Robson SC

S McCarthy

S Duggan

P P O'Loughlin

G J Jones

C A Webster

I Temby AO QC

A H Slater QC

P Bodor QC

C Barry QC

T F Bathurst QC

D Bennett AC QC

His Honour Judge M Bozic SC

C A Bridge SC

M R Gracie

I Cullen

The Hon R J Ellicott QC

P J Frame

J J Garnsey QC

D F Jackson AM QC

A M Martin

G Curtin

J R Dupree

Federal Magistrate G A Coakes

J E Maconachie QC

C P Hoy SC

B McClintock SC

G W McGrath

His Honour Judge J Nicholson SC

D Nock SC

The Hon B O'Keefe AM QC

B C Oslington QC

J Poulos QC

F Santisi

D A Smallbone

K W Andrews

T K Tobin QC

C I Twomey

P Webb QC

J N West QC

T Lynch

G Farmer

R S Sheldon SC

N Manousaridis

S Burley SC

A Rees SC

D S Timmins

The Hon J R Dunford QC

Dr J G Renwick

I C Duane

R Cavanagh

E Welsh

M Painter

J R Clarke

J C Sheahan SC

G Rich

S Davis

A M Seward

D Hirsch

E Ito

K Day

H P T Bevan

### **\$250 to \$499**

S G Campbell SC

The Hon Justice D Davies

S D Kalfas SC

Her Honour Judge R C Tupman

J B Whittle SC

M L Brabazon SC

P J McGrath

The Hon Acting Justice RF Smart

K Eastman

D Barrow

L King SC

R M Sweet

M B Williams SC

M A Cleary

His Honour Judge S Norrish QC

T Healey

G M Radburn

His Honour Judge J Bennett SC

J P Gormly SC

G Moore

D J Higgs SC

M Gorrick

The Hon Justice H Nicholas

W M Fitzsimmons

D Wilson

E Olsson SC

## Contributions to the Barristers' Benevolent Fund

V F Kerr	S A Benson	M G Gilbert
D Kell	Y Shariff	P G W Stitz
R L Seiden	<b>\$100 to \$249</b>	P J Cook
F P Hicks	P Biggins	I F Butcher
H W M Stitt	J Berry	G J Graham
W Strathdee	G M Johnston	The Hon J P Bryson QC
D P Kelly	R J Grady	V M Heath
J Sheller	J J Fernon SC	S Hughes
P Callaghan SC	R Driver	D Priestley
Participants, Great Bar Boat Race 2009	G K Burton SC	N H Rudland
A Reynolds	M Einfeld QC	P R Cummings
J Needham SC	S Burchett	J V Gooley
A G Todd	G Graham	A J McInerney
P H Blackburn-Hart SC	N A Nicholls	N J Kidd
G Van Der Vlag	R Johnson	T J Davie
G Brzostowski SC	The Hon Justice P A Johnson	C A Moore
D A Buchanan SC	His Honour Judge M J King SC	G J Watkins
The Hon Justice Cowdroy OAM	G Nicholson QC	P J Livingstone
The Hon Justice R Edmonds	N A Cotman SC	A M Pickles
D J Hooke SC	T M Rowles	G F Foster
G Hoeben	P G Maiden SC	M De Vere
R P Greenhill SC	K Morrissey	T Z Messner
The Hon R V Gyles AO QC	J D McDonald	A J Bowen
T A Game SC	L P McFee	M Tibbey
C P Heazlewood	R McKeand SC	J E Healey
J Kildea	The Hon J K McLaughlin	The Hon Justice M Stone
M Lynch	J Phillips SC	R C A Higgins
P G Mahony SC	R E Quickenden	T M Mehigan
D Ronzani	S Reuben	A Phelan
W J Walsh	J O North	B D Brassil
J E Sexton SC	J P Sewell	A Goldsworthy
T J J Willis	J Shaw	J M Harris
The Hon Justice D J Collier	C M Simpson SC	D B O'Neil
J C Thompson	D J Thorley	Dr S Berveling
R Graycar	R J Taylor	D Cowan SC
J O Tancred	R W Hood	J Stowe QC
G B Colyer	A J J Renshaw	The Hon Dr R Purvis AM QC
M Dicker	P L Dodson	G B Beauchamp
A R Moses SC	M J Windsor SC	R S Bell
P Russell	K J Howard SC	Dr C J Birch SC
P T Newton	D R Pritchard SC	D Brogan
D Burwood		R Driels



His Honour Judge M A Elkaim SC	G T Johnson	J A Trebeck
P Hastings QC	A M Gruzman	C Vindin
A Lakeman	W Dawe QC	E Wasilenia
N A Confos	T Hughes	O G Watt
M Oakes SC	M J Perry	S Wheelhouse SC
K Roser	P F Liney	R S Warren
G Rundle	The Hon Justice C Hoebe AM RFD	M J Gallagher
A Stenmark SC	AD Bishop	M C Ramage QC
The Hon L D S Waddy AM RFD QC	T A Kolomyjec	B R Ferrari
G McIlwaine	B Hull	K J Pierce
P Durack SC	A Jamieson	P A Rowe
G M Kenny	R Beech-Jones SC	K L Stewart
A A Henskens	The Hon Justice P M Kavanagh	Dr John Keogh
S B Dixon	R Keller	S B Benson
A J Stone	R I Bellamy	J Gleeson
D R J Toomey	D T Kennedy SC	M Christie SC
Dr M Perry QC	J T Kearney	A Cotter-Moroz
N Newton	G McGrath	S W Climpson
J F Heazlewood	G Smith SC	D A Caspersonn
Magistrate J Stevenson	I Lawry	J M Galluzzo
J Doyle	C Leahy SC	P M Skinner
C Simpson	S J Longhurst	G P Craddock SC
H J Marshall SC	P J Mooney	J P Busuttil
A Sullivan QC	R Montgomery	Dr R J Webb
R N O'Neill	M McAuley	R L Hamilton SC
R A Hewson	M F McDermott	T R Edwards
C E Backhouse QC	R S McIlwaine SC	D K Jordan
G M Barter	G P McNally SC	Dr F R McGrath AM OBE
A J Bartley SC	D Nelson	V A Hartstein
D A Bertini	G Niven	The Hon J P Slattery AO QC
J R Sainty	B A Odling	The Hon Justice P W Young AO
K Chapple SC	B R Pape	The Hon P J Newman RFD QC
The Hon Justice M G Craig	G R Petty SC	S York
W J Dalley	J Priestley	S M Kettle
J Duncan	E Petersen	T M Ower
D M Loewenstein	M W Robinson	W L S Lloyd
I D Bourke	J E Rowe	The Hon Dr J Macken AM
C A Evatt	R Royle	D T Drewett
L Ellison SC	The Hon C S C Sheller AO QC	M Thangaraj
His Honour Judge D Frearson SC	P Strasser	B Pluznyk
H Gerondis	The Hon T J Studdert QC	A J Bulley
G T Gillett	K G Bennett	H K Dhanji

## Contributions to the Barristers' Benevolent Fund

I Taylor	M L Holz	M J Walsh
R C Beasley	J P Redmond	B E Haverfield
D Day	M Hirschhorn	A Djemal
Dr A Silink	C Bolger	T L Wong
The Hon Justice R A Pepper	R J Wilson	M Seymour
E J Johnston	S J Buchen	The Hon Justice D Kirby
G J Sundstrom	V Whittaker	D Shoebridge
I R Pike	J T G Gibson	The Hon M D Finlay QC
G Lucarelli	A Williams	W D Thompson
P N Khandhar	Dr S Blount	C J Bannon QC
W Thompson	T Maltz	The Hon D D Levine RFD AO QC
J L Gruzman	G Donnellan	The Hon R J Peterson QC
S D Ocampo	P Thew	T McDonald
T G Howard	A Combe	C Wood
J J Ryan	A A Gomez	N E Furlan
W P Lowe	P Batley	A Ketas
M Fanning	D Barry	T Di Francesco
H Stowe	J Redwood	T D Anderson
R K Newton	D Forster	B Ilkovski
G Kumarasinhe	L McBride	J M Patey
R Jankowski	C H Withers	M S White
P J Nolan	D Barnett	S Gardiner
I G A Archibald	A Miller	W P Brewer
E Boyle	S Robertson	J Davis
A Cheshire	D Healey	P Dwyer
R J Carruthers	C Gleeson	P Dooley
M Falloon	<b>\$25 to \$99</b>	N Francey
C L Thompson	A W Mooney	A Hogan
G Blank	J M Atkin	The Hon Justice B M James
Jo Haughton	A Hill	L E Judge
R Harper	C Stewart	S E Loomes
J A Hogan-Doran	R H Weinstein	C Lonergan
K Barrett	A J O'Brien	S Phillips
R Francois	M J Heath	R Alkadamani
K M E Viglianti	M K Rollinson	S Rushton SC
J A Hammond	N S Jackson	G R Heathcote

S J Stanton  
 A S Kostopoulos  
 J Bartos  
 The Hon Lance Wright QC  
 J D E Jones  
 The Hon Judge J L O'Meally AM RFD  
 P R Moran  
 The Hon RN Madgwick QC  
 B G Docking  
 W J Hadley  
 M S Spartalis  
 K Poulos  
 K Sant  
 P R Carr  
 Dr C Mantziaris  
 J Trevallion  
 L McManus  
 A D Campbell  
 R D Glasson  
 I H Pike AM  
 A C Canceri  
 G Elliott  
 P Bruckner  
 J Rawlings  
 M Gunning  
 A P L Naylor  
 T Jowett  
 A Metcalfe  
 L Henderson  
 M Wong  
 A E Maroya  
 N S Carroll  
 B Neild  
 S Sivaloganathan  
 M A Gerace  
 K Deards

G F Mahony  
 D Harkin  
 Dr A L Connolly  
 L Fernandez  
 K Conte-Mills  
 M Castle  
 J B Kay Hoyle  
 M J Weightman  
 R A Bonnici  
 R J A Sergi  
 D Cochrane  
 J Barnett  
 R Skiller  
 W D Hosking QC  
 J Baxter  
 D Dura  
 J Henness  
 T J Dixon  
 J Travassaros  
 J A Ayling SC  
 J J Webster SC  
 D R M Murphy SC  
 The Hon Justice P R Graham  
 The Hon Justice D M Ryan  
 The Hon Acting Justice M W Campbell  
 M A Coleman  
 T Evers  
 E Kennedy  
 N Newton  
 The Hon B J K Cohen QC  
 N Nelson  
 L Karp  
 S A Hughes  
 N Angelov  
 C Boyd  
 G Wright

L Shipway  
 C Purdy

#### **Under \$25**

E H Baskerville  
 T S Davidson QC  
 L Ma  
 G F Jauncey  
 G Doherty  
 B Britt  
 Federal Magistrate S Scarlett  
 M Friedgut  
 C Amato  
 A M Goodridge  
 L Paraska  
 The Hon H P W Johnston QC  
 P Kennedy-Smith  
 M O Tubbs  
 J B de Vere Tyndall  
 A Doig  
 J R McKenzie  
 M J Bateman  
 J F Viney  
 D J Currie  
 M Auld  
 L J Byrne  
 P J Krebs  
 D Rickard  
 M G Crowley  
 C R Goodhand  
 J E Ibbotson  
 A P Barlow  
 M Dulhunty  
 A Kaufmann  
 E Kerkyasharian

## Indigenous Barristers' Trust - The Mum Shirl Fund

Financial report for the year ended 30 June 2010

	Page
Statement of comprehensive income	98
Statement of financial position	99
Statement of changes in accumulated funds	99
Statement of cash flows	100
Notes to the financial statements	100
Trustees' declaration	106
Independent audit report	107

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

## Statement of comprehensive income

For the financial year ended 30 June 2010

	Note	2010	2009
		\$	\$
Revenue from continuing operations	3	83,022	96,038
Audit and accounting		(4,150)	(5,000)
Bank charges		(87)	(11)
Conference expenses		(14,204)	(15,619)
Fundraising		(5,542)	(1,504)
Grants		(20,940)	(48,000)
Other expenses		(1,394)	(708)
Surplus before income tax expense		36,705	25,196
Income tax expense		-	-
<b>Net surplus</b>		<b>36,705</b>	<b>25,196</b>
<b>Other comprehensive income</b>		<b>-</b>	<b>-</b>
<b>Total comprehensive income</b>		<b>36,705</b>	<b>25,196</b>

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

## Statement of financial position

As at 30 June 2010

	Note	2010 \$	2009 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	8	43,030	342,853
Held-to-maturity investments	5	337,617	-
Other receivables	4	45,927	46,866
<b>TOTAL CURRENT ASSETS</b>		426,574	389,719
<b>TOTAL ASSETS</b>		426,574	389,719
<b>CURRENT LIABILITIES</b>			
Trade and other payables		4,150	4,000
<b>TOTAL CURRENT LIABILITIES</b>		4,150	4,000
<b>TOTAL LIABILITIES</b>		4,150	4,000
<b>NET ASSETS</b>		422,424	385,719
<b>ACCUMULATED FUNDS</b>			
Accumulated surplus		422,424	385,719

The above statement of financial position should be read in conjunction with the accompanying notes.

## Statement of changes in accumulated funds

For the financial year ended 30 June 2010

	2010 \$	2009 \$
<b>As at 1 July - opening</b>	<b>385,719</b>	<b>360,523</b>
Total comprehensive income	36,705	25,196
<b>As at 30 June - closing</b>	<b>422,424</b>	<b>385,719</b>

The above statement of changes in accumulated funds should be read in conjunction with the accompanying notes.

## Statement of cash flows

For the financial year ended 30 June 2010

	Note	2010 \$	2009 \$
<b>Cash flows from operating activities</b>			
Receipts from sponsorship and general activities		83,961	85,541
Payments to suppliers		(46,167)	(70,842)
Net cash inflow from operating activities	8(b)	37,794	14,699
<b>Cash flows from investing activities</b>			
Payments for term deposits		(337,617)	-
Net increase in cash and cash equivalents		(299,823)	14,699
Cash and cash equivalents at the beginning of the year		342,853	328,154
<b>Cash and cash equivalents at the end of the year</b>	8(a)	<b>43,030</b>	<b>342,853</b>

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

## Notes to the financial statements

For the financial year ended 30 June 2010

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

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

#### (a) Basis of preparation

These general purpose financial statements have been prepared in accordance with Australian Accounting Standards, 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

These financial statements of Indigenous Barrister's 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 conversion

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

#### Critical accounting estimates and judgements

The preparation of financial statements requires the use of certain critical accounting estimates. It also requires management to

## Notes to the financial statements

For the financial year ended 30 June 2010

exercise its judgement 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.

### *Financial statement presentation*

The trust has applied the revised AASB 101 *Presentation of Financial Statements* which became effective on 1 January 2009. The revised standard requires the separate presentation of a statement of comprehensive income and statement of changes in accumulated funds. Comparative information has been represented so that it is also in conformity with the revised standard.

### **(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.

#### **(ii) Interest income**

Interest income is recognised as it accrues.

#### **(ii) 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 purposes of presentation in the statement of cash flows, 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) Held-to-maturity investments**

The trust classifies its term deposits as held-to-maturity investments. Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the trust's management has the positive intention and ability to hold to maturity. Held-to-maturity financial assets are included in current assets except those with maturities greater than 12 months from the end of the reporting period, which are classified as non-current assets.

### **(f) 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 amount previously written off are credited against other expenses in the statement of comprehensive income.



## Notes to the financial statements

For the financial year ended 30 June 2010

### (G) 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.

### (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.

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.

### (i) New accounting standards and interpretations

Certain new accounting standards and interpretations have been published that are not mandatory for 30 June 2010 reporting periods. The trust has assessed the impact of these new standards and interpretations and concluded that none of the upcoming changes will have a significant impact on the presentation and disclosure of the financial statements.

*(i) AASB 2009-5 Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project [AASB 5, 8, 101, 107, 117, 118, 136 and 139] (effective from 1 July 2010)*

In May 2009 the AASB issued a number of improvements to AASB 5 Non-current Assets Held for Sale and Discontinued Operations, AASB 8 Operating Segments, AASB 101 Presentation of Financial Statements, AASB 107 Statement of Cash Flows, AASB 117 Leases, AASB 118 Revenue, AASB 136 Impairment of Assets and AASB 139 Financial Instruments: Recognition and Measurement. The trust will apply the revised Standards from 1 July 2010. The trust does not expect that any adjustments will be necessary as a result of applying the revised rules.

*(ii) AASB 9 Financial Instruments and AASB 2009-11 Amendments to Australian Accounting Standards arising from AASB 9 (effective from 1 January 2013)*

AASB 9 Financial Instruments addresses the classification and measurement of financial assets. The standard is not applicable until 1 January 2013. The current four categories of financial assets, stipulated in AASB 139 Financial Instruments: Recognition and Measurement, will be replaced with two measurement categories: fair value and amortised cost. AASB 9 only permits the recognition of fair value gains/(losses) in other comprehensive income if they relate to equity investments that are not held for trading. Fair value gains/(losses) on debt investments, for example, will therefore have to be recognised directly in profit or loss. The trust does not expect any significant impact on the trust's financial statements arising from an adoption of the Standard.

*(iii) AASB 2010-3 Amendments to Australian Accounting Standards arising from the Annual Improvements Project and AASB 2010-4 Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project (effective from 1 July 2010/1 January 2011)*

In June 2010, the AASB made a number of amendments to Australian Accounting Standards as a result of the IASB's annual improvements project. The trust will apply the amendments from 1 July 2010. It does not expect that any adjustments will be necessary as the result of applying the revised rules.

## 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 focuses on maintaining sufficient cash and maximising returns on the financial assets held under the policies approved by the trustees.

## Notes to the financial statements

For the financial year ended 30 June 2010

There is no formal established mandate or strategy to manage the above risks as the trust holds the 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 2010, if interest rates had changed by 100 basis points with all other variables held constant, the surplus for the year would have been \$3,376 (2009:\$3,059) 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, 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 to 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 at 30 June 2010, 10% 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 \$4,150 (2009:\$4,000).

### (d) Fair value measurement

The fair value of financial assets must be estimated for recognition and measurement or for disclosure purposes. The carrying amounts of receivables and payables are assumed to approximate their fair values due to their short-term nature.

## Notes to the financial statements

For the financial year ended 30 June 2010

	2010 \$	2009 \$
<b>3. REVENUE FROM CONTINUING OPERATIONS</b>		
Contributions received	65,129	73,536
Interest	17,893	20,983
Fundraising income	-	1,519
<b>Revenue from continuing operations</b>	<b>83,022</b>	<b>96,038</b>

### 4. OTHER RECEIVABLES

#### Current

NSW Bar Association	36,250	45,385
GST receivable	418	400
Accrued interest	9,259	1,081
	<b>45,927</b>	<b>46,866</b>

#### Risk exposure

The trusts exposure to risk for trade and other receivables is discussed in note 2.

### 5. HELD-TO-MATURITY INVESTMENTS

#### Current

Term deposits	337,617	-
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#### Risk exposure

The trusts exposure to risk for term deposits is discussed in note 2.

### 6. REMUNERATION OF AUDITORS

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

Audit of the financial report	4,150	5,000
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## Notes to the financial statements

For the financial year ended 30 June 2010

### 7. 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	Anna Katzmann SC	Tom Bathurst QC
Michael Slattery QC	Mullenjaiwakka	

#### (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.

2010	2009
\$	\$

### 8. NOTES TO CASH FLOW STATEMENT

#### (a) Reconciliation of cash

For the purpose of presentation in the statement of cash flows, 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 year as shown in the statement of cash flows is reconciled to the related items on the statement of financial position as follows:

Cash at bank	43,030	36,937
Term deposits	-	305,916
	<hr/>	<hr/>
	43,030	342,853

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

Net surplus	36,705	25,196
Changes in assets and liabilities:		
Decrease/(Increase) in other receivables	939	(11,497)
Increase in trade and other payables	150	1,000
	<hr/>	<hr/>
<b>Net cash from operating activities</b>	<b>37,794</b>	<b>14,699</b>

## Trustees declaration

In the opinion of the trustees of Indigenous Barrister's Trust – The Mum Shirl Fund, the financial statements and notes as set out on pages 98 to 105:

- (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 2010 and its performance, as represented by the results of its operations, changes in accumulated funds 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:



**T Bathurst QC**

*Trustee*

**Sydney**

**2 September 2010**



**C Ronalds SC**

*Trustee*

## Independent auditor's report

### **To the members of Indigenous Barrister's Trust – The Mum Shirl Fund:**

We have audited the accompanying financial report of Indigenous Barrister's Trust – The Mum Shirl Fund, which comprises the statement of financial position as at 30 June 2010, and the statement of comprehensive income, statement of changes in accumulated funds and statement of cash flows for the year ended on that date, a summary of significant accounting policies and other explanatory notes as set out on pages 98 to 106

#### ***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

### 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 Barrister's Trust – The Mum Shirl Fund as at 30 June 2010 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.



**HLB MANN JUDD**

**Chartered Accountants**



**P B Meade**

**Partner**

**Sydney**

**3 September 2010**