



## President's Report

The 2011–12 financial year has seen a number of important developments for the Bar Association, including some crucial initiatives for members.

The Bar Council commenced the New Year with an all-day strategy session held on Saturday, 4 February in the Common Room.

The day was conducted with relative informality, and gave all bar councillors the opportunity to contribute their ideas on broad issues of strategic direction away from the time constraints inherent in the council's usual meeting schedule. Many constructive suggestions were made and agreed to be pursued, and the outcomes of the discussions have shaped much of the council's activity during 2012 to date, and will continue to do so.

Topics discussed included the Bar Association's role in public debate on issues affecting the administration of justice, diversity at the bar, governance, strategic planning and practice development.

One of the major focuses for the Bar Council at the planning day was on improved services for members, and I am delighted to report that there have been some crucial developments for members since that time.

Work has commenced on the design and establishment of a new website for the Bar Association, which will provide better online resources for our members, as well as the general public.

Members of the association have

also been provided with a first-rate benefits programme. Initiated by the Australian Bar Association, but designed to meet the requirements of local barristers, the new member benefits programme includes special offers on luxury motor vehicles, car rental, travel, Qantas Club membership, health and life insurance policies, premium wines and petrol discounts. I encourage members to take advantage of these offers, which can be easily accessed through the Member Benefits section on the association's homepage.

Another issue which occupied the attention of Bar Council at the Planning Day was the question of what can be done to encourage diversity at the bar. This issue was recently considered by Bar Council, which has decided to adopt a series of initiatives aimed at fostering equal opportunity for all people wishing to come to the bar or at the bar.

The Equal Opportunity Committee will have primary responsibility for these and other relevant programs, in consultation with other bar committees as required.

The Bar Council has spent considerable time this year considering the need for suitable changes to the Senior Counsel Protocol. The silk selection system is kept under constant review and changes have again been made this year, which are aimed at improving the process. Further aspects of this process remain under consideration.

At the time of writing, the

government's workers compensation reforms have passed both houses of the New South Wales Parliament and are awaiting commencement. The association, and in particular the Common Law Committee, worked extensively to bring our perspective on workers compensation reform to the attention of government, both directly in meetings with the responsible minister, and through its submission to, and appearance before, the Joint Select Committee established to report on this issue.

The Bar Association's position was that any changes must:

- be financially supportable and avoid the risk of the present tail;
- properly support those injured in the workplace; and
- produce incentives to exit the workers compensation scheme and return to work.

The Bar Association expended a great deal of time and effort in working to bring about suitable amendments to the legislation, however a number of these amendments did not receive the support of the government. Further details of the Bar Association's activities in this regard are provided in the Common Law Committee's column which appears later in this report.

Again, the association's various committees have been particularly active during the reporting year. The Criminal Law Committee, for example, has prepared comprehensive submissions to major reviews of bail

and sentencing laws, while the ADR Committee continues to promote the bar's role in this increasingly important area.

The new Education Committee, having the benefit of the excellent work done by the Hon Dr Kevin Lindgren QC, has been working closely with the New Barristers Committee and the Examination Working Party to implement reforms and change across all aspects of the bar's professional development

programmes. Reforms include changes to the timing of the Bar Practice Course and updating the association's CPD policy. The latter set of changes better reflect the modern methods of CPD delivery not considered when the scheme was first introduced in 2002, such as the bar's own CPD online system referred to earlier and in more detail elsewhere in this report.

I would like to take this opportunity to thank all members who give up

their time to serve on committees, which play an essential role in advancing the interests of the bar.

Finally, my thanks are also due to all members of the Bar Council, the executive director, Philip Selth, and the hardworking staff for the assistance they have given me over the reporting year.

**Bernard Coles QC**  
**President**



## Executive Director's Report

### National practice

In my 2008–2009 report I noted that on 30 April 2009 the prime minister and attorney-general had announced that the Council of Australian Governments (COAG) had agreed on 'a plan to achieve national regulation of the Australian legal profession'. Each year since I have been reporting, with various degrees of optimism and despair, on the slow progress being made towards there being a national legal profession regime. The past year has seen little progress. Regrettably, the Western Australian and South Australian governments (and possibly others) have not agreed to participate, although it does seem that Queensland will be part of the national scheme.

The intention is for Victoria to introduce the model Legal Profession National Law Bill into its parliament in late 2012, and the other participating jurisdictions following either at the end of the 2012 or early in 2013.

The Bar Association, along with the Law Society and the legal services commissioner, are now working with the Attorney General's Department to prepare the complementary NSW Bill that will need to be enacted along with the model Bill.

It is intended that parts of the legislation will be proclaimed as quickly as possible, so as to allow the establishment of the proposed national board, and the settling of the various rules and guidelines that will be required for there to be a truly unified national legal profession regime.

The changes that are coming will primarily affect the 'back office' work of the association's staff, for example, in having professional indemnity insurance policies approved, different (national) wording on the practising certificate, and changed working arrangements with the legal services commissioner. A barrister will notice very little effect, if any, on his or her

daily practice. It remains unclear what the consequences will be if a NSW barrister wishes to appear in one of the non-participating jurisdictions – and vice versa.

### The national board

Under the Legal Profession National Law a National Legal Services Board is to be established. The objectives of the board are;

- to ensure the efficient, targeted and effective regulation of the legal profession and the maintenance of professional standards; and
- to address the concerns of clients of law practices through the regulatory system and provide for the protection of clients of law practices; and
- to promote national consistency in the regulation of the Australian legal profession; and

- to ensure the Australian system is at the forefront of regulation of legal professionals.

The board is to consist of seven members, two of whom will be recommended by the Law Council of Australia, and one appointed on the recommendation of the Australian Bar Association. The appointment of the board's chair involves the host attorney general consulting with both the president of the LCA and the president of the ABA.

### Conduct rules

In last year's annual report I discussed the development of the new *Barristers' Conduct Rules* which came into effect on 8 August 2011. These rules have been, or soon will be, enacted in identical form by the bars of all states and territories.

Once the national profession legislation is enacted the Australian Bar Association, rather than the individual councils of the Australian bars, becomes the rule-making body, subject to the approval of the national board.

When Carol Webster and I conducted a series of seminars across the state on the new rules, a number of suggestions for amendment were made. Most of these suggestions have been considered by the Council of the Australian Bar Association. A few have been adopted. The council has agreed that when the national rules are submitted to the national board for endorsement, these (relatively minor) amendments will be included.

### Law Council of Australia

The Law Council of Australia, established in 1933, is the peak body representing the legal profession in Australia. All state and territory bars and law societies are members of the LCA. In general, the LCA speaks on issues of national and international

importance to the profession, federal law and the operation of the federal courts and tribunals and the constituent bodies speak at a state and territory level. The Bar Association makes a major contribution to the work of the LCA through submissions members draft for the LCA and through the work of the LCA's 'Sections' (practice area committees).

From time to time I am asked why the solicitors appear to dominate the position of president of the LCA. An obvious reason is that there are more solicitors than barristers in Australia, and there is a tendency for the law societies to favour a solicitor candidate for election to the LCA Executive than a barrister candidate. But barristers *are* elected to the Executive. However, there is a structural problem with the current arrangements. There are six Executive positions, and almost invariably a member of the Executive moves 'up the ladder', one step each year. (Bret Walker SC, president for 1997-1998, was the last exception to this practise.) Being a member of the LCA Executive requires a substantial commitment of time. The self-employed barrister does not have the support of a law firm behind them. Those barristers who do stay on the 'treadmill' to the LCA presidency (and are not in the meantime appointed to the bench), deserve the profession's sincere thanks.

In December 2011 Bill Grant OAM, the secretary-general of the Law Council, resigned to return to the Legal Aid NSW as its CEO. In his work on the national legal profession project, including as a member of the Commonwealth/State National Profession Taskforce, Mr Grant strongly supported the role of the independent bar, and I wish to here acknowledge that support. Emeritus Professor Sally Walker AM, former vice chancellor of

Deakin University, was appointed the LCA's new secretary-general in June 2012.

### Australian Bar Association

The New South Wales Bar Association is a constituent member of the Australian Bar Association, which was formed in 1962. The ABA is the peak body representing the independent referral bars of each state and territory. The bars are all members of the Law Council of Australia, but there are important issues where the bars need to, and do, speak collectively, separate from the LCA.

The major functions of the ABA can be broadly categorised as:

- representing at a national level the independent referral bars;
- the establishment and maintenance of uniform rules of conduct and practice for the bar across Australia;
- the delivery of specialist, high quality training in advocacy for both the less experienced and the experienced trial advocates; and
- the delivery of a biennial international conference of immediate relevance to barristers' practices and where eminent speakers are able to share with practitioners their expertise and challenge them to consider different ways of practice as well as the future of the advocate's profession.

In July 2011 the ABA held its biennial conference in Berlin. These conferences are invariably of top-class standard. The long flights to Australia, high costs and the disruption to speakers' professional duties make it very difficult to hold international standard conferences in Australia. But the ABA's reputation, and the relative ease of travel for

speakers to attend a conference in the northern hemisphere, has meant that these conferences make a major contribution to the profession's professional development. In July 2013 the ABA's conference will be held in Rome.

The enactment of the Legal Profession National Law will require the ABA to consider how best it can support its nominee to the board (assuming that person seeks assistance from the ABA). There will be a very large number of proposed rules and guidelines issued by the board on all aspects of practice which will require a response from the ABA. The Bars will inevitably wish to put their views- and wishes- before the board on a wide range of issues. At present, the ABA has no administrative structure that will allow timely, informed dealings with the board. This is an issue currently under consideration by the ABA.

#### Technology

In 2002 the Bar Council ushered in a new era of professional development with the introduction of CPD. In the intervening ten years the Bar Association has offered over 658 seminars and conferences. Video copies of most of the seminars have been available from the library, but the service being provided to members outside the Sydney CBD was not as good as we wished. Things have now changed. Since the beginning of 2012, with the introduction of 'CPD online', members have been able to watch a seminar in their own time on their computer, iPad, iPhone or android smart phone. Seminars being presented in the Bar Common Room are recorded in high-definition and are available for viewing online within a few days of the event. Papers and PowerPoint presentations accompanying the sessions are also available online.

Over time, as technical problems are overcome, it is intended that a member will be able to log in to a seminar in real time, and participate as if in the Common Room.

The Bar Association's website is also undergoing major renovations, a primary aim of which is to enhance the 'Find a barrister' function to enable members of the public and others, in particular solicitors and in-house counsel, who wish to brief a barrister with particular expertise or seniority, to know who might meet their requirements. The new site will have significantly enhanced useability and relevance for the association's members.

These projects necessarily have had a long gestation period; I don't pretend to understand some of the technical issues that have had to be addressed. But I am grateful to those who have and are managing these major projects.

#### Thanks

The activities recorded in this annual report are but a 'snap shot' 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 on the association's web site. Due to the need to preserve the confidentiality of many of the Bar Association's dealings with state and federal attorneys general and others, a significant part of the association's work goes unpublicised. This lack of public recognition for important work done by the association is a disappointment to some, particularly when the association is unfairly criticised for some alleged sin of commission – or omission. But the association's well-deserved reputation for impartiality in its dealings with governments, oppositions and cross-benchers, parliamentary committees and others, is too valuable a commodity to be

given away for a favourable mention in the media. I remain grateful for the extensive contribution made by members of the bar to the business of the Bar Association, both publicly and in private. Hundreds of members of the association assist with its activities, be it as a member of a committee, section or forum; as a representative on court liaison bodies; polling officers for the Bar Council elections; drafting submissions; speaking to the media; participating in the association's various legal assistance schemes; presenting CPD seminars; speaking at a '15 Bobber'- the list is long. The innumerable requests made of members, often at night or on weekends – or when the barrister is preparing for court – are invariably met with a cheerful 'of course- when do you need it' response. This assistance is invaluable, and is greatly appreciated. I also note my thanks for the assistance given to the association by the clerks.

I also record my particular appreciation for the assistance given me by the president, the council's other office bearers and all members of the Bar Council.

Each year I struggle to find a different way of expressing the same sentiments I expressed last year about the association's staff. However I may express it, the sentiments are unchanged. Few members know the extent of the contribution made to the bar by the association's staff. For them it is not just a 9-5 job. They are justifiably proud of their support to the association, to the bar more generally, and to those who seek the association's assistance. Again, I note with pride and thanks the contribution made by the association's staff.

## Bar Council 2012

As at 30 June 2012

**Bernard Coles QC**

**Phillip Boulten SC**

**Jane Needham SC**

**Ian Temby QC**

**Anne Healey**

**Geoff Lindsay SC**

**Sandy Street SC**

**Tim Game SC**

**Justin Gleeson SC**

**Garry McGrath SC**

**Virginia Lydiard**

**David Smallbone**

**Michael McHugh**

**Kate Traill**

**Chrissa Loukas**

**Kylie Nomchong**

**Dominic Toomey**

**Mary Walker**

**Warwick Hunt**

**Zali Steggall**

**Elizabeth Peden**



## Office bearers



*Bernard Coles QC*

*President*



*Phillip Boulten SC*

*Senior Vice-President*



*Jane Needham SC*

*Junior Vice-President*



*Ian Temby QC*

*Treasurer*



*Anne Healey*

*Secretary*



# The year in review

# 2011

July	August	September	October	November	December
Tutors' & Readers' Dinner	5th National Indigenous Legal Conference	Bar Oral History launch	Silk appointments	Silks presentation ceremony	Bar Tennis Day
Bar exams	Common Law Drinks	Criminal Law Forum	Bar Practice Course	AGM	EO & HSR committees' Christmas Party
Barristers in Schools	ADR Conference	Fundraising Trivia Night	Clerks Conference and Dinner	Pink / Blue Ribbon Breakfast	
	15 Bobber for the Hon Justice Robertson	Bar Council drinks with NSW judiciary	Fundraising Dinner for Martin Place homeless	Legal Assistance function	
	Unveiling the portrait of Sir Kenneth Jacobs	Career at the Bar Open Day	Bar Council drinks with attorney general	15 Bobber for the Hon Justice Meagher and the Hon Justice Adamson	
		15 Bobber for the Hon Tom Bathurst			



Top row: unveiling the portrait of Sir Kenneth Jacobs. Middle row, L to R: the Tutors' and Readers' Dinner at Bel Mondo; Jane Needham SC speaking at the fundraising dinner for the Martin Place homeless; Indigenous Barristers' Trust fundraiser at Circular Quay. Bottom row: Julia Baird at the launch of the Bar Oral History Project and 'Women Practising at the NSW Bar: the years to 1975'.



January	February	March	April	May	June
ABA Advocacy Course	CPD regional conferences begin	Bar Association Personal Injury Conference	Sir Maurice Byers Address	Bench & Bar Dinner	15 Bobber for the Hon Justice Beech-Jones
Bar v Solicitors Golf	Bar exams	CPD regional conferences		Unveiling the portrait of the Hon J Spigelman QC	Indigenous Barristers' Trust fundraiser
		BarADR launch		Bar Practice Course	15 Bobber for his Honour Judge Mahony SC and his Honour Judge Hoy SC
		15 Bobber for the Hon Justice Bellew and the Hon Justice Stevenson		Barristers in Schools	



Top row: Bar Practice Course 01/2012. Middle row, L to R: the 2012 Bench and Bar Dinner at the Westin Sydney; President Bernard Coles QC speaking at the Bench and Bar Dinner; students at the Barristers in Schools Program, 2012.

## Our people



As at 30 June 2012

### 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>Receptionist</b>	Maree Fitzgerald B Design JP
<b>Admin. Officer (Records)</b>	Kim Ellis
<b>Administrative Officer</b>	Fay Braddick
<b>Software Developer</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 Peter Smith LLB BLJS
<b>Administrative Assistant</b>	Salvina Napoli-Torkamani

### 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

<b>Director</b>	Chris D'Aeth LLB (Hons) MBA
<b>PD Manager</b>	Anna Hurtig BA BSSc MA Dip Ed
<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>Deputy Executive Director</b>	Alastair McConnachie LLB
<b>Publications Manager</b>	Chris Winslow BA (Hons) MIntS
<b>Senior Policy Lawyers</b>	Megan Black BA LLB (Hons) Roshana Wikramanayake
<b>Policy Lawyers</b>	Jo Wilton LLB Kim Kemp LLB
<b>Acting Policy Lawyer</b>	Joss Separovic BA 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 2012 there were 2894 members.

Members who hold a NSW practising certificate (including members based interstate & overseas and nine life members who have a current NSW PC)	
Male	1749
Female	430
<b>Total</b>	<b>2179</b>
Number of senior counsel (QC or SC)*	
Male	322
Female	22
<b>Total</b>	<b>344</b>
Number of 'junior' barristers**	
Male	1427
Female	408
<b>Total</b>	<b>1835</b>

Practising address of members who hold a NSW PC	
New South Wales	2169
Australian Capital Territory	3
Queensland	3
Overseas	3
Western Australia	1

Members (inc. honorary life members, judges and non-practising barristers)	
Male	582
Female	133
<b>Total</b>	<b>715</b>
(Includes 26 honorary life members who don't have a current NSW PC)	

Occupation of non-practising members	
Academic	13
Clerk	20
Crown prosecutor (interstate / Commonwealth)	3
Former barrister	137
Former judge / magistrate	104
Interstate / overseas barrister	185
Judge	170
Judicial officer	5
Magistrate	40
Member of parliament	3
Other	34
Solicitor-general (Commonwealth)	1

## PRACTITIONERS

As at 30 June 2012 there were 2198 barristers with a NSW PC.

Practitioners holding NSW practising certificates (including practitioners based interstate and overseas)	
Male	1764
Female	434
<b>Total</b>	<b>2198</b>
Practitioners who are senior counsel (QC or SC)	
Male	322
Female	22
<b>Total senior counsel</b>	<b>344</b>
Junior barristers	
Male	1442
Female	412
<b>Total junior barristers</b>	<b>1854</b>

Location of holders of a New South Wales PC					
	Juniors		Silks		Total
	Male	Female	Male	Female	
New South Wales	1433	412	320	22	2187
ACT	3	0	0	0	3
Queensland	2	0	1	0	3
WA	1	0	0	0	1

Overseas practitioners by country of residence					
	Juniors		Silks		Total
	Male	Female	Male	Female	
France	1	0	0	0	1
New Zealand	1	0	0	0	1
United Kingdom	1	0	1	0	2

+ 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

During 2011–2012 the Bar Library continued to provide a valuable service to members of the association and practising members of the profession. The library aims to provide legal resources in a timely and accurate manner and its major goals are to:

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

It does this by providing the following services:

- development and maintenance of the library's collection
- provision of legal reference services for members, exam candidates and Bar Association staff;
- library orientation and legal research training;
- provision of an index of current legal weblinks

Librarians answered 4070 reference queries for 931 clients in the last financial year. This had increased from 3705 last year. The reference service continues to be a significant service offered by the library and encompasses a large part of the librarians' working day.

The library's Reference Management System allows the librarians to



## The Bar Library

keep a record of reference queries undertaken by the librarians, and the responses supplied to members. We can also determine trends in subject, type of information requested and resources required and plan with reference to this information.

A significant number of questions involved sourcing material via interlibrary loans. The library has an extensive network of libraries with which we have reciprocal relationships, allowing us to borrow a wide range of materials for patrons at little or no financial cost. We particularly value our relationships with the NSW Supreme Court library, the Federal Court library and the Queensland Supreme Court library.

The library handled 15,688 loans in this financial year. The library's hard copy resources continue to be in demand: the number of textbooks borrowed has increased by more than 10 per cent.

Members can access the library's web catalogue to search for, locate and reserve items of interest.

Members can also download available unreported judgments from the library's collection as well as seminar papers from CPD sessions. Members are now able to watch CPD videos and download seminar papers from the association's dedicated website.

In 2012, the Bar Council approved some changes to the library rules, mainly dealing with non-barrister and interstate members. The current library rules are available to be viewed on the website.

The library hosted meetings of the Health, Sport & Recreation Committee's Bar Book Club and Bar Knit Group initiatives. The meetings have been very popular and provide a welcome social break in the schedule.

The librarian would also like to thank the volunteers and contributors who have assisted at the Benjamin Andrew Footpath Library this year. It is greatly appreciated and we hope to continue our relationship with the library for many years to come.

Over the past 12 months, the Health, Sport and Recreation Committee has continued to encourage members to live balanced and healthy lifestyles through participating in the various sporting, social and recreational activities organised or endorsed by the committee.

The establishment of a detailed website providing links and information to members about the committee's activities has led to increased interest from the bar.

Some of the committee's recent achievements across its three broad areas of responsibility are:



## Health, Sport and Recreation Committee

### Health

The committee organised for members to receive flu shots and have their cholesterol, glucose and blood pressure tested on 27 April 2012. The shots were administered at the Bar Association and the evening was very well attended. Showing its continued commitment to promoting the health at the bar, the committee will continue to provide this service each year.

On 17 November 2011, the committee organised a seminar given by physiotherapist Sarah Key MVO chaired by Zali Steggall. The seminar concentrated on the sedentary nature of barrister work and the long term health impact of not managing posture and lower back issues. The committee strongly encourages members of the bar to take of themselves and their backs!

### Sport

The committee supports as many key fitness events as it can find including the City to Surf, the Sydney Morning Herald Half-Marathon, Blackmore's Running Festival and, of course, the superb NSW Bar FC! The team continues to grow in numbers and recently managed to induct two members of the Information Technology Department at the NSW Bar Association. Go team!

This year the Bench & Bar team were victorious against the solicitors in the Bench and Bar v Solicitors Golf Match on 23 January! Over 60 players teed up for the annual event at the picturesque Elanora course for the right to hold the Sir Leslie Herron mace for another year. Of the 15 matches played the Bench and Bar were victorious in 10, the solicitors 4 and one match was halved.

The Great Bar Boat Race will return at the end of 2012. The committee has assembled a subcommittee to ensure this great tradition makes a return after two years aground.

The bar was well represented at the 2012 Lawyers Ski and Snowboard Race with barristers taking out the fastest overall and fastest male snowboarder. The inclusion of snowboarders in the non composite team categories has proved to be a big plus for snowboarding members.

Yoga continues to grow in popularity and last year an additional lunch time class was organised. Yoga is now available twice a week at the Bar Association – Tuesday mornings and Thursday lunchtimes.

### Recreation

June this year saw the lines being cast out for expressions of interest for the Bar Fishing Club. The

## Promoting the interests of practising barristers

purpose of the Fishing Club is to arrange fishing charters and trips and to generally share all ideas piscatorial. The club has attracted great interest in the short time it has been up and running and is expected to do so into the future.

The Bar Knitting Group and the Book Club continue to enjoy

their monthly meetings at the Bar Library.

The committee in conjunction with the Equal Opportunity Committee also hosted the Trivia Night on 22 September 2011, raising funds for the Young Love Foundation and the Pink and Blue Ribbon Breakfast on 28 October 2011, raising

awareness and funds for Breast and Prostate Cancer.

For more information on the work of the committee, we invite you to peruse our website: [www.nswbar.asn.au/docs/about/appointments/health.php](http://www.nswbar.asn.au/docs/about/appointments/health.php)

## Indigenous Barristers Strategy Working Party

The Indigenous Barristers' Strategy Working Party remains dedicated to the implementation of the Indigenous Lawyers' Strategy at the New South Wales Bar.

The membership of the working party consists of barristers, a District Court judge and representatives from the Law Schools of the University of New South Wales and the University of Technology.

Over the past year, the working party continued to develop its already strong focus on Indigenous law students. Often working closely with Ngalaya, a NSW association for Indigenous lawyers and law students, the working party provides encouragement and incentives for students to progress through their studies to one day consider the bar as career choice.

Developing part-time employment

opportunities for Indigenous law students and employment and mentoring opportunities for new Indigenous law graduates is a significant focus for the working party.

The employment scheme for Indigenous law students has successfully run over the last decade. Students are provided with the opportunity to conduct administrative work and research for barristers and gain an understanding of the role of a barrister.

The mentoring scheme was established in February 2009. Now there are 36 Indigenous law students being mentored by NSW barristers. Students continue to report significant increases in their understanding of the way that the legal system works which provides a significant input to their legal

studies. Barristers continue to remark on the rewarding nature of the scheme.

A special trust fund, The Indigenous Barristers' Trust – The Mum Shirl Fund (the Trust), 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 NSW Bar Association, Bernard Coles QC, Justice Michael Slattery QC, Mullenjaiwakka, now a retired Indigenous barrister, and Chris Ronalds AM SC.

The working party, along with the



directors of Ngālaia, organised the sixth National Indigenous Legal Conference which was held in Sydney on 12-13 August 2011 which was hosted by the Trust. The event titled 'The Pursuit of Equality: From international instruments to individual advancement' was a great success and featured as speakers George Pascoe Gayamarani and the Rev Dr Djiniyini Gondarra. Two Māori speakers, Matiu Dickson, a Senior Law Lecturer at the School of Law, University of Waikato and Dr Robert Joseph, a Barrister and Solicitor of the High Court of New Zealand, added an international touch to the conference and provided fascinating insight into the way New Zealand dealt with similar issues. Over 150 people attended the conference and the vast majority were Indigenous law students and lawyers. The conference continued its major role in building national and local networks.

On 1 June 2012, the trust held a special fundraising celebration to mark 20 years since the High



*On 1 June 2012, the trust held a special fundraising celebration to mark 20 years since the High Court's decision in Mabo v Queensland.*

Court's decision in *Mabo v Queensland*. The event featured an entertaining and poignant presentation from the Honourable Justice Joseph Williams, a leading Māori lawyer and High Court judge of New Zealand and guests were able to enjoy the wonderful Vivid lightshow on Sydney Harbour as a backdrop. All funds raised from the evening supported the aims of the trust.

Moving forward, both the working party and the trust will be concentrating on a Reconciliation Action Plan for the bar, maintaining and improving its already existing programs and funding students to attend the next National Indigenous Legal Conference in Perth in October 2012 and the World Indigenous Lawyers' Conference in New Zealand in September 2012.

## Fee Recovery Assistance

The Bar Association assists members with recovery from solicitors of unpaid fees, which have been outstanding for more than three months but less than two years.

Assistance is generally offered as follows:

1. The association will write to the solicitors requesting payment.
2. In the event payment is not forthcoming, the association will telephone the solicitor seeking an explanation.

3. If the above efforts are unsuccessful, the association can recommend a firm of solicitors to provide members with advice on the recovery of costs.

In 2011-12, the Fee Recovery Service had a 67% success rate in recovering fees on behalf of members.

The Equal Opportunity Committee was dedicated to improving the conditions for all members of the bar throughout 2011-2012.

Throughout the past year, the committee has also continued to work in conjunction with Health, Sport and Recreation Committee in the organisation of collegiality and charitable events.

Earlier in 2012, in what will be one of the most significant initiatives undertaken by the committee in a number of months, the committee resolved to draft an Equity and Diversity Plan for the bar.

The plan, recently endorsed by the Bar Council at the committee's request, will be a consolidation of much the committee's work over the past few years. The purpose of the plan is to enable the bar, through the committee, to have a more coordinated approach to assist it identify issues of concern, monitor progress and develop specific policies and practices to respond to issues. Among the many issues the plan will deal with are a *Diversity and Equity Policy*, *Sexual Harassment and Discrimination Policy*, *Equitable Briefing and Access to Readers' Rooms*.

In moving the plan forward the committee will be strengthening cohesion between members of the bar, liaising with the Women Barristers Forum and the New Barristers Committee, in a bid to address the many issues that affect the broader community at the bar.

In the lead up to the development of the plan the committee has

been concentrating on a number of issues over the course of the year.

#### Equitable briefing

Equitable briefing remains a priority for the committee. The committee continues to actively ascertain whether equitable briefing policies are being complied with, and through dedication and relationship building, now receive voluntary updates from law firms and other organisations in relation to their progress.

#### Mentoring

In 2011 the committee merged its mentoring scheme with the mentoring programme run by the Women Barristers Forum. The result has increased the amount of barristers involved in mentoring relationships and ensures that anyone who desires to be mentored can be.

#### University visits

On 25 May 2012 the Bar Association opened its common room doors to around 70 female law students from various NSW universities. The students were introduced to the ways of barristers and judges alike and had the opportunity to visit the Supreme, District and Industrial courts of New South Wales. This year the event again received such positive feedback that moving forward, the

committee has decided to rework the day in a bid to make it even more valuable for students.

#### Collegiality events

In addition to the issues outlined above, the committee, along with Health, Sport and Recreation Committee, has continued to foster collegiality at the bar by arranging key social events.

#### Trivia night

The fund-raising trivia night on 22 September 2011 was a great success, with the event raising over \$2,100 for the *Young Love Foundation*, a charity that provides school and community based mentoring programs and personal development workshops for young people who are facing profound challenges in their lives, including mental health issues, substance abuse issues, and sexual health issues.

#### Pink and Blue Ribbon Breakfast

For the past two years the annual Pink Ribbon Breakfast has been a great success, raising money for breast cancer research. On 28 October 2011, a *Pink and Blue Ribbon Breakfast* was held at the Bar Association. The breakfast raised over \$1,500 for both the National Breast Cancer Foundation and the Prostate Cancer Foundation of Australia.

## Equal Opportunity Committee

The Practice Development Committee aims to maintain and promote the unique services offered by the bar, namely, specialised advocacy skills.

The committee continued to be chaired by Richard McHugh SC during the reporting year and a number of new members were brought in to augment its work.

The committee's primary focus has been to examine to what extent the bar can promote itself or market itself to in-house counsel with current solicitors' practising certificates directly. In this context, the committee has given consideration to the practices of the UK Bar and how their services are marketed. As part of this process the committee has been examining:

The services that the bar can realistically offer to in-house counsel (e.g. pure legal advice on questions of construction or statutory power; pre-litigation advice about disputes; perhaps discrete litigation on simple topics);

How the bar could target the particular group (e.g. conferences; seminars; marketing generally). The committee has prepared draft materials, including a powerpoint presentation on the advantages of briefing the bar direct.

Ways in which in-house counsel can identify a particular barrister as opposed to retaining a solicitor to make a recommendation and brief. Is the Find A Barrister part of



## Practice Development Committee

the association's website enough, or does it have to be improved by offering more information? The committee is finalising an expanded list of areas of practice which could be considered in this regard.

At the request of Bar Council, the committee has been working to finalise a report on suitable options for marketing the bar in this regard. In the course of preparing the Report, the committee liaised with the bar's other relevant Committees. The Alternative Dispute Resolution Committee, in particular, provided a number of ideas and suggestions in this regard.

The committee has also explored whether court rules, practice notes or case management more generally, may be used to both

assist the efficient running of litigation and ensure those persons actually running the cases at trial, are briefed at an early stage and guide the litigation. The committee's work in this regard is continuing.

The committee will continue to consider other particular practice related issues as they arise.

One of the committee's primary aims has been to assess to what extent the bar can promote itself or market itself to in-house counsel directly. In particular, the committee has examined the practices of the UK Bar and how their services are marketed.

## Promoting the interests of practising barristers

The work of the New Barristers' Committee in relation to CPD seminars for the benefit of the junior Bar has already been highlighted in this report. In addition to their sterling CPD efforts the committee is also responsible for an annual cross-examination workshop. The next scheduled cross-examination workshop will be in February – March 2013. The past timing of the workshop (June–July) sits uncomfortably with the bar's mid-year break (causing difficulties in planning the seminar and demonstration workshop) and the newly implemented cycle for committee appointments. February–March is a better time to attract both senior counsel and new barrister participants given the CPD deadline in March and the

tendency for new barristers' practices to be less busy at the beginning of the year than at the end.

Following the success of the inaugural 'A Judicial Q&A' in 2011 the committee held the second such event in June 2012. The evening was a great success and will no doubt be repeated in future years.

In October 2011 the NBC Chair forwarded to the president the NBC's submission regarding improvements to the Reading Programme, following the report prepared earlier in 2011 by the Hon Dr K E Lindgren QC on all aspects of professional

development at the NSW Bar. The submission was been referred to the Education Committee (along with Dr Lindgren's report) for consideration and implementation. One of the recommendations made by the NBC is a guideline be developed for tutors and readers and the NBC has offered to assist in drafting that guideline. The new guideline should be published before the end of 2012. The NBC continues to work alongside the Education Committee in preparing policy submissions for the Bar Council's consideration in relation to all aspects of the CPD and Reading Programme as it impacts upon readers and the junior Bar.

## New Barristers Committee

The main areas of work undertaken by the Costs and Fees Committee during the year have been the preparation of submissions on behalf of the Bar Association to the chief justice's Review of the Costs Assessment Scheme and the development of a project relating to barrister's remuneration.

The present New South Wales costs assessment scheme dates from 1994. On 7 September 2011 the chief justice, Bathurst CJ, announced the first review of the scheme since its establishment. The review is headed by Brereton J. The Bar Association and other institutions with relevant perspectives on the scheme were

invited to nominate members.

The chair of the Costs Committee, Brabazon SC, was nominated by the Bar Association. The Costs and Fees Committee prepared a detailed submission to the review. The submission covered a range of topics, including a particular focus on aspects of the present law and administrative arrangements which impede the prompt recovery of fair costs by barristers and their clients. More information about the review can be found by following the 'announcements' link on the Supreme Court of NSW website.

The Barristers Remuneration Project is an initiative of the Costs and Fees Committee directed to improving

the efficiency of recovery of barristers' remuneration. The first major public aspect of the project will be a series of seminars presented to members of the Bar Association in the second half of 2012 dealing with disclosure requirements, options available to deal with outstanding debts, fee recovery, and assessment of costs.

The committee has also prepared reports for Bar Council and the Law Council of Australia on a range of topics to do with legal costs, including the remuneration of court appointed arbitrators and an ABA proposal in relation to 'own costs' orders.

## Costs and Fees Committee



WBF exists to promote awareness, discussion and resolution of issues which particularly affect women barristers, to provide a professional and social network for women barristers, promoting their interests and skills and to support diversity at the bar. WBF seeks to work closely with the Equal Opportunity Committee of the Bar Association and the Women Lawyers Association. The following is an overview of the WBF's principal activities and projects in the 2011-2012 financial year.

In the 2011 Financial Year WBF's principal activities and projects have included:

#### **First Women at the Bar project**

This significant oral history project recording the experiences of the first women to practise at the NSW Bar in the period up to 1975 was launched in September 2011 with the launch of the Bar Association's general oral history project. The First Women at the Bar project comprises a multimedia presentation and the research materials obtained in the course of researching and developing that presentation. The multimedia production is accessible through the Bar Association's website, whilst the research materials have been placed in the archives of the Bar Association library. An interactive presentation will be launched in the latter part of 2012 and made available on the Bar Association's website.

WBF thanks the subcommittee comprising Mandy Tibbey, Jennifer Chambers, Josephine



## Women Barristers Forum

Kelly and Amy Douglas-Baker, and acknowledges the impetus for the project provided by Julie Soars and the work of Juliette Brodsky who has undertaken the interviews and research and has created the multimedia presentation.

#### **Bar Association website**

In 2011 WBF proposed to Bar Council that more detail be included on the Find a Barrister page of the Bar Association website including details of barristers' qualifications, date/s of admission, seniority and providing indications of principal practice areas, and secondary areas of interest. In addition WBF proposed that the barrister's CV (at the barrister's option) be available via chambers' or other links. In 2012 the Find a Barrister page was updated to include details of barristers' qualifications, date/s of admission, and seniority.

#### **Mentoring program for junior women barristers**

The mentoring programme for the benefit of junior women barristers in their post readership year is a key feature of the Bar Association's work to encourage diversity at the bar and has been for many years. In 2009 WBF assumed and continues to have principal responsibility for conducting the women's mentoring program, with a subcommittee comprised of WBF and EOC members.

In 2011 the EOC has piloted a men's mentoring scheme. WBF has proposed that the EOC continue to participate in the women's mentoring scheme and that the two mentoring schemes operate together, drawing on the years of work undertaken in relation to the women's mentoring scheme to ensure that junior barristers of both sexes are afforded the opportunity to participate. Suggestions for coordinated implementation

## Promoting the interests of practising barristers



## Continued co-operation with Women Lawyers' Association and EO Committee

The WBF continues to work with Women Lawyers' Association and the Equal Opportunity Committee of the Bar Association to promote functions and activities of those entities and ensure that the interests and concerns of women at the NSW Bar are communicated and addressed.

*The WBF conducts several functions each year, encouraging collegiality, guidance and support among women at the New South Wales Bar.*

include drafting a joint protocol in relation to the mentoring programmes and hosting a joint information session. WBF looks forward to the coordination and implementation of the two mentoring programmes and the continued close cooperation of the EOC in the continuing success of the women's mentoring program.

## Functions

The WBF conducts several functions each year, encouraging collegiality, guidance and support among women at the New South Wales Bar and celebrating the achievements of the women of the NSW Bar. In the 2011 financial year these have included:

- *October 2011 and May 2012 The Janet Coombs Women Readers Lunches*, named in honour of Janet Coombs and her efforts to welcome women to the bar during her years of practice. WBF, with

the participation of Women Lawyers Association (WLA), hosts these twice yearly lunches for new women readers during the Bar Readers courses. The lunches provide an early opportunity for women readers to meet women barristers and solicitors and are open to all at the bar;

- November 2011 annual silks drinks – WBF organises and hosts annual silks drinks to celebrate the appointment of women senior counsel to the NSW Bar. In 2011 this function was hosted at Bond Café;
- The WBF will continue to organise and host the Readers lunches, the silks drinks events identified above, and other events as such opportunities arise.

## Women coming to the bar

WBF continues to participate in the research project being undertaken by WLA NSW relating to the career intentions of law students, focusing on female law students' attitudes to coming to the bar.

In addition, WBF continues to promote awareness of the bar as a career choice for women lawyers through WLA and Law Week events, and in responding to invitations to speak at events such as the launch of University women law students mentoring programmes.

The Barristers' Benevolent Fund sponsors the BarCare service to assist barristers experiencing difficulties either in their professional or personal situation. Occasionally a caller will enquire whether the service is confidential before discussing the problem that triggered the call. Barristers can be reassured that the service is strictly confidential and operates independently from the Bar Association. There is a dedicated telephone line and email address that is located away from the association's offices.



## BarCare and Barristers' Benevolent Fund

In the last year there were two callers who chose the use a non-de-plume when seeking advice. This is not a problem as only raw data on the use of the service is required for the Annual Report. Where BarCare pays for consultations with members from the specialist panel the barrister provides their name for appointment and account purposes. The director signs off the accounts and the identity is removed before being forward for payment. No personal information is reported to the Bar Association without the barrister's permission.

This is the fourth year that data has been reported since BarCare has operated as a triage service. The number of calls remains steady averaging approximately one new query per week. The catch-all 'Psychological' is used where the caller is aware that they need some professional support but cannot clearly define the nature of the discomfort. Depression remains a perennial health problem. Some of these stresses may be a result of the demands at the bar that is

recognised as stressful profession. However there are also problems that are the result of the normal vicissitudes of life such as physical health problems, bereavement and marital discord.

The table lists the 'Primary Presenting Problem' and does not account for the many barristers with multiple problems. Problems with finance are often the underlying problem with barristers' suffering depression. This highlights how important it is for barristers to have their own accountant to assist in managing their practice. Early intervention with finance and emotional distress will lead to a better outcome.

Prior to the triage service barristers or colleagues would contact the association if there were problems. The analysis of this years figures show that BarCare is now the first point of call. Where Bar Association staff in the course of their work have concerns about a barrister

they will contact BarCare. In this years report clerks have been added as a source of referral. The clerks role in chambers provides them the opportunity to facilitate support where it is needed.

There were a slightly higher percentage of female callers to BarCare than in previous years. This may reflect the increasing number of females practising at the bar although female callers seeking information for friends or colleagues could distort this ratio.

The age distribution and the years at the bar showed a larger number of calls related to younger barristers both in age and years in practice.

Each year a number of letters of thanks for the provision of psychological and financial assistance are received. It is recognised that this support is provided by the generous collegiate donations of the members of the bar.

## Promoting the interests of practising barristers

Table 1: Primary presenting problem	2008–2009	2009–2010	2010–2011	2011–2012
Bereavement	8	5	5	4
Psychological	7	19	8	12
Depression	12	7	13	8
Stress/anxiety	6	3	8	7
Marital difficulties	5	7	4	4
Gambling	1	1	0	1
Physical health	11	3	3	3
Alcohol			2	1
Financial	3	7	9	9
Advice and NFA	4	8	5	10
Rejected offer of assistance	2	5	1	1
<b>Total</b>	<b>59</b>	<b>65</b>	<b>58</b>	<b>60</b>

Table 2: Source of referral	2008–2009	2009–2010	2010–2011	2011–12
Colleague via bar	6	-	-	-
Self via bar	3	2	-	-
Bar staff	11	7	9	11
Self	22	31	31	28
Colleague	14	20	10	9
Family	3	-	3	4
Clerk	-	-	-	3
Advice for colleague	-	5	5	5
<b>Total</b>	<b>59</b>	<b>65</b>	<b>58</b>	<b>60</b>

Table 3: Gender	Male	Female
2008–2009	47	12
2009–2010	45	20
2010–2011	40	18
2011–2012	36	24

*Problems with finance are often the underlying problem with barristers suffering depression.*

Table 4: Age (yrs)	<34	35–44	45–55	56–65	>65	Rejected / unknown
<b>10/11</b>	4	10	13	19	3	9
<b>11/12</b>	7	15	13	12	3	10

Table 5: Years at bar	<5	6–15	16–25	26–35	>35	Unknown
Barristers 10/11	12	16	14	6	3	7
Barristers 11/12	16	14	11	3	4	12



### CPD online

In June 2012 the Bar Association wrote to all members to advise of the launch of 'CPD online'. Members may appreciate a reminder of the history of this development; during the association's renovations in late 2010 and early 2011 the audio-visual equipment in the common room was upgraded to allow CPD seminars to be recorded in a wide-screen, high definition, format. Throughout 2011 and into 2012 CPD seminars have been recorded in the new format. At the same time, the association's IT programmers and developers have been busy designing a new web 'portal' to allow members to login and view the online CPD catalogue. Following extensive testing with the New Barristers' Committee the system was launched in May / June 2012. In June all the association's 3000+ members received their individual login details and password. Over time it is hoped the members' area of the association's website will be expanded to allow further services to be added. Currently the CPD online system allows members to view CPD seminars from 2011 and 2012 on their PC/Mac, iPad, iPhone, or Android smart phone. In addition to watching and hearing the seminar members may also download the paper or PowerPoint accompanying the seminar and even search or view seminars within the series or on the same topic. The Bar Association's website is currently being reviewed and a new site, incorporating CPD online and other new features,



## Professional Development Department

should be operational by the end of 2012/early 2013.

### CPD – self-accreditation

In August 2011 the Bar Council revisited the rules relating to the accreditation of CPD events, seminar and conferences. The previous system, designed with the introduction of CPD in 2002, required commercial providers to seek accreditation from the Bar Association for each and every course, conference, lecture and seminar they were running that a barrister might attend. Over time the administrative burden of reviewing the ever burgeoning CPD market and maintaining details on the Bar Association's website was unsustainable. In addition the accreditation was beginning to be seen as an endorsement by the association of the quality of a particular conference or CPD provider. From October 2011 the association brought itself in line with the practice of other

regulatory authorities and the Bar Council now allows individual barristers to determine whether a conference or seminar is deserving of CPD points. In practice it means barristers can self-accredit an event, seminar or symposium rather than waiting for the Bar Association to give it a tick of approval. For a barrister to self-accredit an event (and claim CPD points) it must meet the CPD criteria:

- of significant intellectual or practical content and must deal primarily with matters directly related to the practice of law;
- conducted by persons who are qualified by practical or academic experience in the subject covered;
- relevant to a practitioner's immediate or long term needs in relation to the practitioner's professional development as a barrister and practice of the law.

## Promoting the interests of practising barristers

Barristers attending any event that meet the above criteria can claim one CPD point for each hour of attendance (excluding breaks).

The overall CPD policy is currently being reviewed to take in to account advances in information technology and access to digital mediums (such as CPD online) and a revised policy will be announced in the Spring of 2012.

#### The Education Calendar at a glance

The Professional Development Department continues to oversee a

range of educational activities, the main ones being:

1. the ongoing CPD programme;
2. CPD conferences in February and March of each year;
3. specialist CPD conferences;
4. two Bar Practice courses per year; and
5. Two sets of bar exams (3 exams per period) and accompanying tutorials.

Developments in each of these areas are set out below. In order to provide an overview of the

administration and timing of these various components a table for 2011/2012 and the revised calendar for 2013 is set out below. The main change for 2013 is that the Spring Bar Practice Course has moved so it is completed before the September school holiday period. This will allow readers more time in chambers before the end of year court recess. The change is also intended to bring about a more even distribution in the provision of ongoing CPD throughout the calendar year (allowing for three distinct terms).

#### 2011 & 2012

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
CPD												
Conferences												
BPC												
Bar exams												

#### 2013

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
CPD												
Conferences												
BPC												
Bar exams												

#### Social events

It has been another busy year of events at the Bar Association with a comprehensive calendar comprising over 50 events. Major events included: the 5th National Indigenous Legal Conference and Conference Dinner; the Clerks Conference and Dinner; the Bench and Bar Dinner; the CPD Conference Series; and the portrait unveilings of Sir Kenneth Jacobs and the Hon JJ Spigelman AC QC. There were also nine 15 Bobbers to mark judicial appointments. Other regular features included the Tutors and Readers Dinner, the Common Law Drinks, Drinks with the New South Wales Judiciary and the Judicial Q&A.

Charities supported through events included: the St Vincent de Paul Society (Fundraising Dinner for the Martin Place Homeless); the National Breast Cancer Foundation and Prostate Cancer Foundation of Australia (Pink and Blue Ribbon Breakfast); the Young Love Foundation (Fundraising Trivia Night); and the Indigenous Barristers Trust and the Mum Shirl Fund (Celebrating 20 years since the Mabo decision, Vivid Sydney).

### CPD seminars

During 2011–12, a total of 42 CPD seminars, comprising over 65 hours, were conducted in the Bar Association Common Room. As in previous years, attempts were made to ensure all mandatory strands were covered. Of the seminars conducted, 15 points were in the Management strand, 12 points in Ethics, 22.5 points in Substantive Law, and 15 in Advocacy.

A growing number of seminars have been initiated through the various NSW Bar Association Committees and sections with over 40 per cent of seminars offered in the year having come through those channels. The New Barristers' Committee initiated four seminars, the Equal Opportunity Committee assisted with two, the Health Sport and Recreation Committee provided one, the Forbes Society arranged two and the ADR Committee ran five seminars as well as a conference. Similarly, the Common Law Committee arranged one seminar and a whole-day Personal Injury Conference, and the Administrative and Constitutional Law Section organised one seminar. In addition to the above, other seminars were arranged as a direct response to resolutions from the Bar Council, for example the introduction of the new NSW Barristers' Rules and a renewed focus on financial and risk management. For the year ahead, we continue to welcome input

and suggestions from the NSW Bar Association's various committees and sections for direction on practice-specific needs in CPD.

### CPD conferences

In addition to the ongoing seminar program, full-day conferences were conducted in Orange, Ballina, Newcastle, Parramatta and Sydney. A further three specialist conferences were also organised by the Bar Association; the ADR Workshop and the National Indigenous Legal Conference in August 2011 and the Personal Injury Conference in March 2012. In total, these conferences comprised over 75 hours of continuing professional development and catered to almost 1100 barristers, in excess of 50 per cent of the practising bar.

*[CPD] conferences comprised over 75 hours of continuing professional development and catered to almost 1100 barristers, in excess of 50 per cent of the practising bar.*

### Bar Practice courses

As in previous years, two Bar Practice Courses, each of one month duration, were conducted. The spring course (October 2011) had the larger intake with 47 readers completing the course compared to a group of 31 readers in May 2012.

Each year, we take the time at the end of this section to thank the

people who continue to give so generously of their time to help make these courses as successful as they are. By way of brief illustration of the extent of the involvement provided (often every course) by dedicated members of the bar as well as of the judiciary, each Bar Practice Course spans four weeks. During these four weeks, there are over 50 scheduled lectures, mini-trials and workshops, featuring in excess of 120 barristers and judges. Readers also undertake seven evening advocacy workshops, plus a full day Saturday workshop under the guidance of trained advocacy instructors. A further four evenings are dedicated to the various jurisdictions, with judicial officers from the Local, District, Supreme and Federal courts giving up their time, and court rooms, to hear applications.

The involvement of the judiciary, including also the Family Court and the Land and Environment Court, is further extended through the day with judges where each reader accompanies a judge for a day. The course culminates in the Final Mock Trial, a full-day Saturday hearing, again before members of the judiciary. The commitment of all involved is absolute. The readers, the association and the

## Promoting the interests of practising barristers

bar generally are in your debt. We could not run these courses without the continuing support from the presenters, instructors and judges who set aside time from their busy practices to assist in welcoming and guiding the newest members of the bar.

### Tutorials and exams

Similar to the Bar Practice course, two rounds of Bar Exams were conducted during the 2011–2012 financial year, each comprising three days of exams and a further six preparatory tutorial sessions in the preceding weeks. Across the six exams in 2011–12 the association assessed a total of 189 candidates. The examination process is one of the department's activities that relies on a large number of volunteers producing high quality in a short period of time. The Examination Working Party co-ordinates the examination process from inception through to the final result – and repeats the process twice a year. Our thanks to the Working Party and all the markers for their commitment and dedication.

### Education Committee 2011–12

The Education Committee was enlivened once again in December 2011 after nearly a 10 year hiatus. The committee was one of the recommendations from the Hon Dr K E Lindgren AM QC's report



2012 Bench & Bar Dinner at the Westin Sydney.

into the association's education activities that was presented to the Bar Council in May 2011. The other recommendations, and the report, was referred by the Bar Council to the Education Committee and the New Barristers' Committee for review and implementation. The committee provides oversight to the department's activities, including (but not limited to) the exams, Bar Practice Course, the reading programme and CPD activities. The committee has made a number of recommendations relating to policy to the Bar Council and has worked collaboratively with the Examination Working Party and the New Barristers' Committee in relation to the exams and issues impacting upon the junior bar.

### Member benefits

As outlined by the president, Bernard Coles QC, in his column in the winter 2012 edition of *Bar News*, members now have access to a comprehensive member benefits scheme. The partners in the programme cover a wider range of products and services and it is hoped that all members will be able to find something of interest – if there are products or services that you would like to see included on the list. Please let us know.



The Bar Association's aims include the promotion the administration of justice and seeking to ensure that the benefits of the administration of justice are reasonably and equally available to all members of the community.

The association's public affairs activities seek to promote and defend the essential tenets of our justice system, as well as the interests of its members, in the public arena.

In keeping with its commitment to the fair and equal availability of the benefits of the justice system, the Bar Association has for some time advocated the creation of a single, uniform and fair system for personal injury compensation. This issue arose again during the reporting year in the context of the Legislative Council Standing Committee on Law and Justice's regular inquiry into the state's motor accidents system, where the committee advocated greater consistency in the NSW personal injury laws.

At the time, President Bernard Coles QC and the chair of the Common Law Committee, Stephen Campbell SC (as he then was) made a number of media appearances noting the inequities inherent in the New South Wales Motor Accidents Scheme, where strict and arbitrary limits are



## Law Reform and Public Affairs

placed on injured people's compensation, while the scheme insurers make record profits under the system.

The parliamentary report highlighted deficiencies in the current system, which allows motor-accident insurers to make profits at an average of 24 per cent while people injured in motor accidents are denied proper compensation. The committee's report provides the basis for a thorough reassessment of motor-accident compensation in this state. If implemented, the recommendations have the potential to redress the balance in favour of people injured in motor accidents and prevent insurers reaping excess profits at their expense.

*Bernard Coles QC quoted in the Sydney Morning Herald, 22 December 2011.*

We just say that historically, under this system, the profits are very large indeed and that more of that money could be diverted into better compensation for more of the injured people.

*Stephen Campbell SC ABC Radio Newcastle, 20 September 2011.*

During the year, the Bar Association actively engaged with the media on a number of key criminal law issues.

Not least among these were the issues surrounding the conviction of Mark Standen and the need for independent scrutiny of the NSW Crime Commission. The association's senior vice-president, Phillip Boulten SC, made a number of electronic and print media appearances arguing for an inquiry, and greater oversight of the commission's operations. Following the announcement by the minister for police in August 2011 that a special commission of inquiry would be established to examine the commission's activities, Boulten SC appeared on

## Making recommendations and promoting the administration of justice



*During the reporting year, there were suggestions in some quarters of the media that juries were in danger of being phased out of the criminal justice system.*

ABCTV's 7.30 Report on 12 August 2011, saying:

The government rightly sees that there's a need for a wider or different model of oversight. It's really necessary that these commissions that meet in secret, force people to answer questions against their will are from time to time looked at by an independent arms-length person.

During the reporting year, there were suggestions in some quarters of the media that juries were in danger of being phased out of the criminal justice system. Both Phillip Boulten SC and Stephen Odgers SC made media appearances during September 2011 strongly supporting the retention of juries in criminal trials:

You very rarely hear people criticising a verdict of a jury. The jury is the community's way of participating directly in the criminal justice system and often it provides a real grounding for what happens in court. So I think

it's a very important mechanism to make sure that the public at large has confidence in what's happening in the criminal justice system.

*Phillip Boulten SC, ABC Radio, 28 September 2011.*

Significant media comment was made by Bar Association representatives in relation to a number of other major issues during the year, including the need for bail reform, where Ian Temby QC acted as the association's spokesperson, and issues facing women at the bar, where Junior Vice-President Jane Needham SC, spoke about the increasing flexibility in practice at the bar.

In addition to the direct media appearance work undertaken by the president and other senior members of the bar, another crucial part of the 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.

Similarly, a great deal of public affairs work is undertaken which is not picked up in the mainstream media. Members of the bar and staff of the association give up their time to conduct seminars or presentations at universities, other professional bodies and government agencies on a variety of topics, from the Bar Association's Legal Assistance Referral Scheme to aspects of law reform. The association also is an ongoing sponsor of various university prizes and university teams for international moots.

In 2011–12 the Barristers in Schools Program continued to raise the profile of the bar. Under the program, barristers give a presentation to year five or six primary school students on the role of the courts, basic principles of the justice system and provide an introduction to evidentiary concepts, such as hearsay and opinion evidence. The second element of the program 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. A number of sessions were conducted with different schools during the reporting year, including one held at the Liverpool Street Court during Law Week 2012 which attracted coverage in the *Daily Telegraph*. Thanks are due to all those barristers who volunteered to assist in the program, especially Karen Conte-Mills, who designed the program and continues to present it on occasions, and Margaret Cunneen SC, who has been instrumental in the scheme from the time of its introduction a few years ago.

The Bar Association's Oral History project was officially launched in September 2011. Seven initial interviews with barristers ranging from Chester Porter QC to the Hon Justice Margaret Beazley AO were included on the association's website in 2011, and at the time of writing, another nine interviews are about to be added. The project is being conducted in partnership with the Women Barristers Forum, who are conducting a parallel process featuring the contribution of early women at the bar. The Bar Council has approved funding for the continuation of the programme through the reporting year.

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. When the NSW premier, the Hon Barry



*[The premier's statement] tends to jump to the conclusion that ... in every court case the police officers and/or ambulance officers are going to be the ones that need support.*

O'Farrell MP, publicly criticised the courts for not treating police and emergency services workers who are victims of assault differently from other victims of crime in the context of a judgment by Magistrate Pat O'Shane, the association responded with a media release clarifying the role of the courts. On 7 February 2012, Senior Vice-President Phillip Boulten SC appeared on the *Ben Fordham Program* on 2GB to explain the association's position:

Where the premier makes statements that suggest that the courts need to support police and ambulance officers and emergency assault workers, it tends to jump to the conclusion that on all occasions in every court case the police officers and/or ambulance officers are going to be the ones that need support... And in any particular court case it's up to the judge or magistrate who's deciding it to listen to the evidence and give a decision based on the evidence.

In the popular media essential tenets of our system are commonly overlooked or ignored. The association will always have an important role to play in providing an independent and informed viewpoint, no matter how unfashionable that may seem in the context of populist public debate concerning our system of justice.

Making recommendations and  
promoting the administration of justice

During the last year the Criminal Law Committee has made a significant contribution to the development of the criminal law in New South Wales.

In addition to monitoring legislative and policy developments on a daily basis, the committee has made a number of written and oral submissions. Some of these submissions have been made on a confidential basis, others have been widely publicised.

The committee intends to continue pressing its reform agenda, particularly in the area of sentencing. The New South Wales Law Reform Commission has a broad reference on sentencing. Members of the committee have attended a number of consultation meetings with the Law Reform Commission. Given the relatively short time frame for the commission to publish a report, it has produced a number of question papers on various topics, including those suggested by the Criminal Law Committee. The committee has made submissions in response to those question papers. It has also made submissions to the New South Wales attorney general and the chief justice of the Supreme Court of New South Wales on sentencing issues.

The committee has provided written submissions to the New South Wales Law Reform Commission, the New South Wales Sentencing Council, the New



## Criminal Law Committee

South Wales attorney general and the Law Council of Australia on a number of issues, including:

- Bail
- Consorting ('bikie') laws
- Jury reform
- Two-judge sentence appeal hearings
- Jurisdictional limits on Local Court hearings
- The operation of the New South Wales Crime Commission
- Issues relating to young offenders
- A proposal to extend the New South Wales Police Force's powers in relation to preventative detention orders
- A proposal to extend the New South Wales Police Force's powers of search and entry in relation to registered sex offenders
- A proposal to abolish spousal immunity
- Domestic violence and apprehended violence orders
- Orders regarding the publication of names of children involved in criminal proceedings
- 'Sensitive evidence'
- Execution of search warrants upon lawyers' offices and chambers
- The committee has also continued its work on a major drug law reform project.

In the past 12 months the activities of the Family Law Committee have been varied. Most recently, the committee has participated in the Family Law Settlement Service, a joint initiative with the Law Society of New South Wales, the Family Court of Australia and the Federal Magistrates Court. The object is for members of the bar to act as mediators and facilitators for settlement conferences to help clear the onerous backlog of financial cases in those two courts. The bar embraced the initiative enthusiastically and Bar Council has appointed 30 mediators to the combined panel and matters are in the process of being allocated. It is hoped that it will provide a meaningful contribution to clearing the substantial backlog of cases brought about by the effects of the chronic under-funding of the two courts.

During the course of the year this committee has:

- Prepared submissions in relation to the attorney-general's Option Paper titled *Improving the Interface Between the Child Protection System and the Family Law System*;
- Contributed to Submissions in relation to International Child Abduction;



## Family Law Committee

- Provided delegates to participate in a Forum hosted by a committee of the Sydney Family Law Pathways Network examining issues as to inadmissibility of confidential privileged information;
- Provided nominees to serve upon the NSW Legal Aid Review Committee;
- Provided delegates to the NSW Legal Aid Care and Selection Committee which is charged with appointing panel lawyers for legal aid in the Children's Court;
- Contributed with the Law Council to submissions in relation to family violence and proposed legislative change;
- Provided delegates to meet with the Family Court Rules Committee;
- Provided input to CPD convenors in relation to proposed family law sessions;
- Considered submissions in relation to the *Child Support (Registration and Collection) Amendment Bill 2011*;
- Members of this committee have engaged in representations to the Australian Government in relation to judicial resources at the Parramatta Registry of the Family Court.



Making recommendations and  
promoting the administration of justice

During the last year the Legal Aid Committee has made a number of submissions to the attorney general and Legal Aid NSW on a range of matters, particularly in relation to fee increases.

For a number of years the committee has been negotiating with Legal Aid for an overall increase to the level of remuneration received by members of the bar conducting work on legally aided matters.

The current chronic underfunding of Legal Aid NSW is having a major impact on the way in which legal assistance services are delivered in New South Wales. If fees paid to barristers cannot be increased, there is a risk that it may become viable only in very limited circumstances for barristers to undertake work for Legal Aid NSW.

Legal Aid NSW has recently agreed to a small increase to the base hourly rate for fees paid to private practitioners in Commonwealth matters to lessen the discrepancy between Commonwealth and state scales. Whilst the abolition of the Commonwealth/state divide is desirable, the committee has stressed that it is more important that there be an overall increase in rates paid for all legally aided matters.

The committee will continue to push for reform in relation to this issue and is hopeful that negotiations conducted with Legal Aid NSW and the attorney general



## Legal Aid Committee

over the coming year will result in an improvement in the fees paid to barristers by Legal Aid NSW.

Over the course of the last year, the committee has also engaged in lengthy consultations with Legal Aid NSW in relation to the creation of the new Complex Criminal Matters Panel. This panel was introduced in response to a finding by the Trial Efficiency Working Group that the running of criminal matters by inexperienced counsel often results in unnecessary delays in the court process. A committee comprised of representatives from the Bar Association, the Law Society of NSW and Legal Aid NSW appointed experienced junior counsel to the panel based on the merit of their applications.

The committee has worked with Legal Aid NSW to establish for a new Appellate Matters Panel. A

selection committee met recently and it is expected that the panel will be finalised shortly.

The committee has continued to liaise with Legal Aid NSW on a number of other important panels, including the Criminal Law Consultative Committee, the Legal Aid Review Committee, the Family Law Legal Aid Review Committee, the Independent Children's Lawyer Panel, the General Family Law Panel, and the Care and Protection Panel.

The committee has also assisted Legal Aid with the implementation of a duty scheme for metropolitan local courts serviced by a Legal Aid Office.

The committee has made a significant contribution to the Children's Advisory Committee during the last year.

During the 2011–12 financial year the hardworking ADR Committee continued to promote barristers as mediators, arbitrators and expert determiners as well as provide them with opportunities for mediation accreditation, arbitration approval and continuing professional development through the delivery of a number of CPDs. Members of the committee also delivered arbitration papers at the regional conferences in early 2012.

The annual ADR all-day workshop which was held in August 2011 at the Westin Hotel was attended by over 100 mediators and other ADR practitioners. The focus was on mediation practice with the workshop being opened by Chief Justice Bathurst and the keynote speech delivered by NSW Attorney General Greg Smith MP.

The ADR Committee has increasingly focused on arbitration in the past two years in response to developments such as the enactment of the *Commercial Arbitration Act 2010* (NSW); the establishment by the NSW Supreme Court of a Commercial Arbitration List; the 2010 reforms to the *International Arbitration Act 1974* (Cth); the amendment of the Federal Court Rules; the establishment of the Australian International Disputes Centre (AIDC); and the substantial support that the judiciary are giving to the increased use of arbitration and the development of expertise in Australian lawyers.

The ADR Committee also continued to promote the NSW Bar Dispute Resolution Centre located



## Alternative Dispute Resolution Committee

on Level 1, Selborne Chambers. Administered by Counsel's Chambers, the centre is the most convenient dispute resolution centre for barristers and solicitors in the CBD.

### ACICA corporate membership

In recognition of the emerging prominence of arbitration in Australia and the need for a united approach in the promotion of Australia as a world class venue for international arbitration, the NSW Bar Association has forged an important relationship with the flagship international arbitration organisation in Australia.

Following a recommendation to Bar Council by the ADR Committee, the NSW Bar Association joined the Australian Centre for International Commercial Arbitration (ACICA) as a corporate member effective 1 January 2012.

This significant commitment sees the association join with other corporate members including ten of the largest law firms in Australia and another prominent bar association. This broad support from the legal community reflects the important work of ACICA to facilitate international commercial arbitration in Australia and, in particular, establish Sydney as an arbitral venue.

In a joint media release announcing the membership, the Chair of the ADR Committee and the association's nominated ACICA board member Angela Bowne SC said 'In light of ACICA's effective leadership in positioning Australia as an international dispute resolution destination and its role as the sole default appointing authority under the Commonwealth International Arbitration Act, this will position our members to participate in a growing area of legal practice

Making recommendations and  
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and access solicitors and clients engaged in international arbitration in Australia and overseas. A significant percentage of international commercial disputes, including disputes arising in relation to insurance, financial arrangements, infrastructure and development, trade disputes and other cross-border disputes, are determined by arbitration rather than judicial proceedings.'

ACICA president and Clayton Utz head of major projects and international arbitration, Professor Doug Jones AM welcomed the decision saying: 'The New South Wales Bar will further strengthen our strong corporate base which already includes most of the national and international law practices in Australia, and now the two largest bar associations in the country.'

ACICA is a signatory to agreements with over 50 global arbitral bodies including the Permanent Court of Arbitration at The Hague. ACICA has developed the *Appointment of Arbitrators Rules 2011* which establish a streamlined process through which a party can apply to have an arbitrator appointed to a dispute seated in Australia. A board comprising representatives of the Commonwealth attorney-general, the chief justices of the High Court and Federal Court, the president of the Australian Bar Association, the president of the Law



*ACICA is a signatory to agreements with over 50 global arbitral bodies...*

Council of Australia and industry representatives will oversee the appointment process.

Over the last year there has been also much discussion around the world about effective ways to control arbitration time and cost. The push for greater efficiency in arbitration is also reflected in the latest ACICA Rules. The new ACICA Emergency Arbitrator provisions provide scope for parties to obtain urgent relief from an emergency arbitrator before the constitution of an arbitral tribunal.

During the first half of 2012, members of the ADR Committee met with ACICA representatives including Doug Jones AM and Secretary-General Michelle Sindler on a number of occasions in

preparation for the ADR workshop '2012 ADR in Australia and Beyond' which was hosted jointly by the two organisations for the first time. Held at the Westin Hotel in Sydney on 4 August and attended by over 120 members of the legal profession, the keynote address was delivered by the attorney-general for Australia, The Hon Nicola Roxon MP attracting wide media coverage.

The Bar Association looks forward to further strengthening their relationship with ACICA over the coming years through the delivery of other joint training seminars and providing advice on arbitration issues affecting Australia.

# Human Rights Committee

The Human Rights Committee has remained determined to monitor legislation and prospective legislation for its impact on human rights, advising and educating the bar on issues of human rights, and dealing with matters referred to the committee from the Bar Council. Over the past year, privacy law reform, marriage equality, international developments and a proposal to amend *Interpretation Act 1987* have been key issues for the committee.

## Privacy law reform

In November 2011, the committee contributed extensively to the Law Council of Australia's submission, *A Commonwealth Statutory Cause of Action for Serious Invasion of Privacy*. The committee recently resolved to organise a forum on privacy at a time when privacy law reform is gaining more exposure.

## Marriage equality

The committee continues to discuss the issue of same-sex marriage and will organise a forum on the issue later in the year. Australian same-sex couples continue to seek out countries where they can be married but are not able to have their marriages recognised upon returning to Australia. In a rapidly changing legal and social environment, these issues are becoming more and more

common and the committee will provide the Bar Council with a position on this issue later in the year.

## Alarming international developments

Due to the global nature of human rights, the committee will often have its attention drawn to issues occurring in other countries. In March this year, the committee directed its focus towards the making of the Public Order (Amendment) Decree 2012 on 6 January 2012 in the Republic of Fiji. In a submission to the Bar Council, the committee expressed serious concern for this development, noting that it undermines the rule of law and imposes severe restrictions on fundamental human rights. The submission was subsequently adopted by the Bar Council and forwarded to the Australian Bar Association for consideration, where it was subsequently adopted.

## The Interpretation Act and human rights

The committee was recently approached for comment in relation to a proposal to introduce a private member's Bill to amend the *Interpretation Act 1987* to require courts to construe legislation in a manner consistent with human rights obligations. This

continues to be a focus area for the committee who is yet to formalise its response.

## Consolidation of Commonwealth anti-discrimination laws

In March this year committee members actively engaged with the anti-discrimination officers of Attorney General's Department, expressing the committee's support for the consolidation of federal anti-discrimination legislation to promote the underlying human rights of equality and elimination of discrimination.

Moving forward the committee is eager to establish an ongoing dialogue with other bodies in relation to human rights. At a recent meeting, it was resolved that increased communication should be fostered between the committee, the Attorney General's Department, the Australian Human Rights Commission and any other entities the committee may consider in the future. The committee will also organise a series of CPD seminars and forums to promote awareness and discussion of human rights among members of the bar. In providing a more educative role, members of the committee work towards the preparation of papers addressing human rights issues for publication in *Bar News* and *In Brief*.

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

Jeremy Gormly SC took over as chair of the committee in April 2012 following the appointment of Stephen Campbell SC (as he then was) to the Supreme Court bench.

In light of the state election result in March last year, the committee has concentrated upon encouraging the new state government to reappraise the fragmented nature of personal injury laws in NSW, in line with Bar Council's policy position on tort law reform.

Representatives of the committee, along with the president, first met with the minister for finance, the Hon Greg Pearce MLC (who has administrative responsibility for the MAA and WorkCover schemes) in August 2011 to put the Bar Association's case for tort law reform.

In May this year the committee made a detailed submission to the Parliamentary Joint Committee on funding problems in the workers compensation system. Jeremy Gormly SC and Liz Welsh then gave evidence at the hearings of the joint committee. A subsequent meeting involving Andrew Morrison SC, Andrew Stone, Luke Morgan, Jeremy Gormly SC and Committee Secretary Alastair McConnachie was conducted with Minister Greg Pearce and his staff.

The government then introduced,



## Common Law Committee

and passed, its amendments to the workers compensation scheme.

A number of the association's suggestions for reform were taken up in the legislation, but a number of other changes ran contrary to the association's policy position and will impact adversely upon injured workers. Since that time Jeremy Gormly SC and Luke Morgan became the bar's representatives on a joint task force which aims to re-structure the dispute resolution mechanisms in the workers compensation system. Luke Morgan has been involved in the detailed work of a sub-committee considering a re-structured claims process. A joint discussion paper on the role of the profession in the workers compensation system was prepared by the bar, the Law Society and ALA representatives.

Junior Vice President Jane Needham SC and Alastair McConnachie later met with the premier, the minister for finance and the

attorney general about workers compensation issues.

The committee was involved in preparing briefing materials for members of parliament on the bill, and, in particular, ongoing discussions with the government concerning an amendment to the legislation proposed by the cross-bench which passed concerning legal costs in the Workers Compensation Commission. That amendment, if proclaimed, will have substantial ramifications for injured workers and their legal representatives. At the time of writing members of the committee are involved in discussions with government on this issue.

Major issues pursued by the committee over the last 12 months have also included:

- The preparation of detailed submissions to the Legislative Council's Law and Justice Committee's Eleventh Review





*The Common Law Committee has ... focused upon discrete, incremental reforms to personal injury laws which would make a realistic difference for injured people.*

of the Functions of the Motor Accidents Authority and Motor Accidents Council. Representatives of the committee gave evidence at the public hearings, and the committee report's recommendations take up a number of the Bar Association's proposals for reform of the motor accidents system, including the engagement of an independent auditor to report on the levels of insurer profit under the scheme.

- Provision of a detailed submission to the New South Wales Law Reform Commission's reference concerning compensation to relatives;
- Working with the Law Council of Australia in the preparation of a comprehensive response to the Productivity Commission's Draft Report

'Disability Care and Support'. The report recommends the implementation of a national lifetime care and support scheme for the catastrophically injured, and more problematically, sets out its agenda for the implementation of a National No-Fault Scheme which would abolish common law rights by 2020. The Law Council submission argues strongly against the introduction of a no fault scheme and in favour of the retention of common law rights.

- Organising, in conjunction with association staff, a social function intended to promote collegiality at the Common Law Bar. The Common Law Cocktail Party was held on 28 August 2011, to coincide with the anniversary of *Donoghue v Stevenson*, with the chief justice as the guest speaker.

- The preparation of submissions to the chief judge in Common Law raising some practical difficulties with the current system of concurrent expert evidence. The president and chair of the committee met with McClellan J and other Common Law Division judges on 22 November 2011. At the meeting it was agreed that a CPD seminar would be held to better inform the profession of the court's expectations concerning compliance with the practice note. The seminar was held on 28 March in the Common Room.

- The committee, in conjunction with association staff, finalised arrangements for the 2012 Personal Injury CPD Conference.
- Making submissions that enable barristers to sign terms of settlement as they have usually done in the past and so avoid a usually inconvenient and sometimes costly obstacle to the finalisation of a case.
- The commencement of work on MAA issues arising from a recent paper on green slip costs.

The committee will continue to work with government and other stakeholders to further the association's goals for tort law reform. The Bar Association will continue to advocate for affordable, stable, consistent personal injury remedies that fairly meet the interests of injured people.

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 association's offices unannounced. All legal assistance enquiries were addressed to the best of our ability.

For the 2011–2012 financial year, 249 formal applications for assistance were received and processed. This is a decrease of approximately 11.7 per cent for the same period last year. The total number of applications received this year is in line with those received in the 2009–2010 financial year. Of the 249 applications, 127 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 3320 hours of work through the scheme, with 37 matters still in the court system. This was made up of 2400 hours of work in matters referred in the current period and an additional 920 hours of work in continuing matters commenced in the previous financial year.

Since the scheme's inception in 1994 barristers have contributed approximately 39,870 hours of work.



## Legal Assistance Referral Scheme

### The Law & Justice Foundation Awards

In October 2011 LARS was the joint recipient of the Pro Bono Partnership Award.

sponsored by the National Pro Bono Resource Centre. The award recognised the contribution of members of the bar in the Sexual Assault Communications Privilege Project. The privilege is a legal protection limiting the disclosure or use of a broad range of sexual assault victims seeking to protect the confidentiality of their counselling notes. It was clear that in the absence of legal representation, NSW laws limiting the disclosure or use of counselling records were not being applied and, as a result, victims' confidential records were being unnecessarily disclosed. In November 2010 the government introduced legislation to support the victims of sexual assault which included a \$4.4m fund to provide

free legal representation for victims in applications by defence to subpoena their records.

### The Law Kitchen (TLK)

The Law Kitchen (TLK) has as its objectives the provision of free legal services to persons who are transiently, episodically or chronically homeless. The Bar Association has continued to allocate a dedicated legal assistant to provide administrative support. TLK now regularly visits the Woolloomooloo community, particularly those who attend *the BackShed Café* managed by the organisation Hope Street. This arrangement has enabled both TLK and Hope Street to provide a more holistic service where legal assistance, social work, counselling and a coffee are all accessible to some of the most marginalised individuals and families in Sydney. TLK expects to expand its resource base and strengthen its ties in the

local community over the next twelve months.

Whilst we acknowledge that TLK is not part of the funding arrangement with the Public Purpose Fund, we include it because of its co-location and synchronicity with the work of LARS.

#### **Interaction with other pro bono service providers**

LARS works closely with the Law Society Pro Bono Scheme. There is virtually daily contact between the two schemes. In March 2012 the LARS manager attended a cocktail reception hosted by the Law Society of NSW where invitees were from a broad selection of the community legal sector.

In February 2012, the manager of the scheme hosted an afternoon tea for eight students working with the Public Interest Advocacy Centre. The students expressed great interest in the workings of the scheme.

In March 2012 the manager, together with the pro bono solicitor from the Law Society made a presentation at Legal Aid for Legal Aid solicitors.

In May 2012 the manager attended an Open Day at the Refugee Review Tribunal as part of 'Refugee Week', which included a mock hearing before a member of the tribunal

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 of the Bar Association is a board member of LawAccess. The association's deputy executive director, who now oversees the operation of LARS, is a member of the LawAccess NSW Strategy Committee. He has deputised for the executive director at meetings of the trustees of the Pro Bono Disbursement Fund when he is not available. The manager also attends the Law & Justice Foundation's quarterly NSW Legal Referral Forum and quarterly meetings of the Refugee Review Tribunal.

The Bar Association is a member of the NSW Legal Assistance Forum (NLAF). The deputy executive director attends board meetings with the manager of the scheme as his alternate.

#### **Volunteers encouraged**

In 2011–2012, 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 the in the various court court-appointed pro bono schemes.

#### **Barristers' Referral Service**

The Barristers' Referral Service

is aimed at addressing the increasing number of requests to the association for assistance in obtaining the services of a barrister. Enquiries have been directed to the association's website under 'Find a Barrister', which has been visited 474,152 times over the past twelve months. This avenue 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 them a list of barristers in the relevant area of practice.

*Over eighty barristers from all levels of seniority have volunteered to assist.*

#### **Duty Barrister schemes**

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

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

Two duty barristers see an average of four clients each per day, which

## Promoting access to justice

equates to approximately 2,000 members of the public each year.

### Court appointed pro bono schemes

The manager and staff of LARS assists with the administration of the court appointed legal assistance schemes concerning day-to-day enquiries 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 and staff also assist with the administration of the Federal Court/Federal Magistrates

Court Refugee Review Tribunal Legal Assistance schemes.

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 association also have to deal with the applicants who attend unannounced. 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. The association is committed to ensure the highest possible level of co-ordination between legal service providers, and will continue to work with these organisations in that regard. 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 seemingly 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

The Law Society pro bono solicitor referred a woman to the scheme in relation to an appeal in the District Court from a decision of the Childrens' Court in August last year where the court ordered her three year old son into the care of the director-general of the Department of Family and Community Services until the child turned 18. The father was the appellant and the mother had filed a cross-summons. Two barristers gave advice in the matter and ultimately one of them appeared at the hearing. Initially it was thought the mother's biggest need was to ensure that the court did not make any concession to the father without the mother's knowledge or input. However, with further instructions, the barrister formed the view there were reasonable prospects of success of the mother having the child returned to her care.

The mother was successful and orders were made that her child be restored to her care. The department was

directed to prepare a plan to transition the child gradually back into her care. This will involve increasing the frequency and duration of her current contact until he is back with her full time, in time for Christmas this year.

The barrister commented: 'The client is a lovely woman who has worked really hard to put herself in a position where restoration was a possibility for her.'

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A Supreme Court judge referred a woman to the scheme for advice in relation to her position as tutor of her young child who suffered terrible injuries due to the alleged negligence of a landlord of rented premises. The landlord joined the real estate agent as a cross-defendant and sued the mother as a cross-defendant based on an alleged breach of duty of care by her and sought contribution and/or indemnity as well as other relief. This brought about a conflict of interest for the mother.

The scheme arranged for senior counsel to advise the parents as to their position. Senior counsel and a second barrister also gave advice as to the merits of the case. A third barrister agreed to appear on the landlord's Notice of motion for summary dismissal of the proceedings. Subsequently an offer of settlement was made by the landlord and accepted by the mother. The matter now requires approval of any concluded settlement reached between the parties.

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The Law Society pro bono solicitor referred a medical practitioner living overseas to the scheme seeking assistance in disciplinary proceedings he was facing before the New South Wales Medical Tribunal. A barrister agreed to assist and appeared at a three day hearing before the tribunal. The tribunal ordered that the doctor be reprimanded and suspended but if he returned to NSW to practise and satisfied certain conditions imposed by the tribunal, the Medical Council was authorised to lift the suspension. The barrister contributed nearly 60 hours of work to the matter on a no fee basis.

#### Summary of the 2011–2012 Legal Assistance Referral Scheme statistics

- Nearly 60 per cent of matters referred to barristers were considered to have legal merit or prospects of success
- No fee matters comprised the highest category (almost 75 per cent) of those matters handled on a continuing basis

Matters received in / from	Increase (decrease) in matters received (%)
Family Court of Australia	30
Fairwork Australia	60
Local Court	(20)
Children's Court	(50)
Villawood Detention Centre	(40)
Community legal centres	(15)
Pro bono directors of large law firms	300
Country areas	60



# Legal Assistance Referral Scheme statistics

	2010-11	2011-12
<b>High Court</b>		
Application for special leave	6	2
Original jurisdiction	2	-
<b>Total</b>	<b>8</b>	<b>2</b>

<b>Federal Court</b>		
Full bench appeals	-	2
Immigration	11	9
Administrative	1	1
Discrimination	-	3
Intellectual property	-	-
Trade practices	1	-
Native title	-	1
Bankruptcy	5	1
<b>Total</b>	<b>18</b>	<b>17</b>

<b>Federal Magistrates Court</b>		
Discrimination	1	1
Family law - access	3	7
Family law - child support	4	-
Family law - residency	4	2
Family law - property settlement	8	8
Intellectual property	-	1
Industrial relations	-	1
Immigration	12	9
Bankruptcy	3	2
<b>Total</b>	<b>35</b>	<b>31</b>

<b>Supreme Court</b>		
Court of Appeal	11	8
Court of Criminal Appeal	10	8
Common Law	19	20
Administrative	2	3
Equity	27	20
Criminal	1	1
Corporations List	-	-
Commercial	1	-
Family Provisions	1	2
Defamation	2	1
Professional Negligence	-	2
<b>Total</b>	<b>74</b>	<b>65</b>

	2010-11	2011-12
<b>Family Court of Australia</b>		
Full bench appeals	1	1
Access	7	9
Residency	3	8
Child support	1	1
Spousal maintenance	1	-
Property settlement	7	7
<b>Total</b>	<b>20</b>	<b>26</b>

<b>District Court</b>		
Criminal	8	8
Civil	21	11
Care proceedings	5	8
Defamation	1	4
Professional negligence	1	-
<b>Total</b>	<b>36</b>	<b>31</b>

<b>Local Court</b>		
Criminal	24	17
Civil	17	10
Coronial inquest	-	1
<b>Total</b>	<b>41</b>	<b>28</b>

<b>Children's Court</b>	4	2
<b>Coroner's Court</b>	6	2

<b>Tribunals</b>		
Administrative Appeals Tribunal	11	13
Administrative Decisions Tribunal	12	7
Consumer Trader Tenancy Tribunal	7	2
Migration Review Tribunal	1	-
Victims Compensation Tribunal	2	3
Anti-Discrimination Board	-	-
Medical Tribunal	-	1
Guardianship Tribunal	-	1
Refugee Review Tribunal	-	4
<b>Total</b>	<b>33</b>	<b>31</b>

<b>Land and Environment Court</b>	1	5
<b>Australian Industrial Rels. Comm.</b>	1	4
<b>NSW Industrial Rels. Comm.</b>	5	5

	2010-11	2011-12
<b>Referral source</b>		
Community legal centre	57	41
Law Society / solicitor	65	64
Member of the public	50	49
Legal Aid	24	33
LawAccess	20	21
Judge / magistrate / registrar	35	19
Member of the bar	20	15
Member of parliament	-	1
PILCH	4	2
Pro bono director of a large firm	1	3
Welfare / community group	3	1
Attorney General's Department	3	1
Web site hits	14,117	14,188

<b>Client location</b>		
Sydney Metropolitan Area		
West	85	69
North	52	38
South	37	40
East	14	9
Inner City	21	18
Central Coast	8	8
Country	16	28
Prison	18	21
Villawood Detention Centre	20	8
Interstate	10	7
Overseas	1	3
<b>Total</b>	<b>282</b>	<b>249</b>

<b>Types of work done</b>		
Merit assessment	119	127
Advice (over and above initial merit assessment)	84	92
Conferences	59	43
Appearances	29	21
Matters settled	-	1
Appearances at hearing	28	32
Mediations	2	4
Other (inc. second opinion & preparation of submission)	19	15

	2010-11	2011-12
<b>Rejection / No action</b>		
Outside guidelines	74	74
No further information received / no further contact from applicant	45	23
No longer requires LARS assistance	7	-
Subject to Federal Court RRT LAS	1	7
Subject to Federal Court LAS	-	3
Subject to Supreme Court LAS	1	-
Referred to community legal centre	3	-
Briefed barrister to appear privately	9	3
Briefed solicitor to appear privately	5	-
Matter discontinued	-	2
Unable to refer - insufficient resources	2	2
Requires a migration agent	1	1
Too late notification	11	4
Matter dismissed	2	1
Matter settled	2	2
Conflict of interest	-	-
<b>Total</b>	<b>163</b>	<b>122</b>

<b>Turnaround</b>		
Same day	23	25
Less than a week	33	28
1-2 weeks	20	27
2 weeks plus	43	47
<b>Total</b>	<b>119</b>	<b>127</b>

<b>Basis brief accepted</b>		
No fee - merit assessment	119	127
No fee - continuing involvement	73	93
Reduced fee - continuing involvement	28	19
Speculative / costs recovery - continuing involvement	17	15
Market rates - continuing involvement	1	-

<b>Refused legal aid on basis of</b>		
Merit	35	28
Financial	24	18
Outside guidelines	223	203

<b>Matters considered by a barrister to have legal merit / prospects of success</b>		
Yes	79	72
No	40	55

## Professional conduct

The principal function of the Professional Conduct Department is to facilitate the investigation of complaints against barristers, show cause events, and other disclosures.

The department also:

- provides advice and policy support to the Bar Council in respect of the council's functions under the legal profession legislation,
- facilitates the provision of ethical guidance to barristers,
- responds to queries from barristers, solicitors and members of the public regarding regulatory provisions and the conduct of barristers, and
- assists 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.

When a complaint is referred to the Bar Council it is investigated by one of the four professional conduct committees established by the council. 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 and community



## Professional Conduct Department

members. The committees may also include a legal academic. The deputy directors of the department serve as secretaries of the committees.

In the course of 2011–2012 the Bar Council investigated 85 complaints – 47 complaints that were made during the year and 52 complaints made in previous years but ongoing as at 1 July 2011. Of those investigations, 52 were finalised during the year – 35 complaints were dismissed, four resulted in the barrister being reprimanded, eight barristers were cautioned and five matters were withdrawn.

A complainant may apply to the legal services commissioner for a review of decision by the Bar Council to dismiss a complaint or to caution or reprimand a barrister. In 2011–2012 the legal services commissioner completed reviews of 11 Bar Council decisions to dismiss a complaint (four of those decisions were made in the

year 2010–2011). In ten matters the commissioner confirmed the council's decision to dismiss the complaint. In the remaining matter the commissioner confirmed the Bar Council's decision to dismiss four allegations in the complaint, but determined to re-investigate the fifth allegation in the complaint. (After re-investigation, the commissioner dismissed the fifth allegation of the complaint).

### Show cause events

Under the *Legal Profession Act 2004* barristers must 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 is a fit and proper person to hold a barrister's practising certificate. In 2011–2012 one barrister notified the Bar Council of convictions for tax offences and

**Continued on page 47**

# 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
Breach of Barristers' Rule	8
Cost issues	4
Other conduct	12
Unsatisfactory advice and representation	23
<b>Total number of complaints</b>	<b>47</b>

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

Complainant	Number
Bar Council	7
Barrister	2
Client/former client	12
Government department / statutory body	4
Instructing solicitor	2
Legal services commissioner	1
Opposing party	10
Opposing solicitor	5
Other	4
<b>Total number of complaints</b>	<b>47</b>

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

Nil

# Professional Conduct Statistics

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

Note: No matters were investigated by an independent investigator under s532 LPA 2004

Figures include complaints remaining under investigation as at 30 June 2012, all complaints in respect of which the Bar Council made a decision and complaints that were withdrawn during the year.

Complaint type	Complaints investigated that were made during the year	Complaints investigated that were made in previous years
Breach of Barristers' Rules	8	6
Cost issues	4	5
Other conduct	12	4
Unsatisfactory advice and representation	23	23
<b>Sub-totals:</b>	<b>47</b>	<b>38</b>
<b>Total number of complaints investigated:</b>		<b>85</b>

## 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
Breach of Barristers' Rules	3	1
Cost issues	0	1
Other conduct	2	2
Unsatisfactory advice and legal representation	7	19
<b>Sub-totals</b>	<b>12</b>	<b>23</b>
<b>Total number of complaints dismissed:</b>		<b>35</b>

## Number and 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' Rules	0	5
Cost issues	1	3
Other conduct	1	1
Unsatisfactory advice/representation	0	1
<b>Sub-totals</b>	<b>2</b>	<b>10</b>
<b>Total number of reprimands or cautions:</b>		<b>12</b>



Number and type of complaints withdrawn during the year by the Bar Council		
Complaint type	Complaints made during the year	Complaints made in previous years
Cost issues	1	1
Other conduct	1	0
Unsatisfactory advice and representation	1	1
<b>Sub-totals</b>	<b>3</b>	<b>2</b>
<b>Total number of complaints withdrawn</b>		<b>5</b>

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

Nil

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

Nil

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

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

Proceedings	Findings	Penalty
Fitzgibbon	27/03/2012 Unsatisfactory professional conduct	
Azzi	19/03/2012 Unsatisfactory professional conduct	19/03/2012 Reprimand and conditions to be attached to practising certificate
Miller	14/12/2011 Unsatisfactory professional conduct and professional misconduct	
Asuzu	31/08/2011 Unsatisfactory professional conduct and professional misconduct	30/05/2012 Reprimand and conditions to be attached to practising certificate

# Professional Conduct Statistics

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

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

Age of complaints not finally dealt with at the end of the year	Number	Complaints made in year ending 30 June
Up to six months	25	2012
Between seven & twelve months	5	2011
Between thirteen & eighteen months	3	2011
<b>Total</b>	<b>33</b>	

## 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

Time intervals between receipt of complaint and decision of the Bar Council	Number
Up to six months	21
Between seven & twelve months	24
Between thirteen and eighteen months	4
Between nineteen and twenty-four months	1
Up to three years	2
<b>Total</b>	<b>52</b>

### Continued from page 42

there were five show cause events related to bankruptcy matters. In one case the barrister failed to provide a written statement to the council as required by the Legal Profession Act and his practising certificate was cancelled.

#### Professional conduct committees

The professional conduct committees play a major role in the investigative process. Committee members have devoted many hours of their time on a voluntary basis and their input is highly valued by the Bar Council.

Community representation on the professional conduct committees is vital to the proper functioning of the complaints handling process. The Bar Council would like to thank the community members who served on the committees – Rosemary Allsopp, Pam Clay, John Davison, Sandra Fleischmann OAM, Allan Gibson, Brian Gold, Dr Bernard Kelly AM, Lyn Langtry, Richard Lornie OAM, Anthony Pang, Francis Payne OAM, Bill Purdue, Patrick Smith and Rachel Williams.

The committees also receive valuable input from their academic

members and the Bar Council is grateful for the assistance of Maxine Evers, Dr Arlie Loughnan, and Dr Rita Shackel.

The Bar Council wishes to express its sincere appreciation to all the barrister members of the professional conduct committees. Their service demonstrates the ongoing commitment of the profession to ensuring complaints regarding the conduct of barristers are fully investigated and appropriate disciplinary action taken in the interests of professional standards and maintaining public confidence in the profession.

## Committees of the Bar Association

In previous years committee appointments were made according to the calendar year. In December 2011 Bar Council resolved that, in order to promote consistency with the Bar Association's statutory reporting period, the association's committees would continue operation until June 2012.

### Alternative Dispute Resolution

#### January 2011–June 2012

Angela Bowne SC (chair)  
Peter Callaghan SC  
Campbell Bridge SC  
Mark Dempsey SC  
Robert Angyal SC  
Ian Davidson SC  
Dennis Wilson  
Richard Bell  
Mary Walker  
Malcolm Gracie  
Sigrid Higgins  
Maria Gerace  
Andrew Fox  
Maeve McCarthy  
Jonathon Kay Hoyle

#### Secretary

Jo Wilton

### Bar News

#### January 2011–June 2012

Andrew Bell SC (editor)  
Keith Chapple SC  
Arthur Moses SC  
Jeremy Stoljar SC  
Chris O'Donnell  
Duncan Graham  
David Alexander  
Carol Webster  
Ingmar Taylor  
Richard Beasley  
David Ash  
Kylie Day  
Jenny Chambers  
Catherine Gleeson  
Victoria Brigden  
Therese Catanzariti

#### Secretary

Chris Winslow

### Charities

#### January 2011–June 2012

Alexander Street SC (chair)  
Garth Blake SC  
Garry McGrath SC  
Greg Curtin SC

#### Secretary

Alastair McConnachie

### Common Law

#### January 2011–June 2012

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

#### Secretary

Alastair McConnachie

### Costs and Fees

#### January 2011–June 2012

Mark Brabazon SC (Chair)  
Garry McGrath SC  
Michael Eagle  
Philippe Doyle Gray  
Justin Hogan-Doran  
Angelina Gomez  
Janet McDonald

#### Secretary

Megan Black

### Criminal Law

#### January 2011–June 2012

Stephen Odgers SC (chair)  
Nicholas Cowdery QC  
John Agius SC  
Tim Game SC  
Ian McClintock SC  
Phillip Boulton SC  
John Stratton SC  
Daniel Howard SC  
Robert Bromwich SC  
Neil Adams  
Kate Traill  
Ian Bourke  
Alissa Moen  
Sally Dowling  
Nicole Noman  
Matthew Johnston  
Gabrielle Bashir  
Sarah Huggett  
Keith Alder  
Richard Wilson  
Ian Nash  
Lester Fernandez

#### Secretary

Megan Black

# Committees of the Bar Association

## Equal Opportunity Committee

### January 2011–June 2012

Trish McDonald SC (chair)  
Melissa Perry QC  
Geoffrey Johnson SC  
Kate Eastman  
Jeunesse Chapman  
Sigrid Higgins  
David J Price  
Ashok Kumar  
Peter Bruckner  
Melissa Fisher  
Mark Seymour  
Anthony Cheshire  
Jennifer Single  
Rhonda Bell

### Secretary

Joss Separovic

## Family Law

### January 2011–June 2012

Graham Richardson SC (chair)  
Alison Stenmark SC  
Scot Wheelhouse SC  
Peter Maiden SC  
Richard Schonell SC  
Richard Bell  
Warwick Tregilgas  
Mark Anderson  
Paul Sansom  
Peter Campton  
Paul Livingston  
Michael Kearney  
Elizabeth Boyle  
Esther Lawson

### Secretary

June Anderson

## Finance Investment & Audit

### January 2011–June 2012

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

### Secretary

Basil Catsaros

## Health, Sport and Recreation

### January 2011–June 2012

Zali Steggall (chair)  
Simon Kalfas SC  
Arthur Moses SC  
Andrew Coleman SC  
John Malcolm Harris  
Richard Perrignon  
Anthony Lo Surdo  
Andrew Scotting  
Nicholas Newton  
Lucinda Wilson  
Daniel Tynan  
Paul Daley

### Secretary

Joss Separovic

## Human Rights

### January 2011–June 2012

John Griffiths SC (Chair)  
Nicholas Cowdery QC  
Melissa Perry QC  
Robert Beech-Jones SC  
Richard Lancaster SC  
Anne Healey  
Simeon Beckett  
Kate Eastman  
Sarah Pritchard  
Tony McAvoy  
Sean Docker  
Reg Graycar

Genevieve Wilkinson

Jonathan Kay Hoyle

Nicholas Broadbent

Prof Andrew Byrnes

### Secretary

Joss Separovic

## Indigenous Barristers Strategy Working Party

### January 2011–June 2012

Chris Ronalds SC (chair)  
Daniel Howard SC  
His Honour Judge Andrew Haesler  
Mullenjaiwakka  
Peter Miller  
Tony McAvoy  
Professor David Barker  
Professor Larissa Behrendt  
Professor Christine Forster

### Secretary

Joss Separovic

## Legal Aid

### January 2011–June 2012

Ian McClintock SC (chair)  
Tim Game SC  
Stephen Hanley SC  
Phillip Boulten SC  
Alex Radojev  
Alissa Moen  
Neil Jackson  
Nicole Carroll  
Ian Nash  
Esther Lawson  
Tom Jones  
Monica Neville

### Secretary

Megan Black

## **New Barristers**

### **January 2011–June 2012**

Joanne Shepard (chair)  
Patrick Knowles  
Duncan Macfarlane  
David Mackay  
Sophie Callan  
Warwick Hunt  
Nick Bender  
Jennifer English  
Sam Adair  
Daniel Klineberg  
Catherine Gleeson  
James King  
Monica Neville

#### **Secretary**

Chris D'Aeth

## **Practice Development**

### **January 2011–June 2012**

Richard McHugh SC (chair)  
Robert Dick SC  
Sandra Duggan SC  
Gail Furness SC  
Michael McHugh  
Eugene Romaniuk  
Peter Lowe  
Kylie Day  
Patrick Knowles  
Nick Tiffen

#### **Secretary**

Alastair McConnachie

## **Professional Conduct Committee 1**

### **January 2011–June 2012**

Tim Game SC (chair)  
Malcolm Holmes QC  
David Higgs SC  
Mark Dempsey SC  
Tony Payne SC  
Geoffrey Johnson SC  
Richard Weinstein  
Kylie Nomchong  
Julia Lonergan  
Kate Richardson  
Edward Muston  
Madeleine Avenell  
Scott Maybury  
Michael Izzo

#### **Secretary**

Helen Barrett

## **Professional Conduct Committee 2**

### **January 2011–June 2012**

Ian Temby AO QC (chair)  
James Stevenson SC  
Gregory Nell SC  
Chris Hoy SC  
Sandra Duggan SC  
Trish McDonald SC  
Dominic Toomey  
Edward Cox  
Rashelle Seiden  
Justin Young  
David McLure  
Jeanette Richards  
Mark Seymour  
Eva Elbourne

#### **Secretary**

Peter Smith

## **Professional Conduct Committee 3**

### **January 2011–June 2012**

Jane Needham SC (chair)  
John Agius SC  
John Halley SC  
James Lockhart SC  
Garry McGrath SC  
Gail Furness SC  
James Duncan  
David Robertson  
Janet Oakley  
Ian Bourke  
Natalie Adams  
Anthony Cheshire  
Jennifer Chambers  
Warwick Hunt

#### **Secretary**

Peter Smith

## **Professional Conduct Committee 4**

### **January 2011–June 2012**

Jeremy Gormly SC (chair)  
David Williams SC  
Peter Hamill SC  
Phillip Mahony SC  
Mark Hobart SC  
Julia Baird SC  
Brendan Hull  
Stephen Climpson  
Igor Mescher  
Elizabeth Cheeseman  
Miles Condon  
Patrick Griffin  
Kate Williams  
Sophie Callan  
Yaseen Shariff

#### **Secretary**

Helen Barrett



# Statutory appointments

For the year ended 30 June 2012

## Aboriginal and Torres Strait Islander Health Practice Tribunal

The Hon Jennifer Boland AM (deputy chair)  
The Hon Graham Mullane  
Michael Joseph SC  
Peter Dwyer  
Mark Lynch  
Ian Newbrun  
Robert Titterton

## 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  
Sigrid Higgins

### Judicial member

Gail Furness

## Guardianship & Protected Estates List

Julian Millar

## Legal Services Division

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

## Equal Opportunity Division

Gail Furness SC  
Robertson Wright SC  
Richard Perrignon

## Retail Leases Division

Peter Callaghan SC (deputy president)  
Sigrid Higgins

## Revenue Division

Rashelle Seiden (deputy president and divisional head)  
Richard Perrignon

## Australian Taxation Office Legal Practitioners Forum

Holger Sorensen

## Chinese Medicine Tribunal of NSW

The Hon Jennifer Boland AM (deputy chair)  
The Hon Graham Mullane  
Michael Joseph SC  
Peter Dwyer  
Mark Lynch  
Ian Newbrun  
Robert Titterton  
Phillipa Gormly

## Chiropractic Tribunal of NSW

Phillipa Gormly (deputy chairperson)

## Companies Auditors and Liquidators Disciplinary Board

Howard Insall SC (chairperson)

## Council for Law Reporting

Bret Walker SC (editor)  
Christine Adamson SC (chairperson)  
Ian Jackman SC  
Geoff Lindsay SC  
Peter Brereton SC  
Richard Lancaster SC  
Sophie Callan SC

## Dental Tribunal of NSW

The Hon Graham Mullane (deputy chairperson)  
The Hon Jennifer Boland AM  
Michael Joseph SC  
Ian Newbrun  
Robert Titterton  
Peter Dwyer  
Mark Lynch

## DNA Review Panel

Kenneth Shadbolt (chairperson)  
Richard Button SC

## Guardianship Tribunal

Robert Quickenden  
Shaun McCarthy (part-time)

## Independent National Security Legislation Monitor

Bret Walker SC

## Judicial Commission of NSW

John Griffiths SC

## Motor Accidents Authority

### Motor Accidents Council

Andrew Stone

## Claims Assessment and Resolution Service

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

## NSW Law Reform Commission

Tim Game SC

# Statutory appointments

For the year ended 30 June 2012

## 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 Civil Law Sub-Committee

Mandy Tibbey

### 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

## Medical Radiation Practice Tribunal of NSW

The Hon Jennifer Boland AM (deputy chair)

The Hon Graham Mullane

Michael Joseph SC

Peter Dwyer

Mark Lynch

Ian Newbrun

Robert Titterton

## NSW Sentencing Council

Nicholas Cowdery AM QC

Mark Ierace SC

## Nursing and Midwifery Tribunal of NSW

The Hon Jennifer Boland AM (chair)

The Hon Graham Mullane

Michael Joseph SC

Peter Dwyer

Mark Lynch

Ian Newbrun

Robert Titterton

## Occupational Therapy Tribunal of NSW

The Hon Jennifer Boland AM (deputy chair)

The Hon Graham Mullane

Michael Joseph SC

Peter Dwyer

Mark Lynch

Ian Newbrun

Robert Titterton

## Patent and Trade Marks Attorneys Disciplinary Tribunal

Katrina Howard SC

## Pharmacy Tribunal of NSW

Peter Dwyer (chairperson)

## Physiotherapy Tribunal of NSW

Phillipa Gormly (deputy chair)

The Hon Graham Mullane

The Hon Jennifer Boland AM

Michael Joseph SC

Peter Dwyer

Mark Lynch

Ian Newbrun

Robert Titterton

## Podiatry Tribunal of NSW

The Hon Graham Mullane (deputy chair)

The Hon Jennifer Boland AM

Michael Joseph SC

Peter Dwyer

Mark Lynch

Ian Newbrun

Robert Titterton

## Professional Standards Council

Brian Rayment QC (chair)

## Psychology Tribunal of NSW

The Hon Graham Mullane (deputy chair)

The Hon Jennifer Boland AM

Michael Joseph SC

Peter Dwyer

Mark Lynch

Ian Newbrun

Robert Titterton

Phillipa Gormly

## Public Interest Law Clearing House (PILCH)

Garry McGrath (director)

Phillip Boulten SC (alternate)

## Workers Compensation Commission

### Senior full-time arbitrators

Deborah Moore

Michael Snell

### Full-time arbitrators

Brett Batchelor

Elizabeth Beilby

Grahame Edwards

Michael McGrowdie

### Part-time arbitrator

Richard Perrignon

### Sessional arbitrators

Jeffrey Phillips SC

Bruce McManamey

Christopher Wynyard

William Dalley

Carolyn Rimmer

# Court committees and working parties

For the year ended 30 June 2012

## Federal Court of Australia User Committee

Malcolm Oakes SC  
Richard Cobden SC  
Rhonda Henderson

## Family Court of Australia Case Management Committee

Grahame Richardson SC

## Supreme Court committees

### Uniform Rules Committee

Geoff Lindsay SC  
Carol Webster (deputy)

### Rule Committee

Geoff Lindsay SC  
Carol Webster (deputy)

### Admiralty Users Group Committee

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

### ADR Steering Committee

Angela Bowne SC  
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

## Equity Liaison Group

Robert Newlinds SC  
Robert Harper SC  
Jane Needham SC  
Gregory Sirtes SC  
Mark Ashurst  
Miles Condon  
Phillipa Ryan  
Vanessa Whittaker

## 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

## District Court

Rule Committee  
Paresh Khandhar

## Civil Business Committee

Peter Deakin QC  
Larry King SC

## Criminal Listings Review Committee

Kate Traill

## Land and Environment Court

### Users Group

Thomas Howard

## Industrial Relations Commission

### Rules Committee

Ian Neil SC  
Arthur Moses SC

### Users Group

Maxwell Kimber SC  
Trish McDonald SC

## Local Court

### Civil Claims Rule Committee

Andrew Kostopoulos

### Criminal Rule Committee

Monica Neville

## Dust Diseases Tribunal Rules Committee

Wendy Strathdee  
Brian Ferrari (deputy)

## Workers Compensation Commission Users Group

Gregory Beauchamp  
David Baker (alternate)

# Members appointed to state and federal courts

For the year ended 30 June 2012

## Supreme Court of New South Wales

The Hon Justice Ashley Black  
The Hon Justice Anthony Meagher  
The Hon Justice Christine Adamson  
The Hon Justice Geoffrey Bellew  
The Hon Justice James Stevenson  
The Hon Justice Robert Thomas Beech-Jones  
The Hon Justice Stephen Campbell  
The Hon Justice Richard Button  
The Hon Justice Geoffrey Lindsay

## District Court of New South Wales

His Honour Judge David Arnott SC  
His Honour Judge Peter George Maiden SC  
His Honour Judge Phillip Mahony SC  
His Honour Judge Christopher Hoy SC  
His Honour Judge Philip Taylor SC  
His Honour Judge Gordon Lerve

## New South Wales Local Court

Magistrate Michael Barko  
Magistrate Robert Stone

## Federal Court of Australia

The Hon Justice John Griffiths

# Court liaison members

For the year ended 30 June 2012

## Supreme Court Possessions List Users Group

Brendan Burke

## 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

# Representatives on educational bodies

For the year ended 30 June 2012

## Legal Profession Admission Board

Jeremy Gormly SC  
Garry McGrath SC

## Legal Qualifications Committee

John Fernon SC  
Susan Leis  
Elizabeth Picker

## Law Examinations Committee

Michael Christie

## University of NSW

Faculty of Law  
Anne Healey

## Notre Dame University, Sydney

Richard Perrignon

## University of Western Sydney

External Law Advisory Committee  
Robert O'Neill

## University of Wollongong

Faculty of Law,  
Visiting Committee  
Bruce Collins QC

# Appointments to national legal professional bodies

As at 30 June 2012

## Law Council of Australia

### Director

Bernard Coles QC

### Alternate Director

Philip Selth OAM

### Access to Justice Committee

Christopher Whitelaw

### AustLII Working Group

Philip Selth OAM

Jennifer Pearce

### Alternative Dispute Resolution Committee

Mary Walker (chair)

### Anti-Money Laundering Working Group

Tim Game SC

### Australian Young Lawyers Committee

Jennifer English

### Client Legal Privilege Advisory Committee

Cameron Moore SC

Dr Ruth Higgins

### Equalising Opportunities in the Law Committee

Patricia McDonald SC

### FOI Reform Working Group

Philip Selth OAM

### National Occupational Health and Safety Review Working Group

Mark Cahill

Ingmar Taylor

### Indigenous Legal Issues Committee

Chris Ronalds SC

Dr Sarah Pritchard

Anthony McAvoy

### Judicial Issues Working Group

Philip Selth OAM

### Model Conduct Rules Working Group

Jennifer Pearce

### Military Justice System Working Group

Dr James Renwick

### Model Equal Opportunity Briefing Policy Working Group

Trish McDonald SC

(alt Julie Baird SC)

Dominique Hogan-Doran

### National Criminal Law Committee

Tim Game SC

Bret Walker SC

Stephen Odgers SC

Phillip Boulten SC

### National Profession Harmonisation Committee

Philip Selth OAM

### Human Rights Bill Adviser

Nicholas Cowdery AM QC

## Australian Advocacy Institute Board

Her Honour Judge Ann Ainslie-Wallace

## 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



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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 6 September 2012. The directors have 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 2012 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:

P Boulten SC	W Hunt	J Needham SC	I Temby QC
B A Coles QC	C Loukas	K Nomchong	D Toomey
T Game SC	GLindsay SC	Z Stegall	K M Traill
A Healey	M McHugh	A Street SC	

The following persons were directors from the beginning of the financial year to 11 November 2011:

S Callan	J Gormly SC	P Khandhar	R Weinstein
M Condon			

The following persons were directors from 17 November 2011 up to the date of this report:

J Gleeson SC	E Peden	D Smallbone
V Lydiard	M Walker	

P Maiden SC resigned on 8 March 2012. G. McGrath SC was appointed on the same day.

All directors are practising barristers.

# Directors' report

## 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 including:

- Running various programmes for the benefit of members of the association, including Professional Development, ABA Member Benefits, Cost Recovery Assistance, BarCare, social and publications programmes, along with operating the association's library and administering the association's Professional Standards Scheme;
- Making various representations to government and government agencies on specific legal policy and practice issues as they arise;
- Working with media organisations and other bodies in order to disseminate the bar's position on key issues to the public;
- Co-ordination of the provision of pro bono or reduced cost legal services to underprivileged sections of the public through the association's Legal Assistance Referral Scheme; and
- Fulfilling the association's statutory duties in relation to the regulation of the legal profession through the work of its Professional Conduct Committees and the Bar Council.

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

## Short and long term objectives and strategies

The Bar Association's short-and-long-term objectives are to:

- promote the public good in relation to legal matters viewed in the broadest context;
- promote collegiality and mutual assistance amongst its members;
- represent the interests of its members in dealing with government, the broader legal profession, the media and the community;
- promote fair and honourable practice among barristers; and
- through the statutory role of its council, assist in matters of professional discipline of members and the resolution of complaints against them.

The Bar Association's strategy for achieving these objectives includes:

- making representations to government concerning legislation and otherwise;
- encouraging public discussion on topics concerning the law, by seminars and otherwise;
- running continuing professional development programs for its members;
- organising social gatherings, for its members and others;
- through Bar Care, assisting members with problems, and through its Benevolent Association helping those in financial distress;
- setting up and promoting the work of committees, including those concerned with professional discipline, and sections.

## Strategies and performance

Each year the incoming Bar Council is to review progress made over the preceding 12 months in achieving the stated objectives.

The Bar Council is developing a Strategic Plan which charts some of the association's objectives for the next three years. The Strategic Plan provides a means by which the association can better measure aspects of its performance.

## Dividends

As a company limited by guarantee, the association is prohibited from making distributions to members.

## Review and results of operations

The Bar Association continued to engage in its principal activity during the financial year. The comprehensive income of the association for the year ended 30 June 2012 was \$221,365 (2011: \$227,115). This result represents a decrease of \$5,750 in comprehensive income from the prior year.

# Directors' report

## 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 a 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 Bar Association is not subject to any significant environmental regulations under Australian law.

## Meetings of directors

From 1 July 2011 to 30 June 2012 there were 18 meetings.

Name	Meetings attended	Meetings held
Bernard Coles QC (President)	16	18
Phillip Boulten SC (SV President)	15	18
Jane Needham SC (JV President)	17	18
Ian Temby QC (Treasurer)	14	18
Anne Healey (Secretary from 17 November 2011)	13	18
Sophie Callan	6	7
Miles Condon	4	7
Tim Game SC	15	18
Justin Gleeson SC	9	11
Jeremy Gormly SC	2	7
Warwick Hunt	14	18
Paresh Khandhar	5	7
Geoffrey Lindsay SC	17	18
Chrissa Loukas	10	18
Virginia Lydiard	8	11
Peter Maiden SC	8	13
Garry McGrath SC	4	5
Michael McHugh (secretary to 17 November 2011)	16	18
Kylie Nomchong	14	18
Elizabeth Peden	7	11
David Smallbone	11	11

## Directors' report

Zali Steggall	15	18
Sandy Street SC	15	18
Dominic Toomey	14	18
Kate Traill	16	18
Mary Walker	11	11
Richard Weinstein SC	6	7

### Meetings of the finance, investment and audit committee

From 1 July 2011 to 30 June 2012 there were 4 meetings.

Name	Meetings attended	Meetings held
Bernard Coles QC (President)	2	4
Ian Temby QC (Treasurer)	2	4
Anne Healey	2	4
Kylie Nomchong	3	4
Michael McHugh	4	4
Dominic Toomey	1	4

### 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 2012 and the association has paid premiums in respect of such insurance contracts until 30 April 2013. Such insurance contracts insure against certain liability (subject to specific exclusions) of 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 *Corporations Act 2001*.

### Auditor's independence declaration

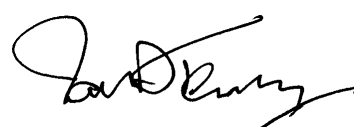
A copy of the auditor's independence declaration as required under section 307C of the *Corporations Act 2001* given to the directors by the lead auditor for the audit undertaken by HLB Mann Judd is included on page 59.

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



**B. Coles QC**  
President

Sydney  
6 September 2012



**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 2012, I declare that, to the best of my knowledge and belief, there have been no contraventions of

- (a) the auditor independence requirements of the *Corporations Act 2001* in relation to the audit; and
- (b) any applicable code of professional conduct in relation to the audit.



D K Swindells  
Partner

Sydney  
6 September 2012



# Statement of comprehensive income

For the year ended 30 June 2012

	Notes	2012 \$	2011 \$
Revenue from continuing operations	2	8,188,617	7,749,426
Employee benefits expense		(3,449,324)	(3,446,236)
Legal and professional fees		(1,208,181)	(959,601)
Subscriptions		(666,707)	(642,664)
Communications and information technology expense		(206,832)	(206,604)
Depreciation and amortisation expense		(597,268)	(519,943)
Occupancy expense		(591,280)	(635,445)
Advertising and marketing expense		(246,883)	(132,129)
Financial expense		(149,195)	(172,292)
Seminar and function expense		(288,742)	(260,205)
Other expenses from ordinary activities		(476,388)	(479,792)
Surplus before income tax expense		307,817	294,515
Income tax (expense)	3(a)	(66,652)	(90,161)
<b>Net surplus</b>		<b>241,165</b>	<b>204,354</b>
<b>Other comprehensive income</b>			
Net gain (loss) from available-for-sale financial assets		(28,285)	32,336
Income tax (expense) credit relating to other comprehensive income		8,485	(9,575)
<b>Other comprehensive income for the year, net of tax</b>		<b>(19,800)</b>	<b>22,761</b>
<b>Total comprehensive income</b>		<b>221,365</b>	<b>227,115</b>

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

# Statement of financial position

As at 30 June 2012

	Notes	2012 \$	2011 \$
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	15	6,709,177	3,697,053
Receivables		7,816	24,274
Held-to-maturity investments	4	3,425,269	4,617,197
Inventories		2,870	2,271
Other assets	6	226,397	196,288
<b>TOTAL CURRENT ASSETS</b>		<b>10,371,529</b>	<b>8,537,083</b>
<b>NON-CURRENT ASSETS</b>			
Held-to-maturity investments	4	-	2,150,000
Other financial assets	5	458,307	205,236
Deferred tax assets		4,927	4,995
Intangibles	7	-	66,497
Property, plant and equipment	8	3,239,966	3,115,192
<b>TOTAL NON-CURRENT ASSETS</b>		<b>3,703,200</b>	<b>5,541,920</b>
<b>TOTAL ASSETS</b>		<b>14,074,729</b>	<b>14,079,003</b>
<b>LIABILITIES</b>			
<b>CURRENT LIABILITIES</b>			
Trade and other payables	9	326,483	710,470
Employee benefits		621,667	523,925
Income tax payable		29,563	68,856
Fees received in advance	10	5,605,075	5,494,359
<b>TOTAL CURRENT LIABILITIES</b>		<b>6,582,788</b>	<b>6,797,610</b>
<b>NON-CURRENT LIABILITIES</b>			
Employee benefits		69,921	59,833
Deferred tax liabilities	3 (b)	43,133	64,038
<b>TOTAL NON-CURRENT LIABILITIES</b>		<b>113,054</b>	<b>123,871</b>
<b>TOTAL LIABILITIES</b>		<b>6,695,842</b>	<b>6,921,481</b>
<b>NET ASSETS</b>		<b>7,378,887</b>	<b>7,157,522</b>
<b>ACCUMULATED FUNDS</b>			
Accumulated surplus		7,314,975	7,073,810
Reserves	11	63,912	83,712
<b>TOTAL ACCUMULATED FUNDS</b>		<b>7,378,887</b>	<b>7,157,522</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 2012

	Accumulated Surplus	Reserves	Total Accumulated Funds
	\$	\$	\$
<b>At 30 June 2010</b>	<b>6,869,456</b>	<b>60,951</b>	<b>6,930,407</b>
Total comprehensive income for the year	204,354	22,761	227,115
<b>At 30 June 2011</b>	<b>7,073,810</b>	<b>83,712</b>	<b>7,157,522</b>
Total comprehensive income for the year	241,165	(19,800)	221,365
<b>At 30 June 2012</b>	<b>7,314,975</b>	<b>63,912</b>	<b>7,378,887</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 2012

	Notes	2012 \$	2011 \$
<b>Cash flows from operating activities</b>			
Receipts from operating activities		7,528,254	6,846,588
Payments to suppliers and employees		(7,314,630)	(6,552,461)
Dividends received		8,926	6,268
Interest received		122,585	124,298
Income tax received/(paid)		(118,297)	25,526
Net cash inflow from operating activities		226,838	450,219
<b>Cash flows from investing activities</b>			
Payments for plant and equipment		(656,087)	(2,656,964)
Proceeds from investments		7,073,539	11,334,804
Payment for investments		(3,632,166)	(8,720,079)
Net cash flow from investing activities		2,785,286	(42,239)
Net increase/(decrease) in cash and cash equivalents		3,012,124	407,980
Cash and cash equivalents at the beginning of the financial year		3,697,053	3,289,073
<b>Cash and cash equivalents at the end of the financial year</b>	<b>15</b>	<b>6,709,177</b>	<b>3,697,053</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 2012

## 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 – Reduced Disclosure Requirements, other authoritative pronouncements of the Australian Accounting Standards Board, including Australian Accounting Interpretations and the *Corporations Act 2001*.

#### *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 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 judgements that have a significant risk of causing material adjustments to the carrying amounts of assets and liabilities within the next financial year.

### (b) Revenue recognition

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

#### *(i) Subscriptions and practising certificate fees*

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

#### *(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 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 Bar Association has adopted the balance sheet method of tax effect accounting.

# Notes to the financial statements

For the financial year ended 30 June 2012

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 12). Payments made under operating leases (net of any incentives received from the lessor) are charged to profit or loss 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) Receivables

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

Collectability of 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 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 the receivables.

The amount of the impairment loss is recognised in 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 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.



# Notes to the financial statements

For the financial year ended 30 June 2012

## (i) Financial assets

### *Classification*

The Association classifies its financial assets in the following categories: 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) Receivables*

Trade and other receivables are non-derivative financial assets with fixed or determinable payment amounts 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.

### *(ii) Available-for-sale financial assets*

Available-for-sale financial assets, comprising 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.

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

The Bar 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 marketable equity securities are based on current bid prices.

### *Recognition and derecognition*

Receivables and held-to-maturity investments are initially recognised at cost.

Available-for-sale 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 the Fair Value Reserve are included in profit or loss as gains and losses from available-for-sale financial assets.

### *Subsequent measurement*

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 directly in equity as part of other comprehensive income.

### *Impairment*

The Bar 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 or loss) is removed from the fair value reserve and recognised in profit or loss. Impairment losses recognised in profit or loss on equity instruments are not reversed through profit or loss.

## (j) Property, plant and equipment

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

# Notes to the financial statements

For the financial year ended 30 June 2012

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

- Library	- 20 years
- Refurbishments	- 4 to 15 years
- Furniture, Computers, Office Machines and Equipment	- 3 to 5 years
- Kitchen Equipment	- 5 years

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at the end of each reporting period.

## (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

### *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 employees' services up to the end of the reporting period and are measured at the amounts expected to be paid when the liabilities are settled.

### *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.

### *Retirement benefit obligations*

The Bar Association contributes to accumulation superannuation plans. Contributions are charged against profit or loss as they are made.

## (n) 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.

## (o) Comparative figures

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

# Notes to the financial statements

For the financial year ended 30 June 2012

	2012 \$	2011 \$
<b>2. REVENUE FROM CONTINUING OPERATIONS</b>		
<b>Operating revenue</b>		
Subscriptions and practicing certificate fees	5,518,028	5,332,178
Reading programme	331,200	343,060
	<hr/>	<hr/>
	5,849,228	5,675,238
<b>Other revenue</b>		
Interest and dividends	484,591	515,445
Seminars	129,217	138,245
Administration charge	15,315	14,128
External funding	1,451,186	1,257,813
Other	259,080	148,557
	<hr/>	<hr/>
<b>Revenue from continuing operations</b>	<b>8,188,617</b>	<b>7,749,426</b>

## 3. INCOME TAX EXPENSE

### (a) Reconciliation of income tax expense to prima facie tax payable

Net surplus from continuing operations	307,817	294,515
	<hr/>	<hr/>
Tax at the Australian tax rate of 30% (2011:30%)	92,345	88,355
Increase/(decrease) in income tax expense due to:		
- Net mutual expense (income)	(12,740)	(15,031)
Tax effect of amounts which are not deductible (assessable)	(12,572)	8,731
Adjustments for current tax of prior periods	(381)	8,106
	<hr/>	<hr/>
<b>Income tax expense</b>	<b>66,652</b>	<b>90,161</b>

# Notes to the financial statements

For the financial year ended 30 June 2012

	2012 \$	2011 \$
<b>(b) Deferred tax liability</b>		
General:		
Held to maturity investments	(4,728)	-
Accrued interest	20,470	28,161
	15,742	28,161
Recognised in reserve:		
Held to maturity investments	27,391	35,877
	<b>43,133</b>	<b>64,038</b>

## 4. HELD-TO-MATURITY INVESTMENTS

<b>Term deposits</b>		
Current	3,425,269	4,617,197
Non-current	-	2,150,000
	<b>3,425,269</b>	<b>6,767,197</b>

## 5. OTHER FINANCIAL ASSETS

Non-current - at cost		
Investments in associates	14	14
Available for sale – at fair value		
Shares in Australian listed companies	458,293	205,222
	<b>458,307</b>	<b>205,236</b>

# Notes to the financial statements

For the financial year ended 30 June 2012

## Investments in associates

The Bar 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.

The Bar Association holds one \$10 share in the Pro Bono Disbursement Fund Pty Ltd. The executive director of the association is a director of the company, the purpose of which is to hold and pay funds to reimburse legal practitioners for their disbursements incurred in the conduct of pro bono matters.

## Investment in Counsel's Chambers Limited

The Bar Association also holds 7 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 Bar 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.

	2012 \$	2011 \$
<b>6. OTHER ASSETS</b>		
Prepayments	158,165	102,416
Accrued interest	68,232	93,872
	<b>226,397</b>	<b>196,288</b>

	2012 \$	2011 \$
<b>7. INTANGIBLES</b>		
<b>Database</b>		
At cost	304,665	304,665
Accumulated amortisation	(304,665)	(238,168)
<b>Net carrying amount</b>	<b>-</b>	<b>66,497</b>
<b>Movements:</b>		
Opening book amount	66,497	168,042
Amortisation charge for the year	(66,497)	(101,545)
<b>Net carrying amount</b>	<b>-</b>	<b>66,497</b>

# Notes to the financial statements

For the financial year ended 30 June 2012

## 8. PROPERTY, PLANT AND EQUIPMENT

Movements:	Library \$	Refurbishments \$	Furniture, computers, office machines and equipment \$	Kitchen equipment \$	Total \$
<b>At 30 June 2011</b>					
Cost	469,043	2,717,068	1,552,719	13,666	4,752,496
Accumulated depreciation and impairment	(234,525)	(651,467)	(737,646)	(13,666)	(1,637,304)
<b>Net carrying amount</b>	<b>234,518</b>	<b>2,065,601</b>	<b>815,073</b>	<b>-</b>	<b>3,115,192</b>
<b>At 30 June 2012</b>					
Cost	469,046	3,220,043	1,523,717	1,686	5,214,492
Accumulated depreciation and impairment	(257,977)	(957,797)	(757,066)	(1,686)	(1,974,526)
<b>Net carrying amount</b>	<b>211,069</b>	<b>2,262,246</b>	<b>766,651</b>	<b>-</b>	<b>3,239,966</b>
<b>Year ended 30 June 2012</b>					
At 1 July 2011, net of accumulated depreciation	234,518	2,065,601	815,073	-	3,115,192
Additions	-	502,975	153,112	-	656,087
Disposals	-	-	(541)	-	(541)
Depreciation/ amortisation charge for the year	(23,449)	(306,330)	(200,993)	-	(530,772)
<b>At 30 June 2012, net of accumulated depreciation</b>	<b>211,069</b>	<b>2,262,246</b>	<b>766,651</b>	<b>-</b>	<b>3,239,966</b>

2012  
\$

2011  
\$

## 9. TRADE AND OTHER PAYABLES

Trade and other payables	331,439	702,662
GST Payable	(4,956)	7,808
<b>Trade and other payables</b>	<b>326,483</b>	<b>710,470</b>

## 10. FEES RECEIVED IN ADVANCE

<b>Current</b>		
Subscriptions , practicing certificate fees & other revenue received in advance	5,605,075	5,494,359



# Notes to the financial statements

For the financial year ended 30 June 2012

	2012 \$	2011 \$
<b>11. RESERVES</b>		
Fair value reserve	<b>63,912</b>	<b>83,712</b>
<i>Consists of:</i>		
Revaluation	91,303	119,589
Less: Deferred income tax	(27,391)	(35,877)
	<b>63,912</b>	<b>83,712</b>

## Nature and purpose of reserve

Changes in the fair value of available-for-sale financial assets are taken to the fair value reserve.

## 12. COMMITMENTS

### Lease commitments

#### Operating lease commitments payable

Within one year	509,529	288,816
Later than one year but not later than 5 years	2,058,252	-
	<b>2,567,781</b>	<b>288,816</b>

The Bar Association leases from Counsels' Chambers the two premises from which it operates. The main premises are on a fifteen year lease, with an option to renew for a further five years. This lease expires in March 2027. Additional office space is occupied under a three year lease with rent increases of 3% in the 2<sup>nd</sup> and 3<sup>rd</sup> year. This lease expires in December 2014 and allows for 2 further options of three years each.

## 13. 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:

P Boulten SC	J Gormly SC	V Lydiard	I Temby QC
S Callan	A Healey	P Maiden SC	D Toomey
B A Coles QC	W Hunt	G McGrath	K M Traill
M Condon	P Khandhar	M McHugh	R Weinstein
T Game SC	G Lindsay SC	J Needham SC	A Street SC
J Gleeson SC	C Loukas	K Nomchong	Z Steggall
E Peden	D Smallbone	M Walker	

# Notes to the financial statements

For the financial year ended 30 June 2012

## (b) Key management

Key management personnel compensation for the years ended 30 June 2012 and 30 June 2011 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 2012 and 30 June 2011 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.

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

	2012 \$	2011 \$
Short-term employee benefits	1,228,074	1,166,478
Long-term employee benefits	33,496	29,761
	<u>1,261,570</u>	<u>1,196,239</u>

## (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 Bar Association paid rent (including associated air-conditioning, electricity and cleaning charges) totalling \$588,606 (2011: \$476,478) 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.

2012 \$	2011 \$
------------	------------

## 14. 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	43,000	40,900
Other services – Tax compliance	7,900	6,400
Other assurance services - PCD Grant Audit	3,500	3,200
	<u>54,400</u>	<u>50,500</u>

# Notes to the financial statements

For the year ended 30 June 2012

2012	2011
\$	\$

## 15. CASH AND CASH EQUIVALENTS

### Reconciliation of cash

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	3,581,889	474,060
Term deposits	3,126,388	3,222,093
Petty Cash	900	900
	<hr/>	<hr/>
	6,709,177	3,697,053

## 16. REIMBURSEMENT BY THE PUBLIC PURPOSE FUND

Section 700(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 2011–2012 amounted to \$1,249,087 (2011: \$1,060,819).

## 17. 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 per member. The Bar Association had 2816 members at balance date.

## 18. SUPERANNUATION

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

## Directors' declarations

In the directors' opinion:

(a) the financial statements and notes set out on pages 60 to 73 are in accordance with the *Corporations Act 2001*, including:

(i) complying with Accounting Standards – Reduced Disclosure Requirements (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 2012 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.

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



**B Coles QC**  
President



**I Temby QC**  
Treasurer

**Sydney**  
**6 September 2012**

## Independent auditor's report

### To the members of The New South Wales Bar Association

We have audited the accompanying financial report of The New South Wales Bar Association, which comprises the statement of financial position as at 30 June 2012, the statement of comprehensive income, the statement of changes in accumulated funds and the statement of cash flows for the year ended on that date, notes comprising a summary of significant accounting policies and other explanatory information, and the directors' declaration for The New South Wales Bar Association, as set out on pages 60 to 74.

### Directors' responsibility for the financial report

The directors of the company are responsible for the preparation of the financial report that gives a true and fair view in accordance with Australian Accounting Standards - Reduced Disclosure Requirements and the *Corporations Act 2001* and for such internal control as the directors determine is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

### Auditor's responsibility

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. Those 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

# Notes to the financial statements

For the year ended 30 June 2012

financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the company'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 company'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.

## Matters relating to the electronic presentation of the audited financial report

This auditor's report also relates to the financial report of The New South Wales Bar Association for the financial year ended 30 June 2012 included on The New South Wales Bar Association's website. The company's directors are responsible for the integrity of the The New South Wales Bar Association website. We have not been engaged to report on the integrity of this web site. The auditor's report refers only to the financial report identified above. If users of the financial report are concerned with the inherent risks arising from publication on a website, they are advised to refer to the hard copy of the audited financial report to confirm the information contained in this website version of the financial report.

## Independence

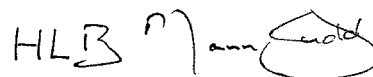
In conducting our audit, we have complied with the independence requirements of the *Corporations Act 2001*. We confirm that the independence declaration required by the *Corporations Act 2001*, provided to the directors of The New South Wales Bar Association on 6 September 2012, would be in the same terms if provided to the directors as at the time of this auditor's report.

## Auditor's opinion

In our opinion, the financial report of The New South Wales Bar Association is in accordance with the *Corporations Act 2001*, including:

- (a) giving a true and fair view of the company's financial position as at 30 June 2012 and of its performance for the year ended on that date; and
- (b) complying with Australian Accounting Standards - Reduced Disclosure Requirements and the *Corporations Regulations 2001*.

Sydney  
7 September 2012



HLB MANN JUDD  
Chartered Accountants



D K Swindells  
Partner

# Barristers' Benevolent Association

Financial report for the year ended 30 June 2012

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

The financial statements were authorised for issue by the Committee of Management on 6 September 2012. The Committee of Management have the power to amend and re-issue the financial statements.

## Statement of comprehensive income

For the year ended 30 June 2012

	Note	2012 \$	2011 \$
Revenue from continuing operations	2	372,612	397,924
Net gains/(losses) on non-current assets held at fair value through profit or loss		(130,559)	8,467
Auditor's remuneration		(8,900)	(8,600)
Bank charges		(85)	(80)
Bar care costs		(12,550)	(7,301)
Employee benefits expense		(40,321)	(41,241)
Gifts		(78,702)	(48,234)
Investment fees		(2,000)	(2,000)
Legal and professional fees		-	(2,272)
Loan forgiveness		(11,200)	-
Allowance for impairment of loans		6,960	(15,460)
Other operating expenses		(913)	(229)
Surplus before income tax		94,342	280,974
Income tax expense		-	-
<b>Net surplus</b>		<b>94,342</b>	<b>280,974</b>
<b>Other comprehensive income</b>		<b>-</b>	<b>-</b>
<b>Total comprehensive income</b>		<b>94,342</b>	<b>280,974</b>

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



# Statement of financial position

As at 30 June 2012

	Notes	2012 \$	2011 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	9	250,562	130,696
Held-to-maturity investments	4	1,547,083	1,844,184
Loans and receivables	3	83,308	73,598
<b>TOTAL CURRENT ASSETS</b>		<b>1,880,953</b>	<b>2,048,478</b>
<b>NON-CURRENT ASSETS</b>			
Held-to-maturity investments	4	-	100,000
Other financial assets	5	1,893,678	1,531,412
<b>TOTAL NON-CURRENT ASSETS</b>		<b>1,893,678</b>	<b>1,631,412</b>
<b>TOTAL ASSETS</b>		<b>3,774,631</b>	<b>3,679,890</b>
<b>CURRENT LIABILITIES</b>			
Trade and other payables		11,000	10,601
<b>TOTAL CURRENT LIABILITIES</b>		<b>11,000</b>	<b>10,601</b>
<b>TOTAL LIABILITIES</b>		<b>11,000</b>	<b>10,601</b>
<b>NET ASSETS</b>		<b>3,763,631</b>	<b>3,669,289</b>
<b>ACCUMULATED FUNDS</b>			
Accumulated surplus		1,331,749	1,237,407
Reserves	6	2,431,882	2,431,882
<b>TOTAL ACCUMULATED FUNDS</b>		<b>3,763,631</b>	<b>3,669,289</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 2012

	Accumulated funds \$	Capital reserves \$	Total accumulated funds \$
At 30 June 2010	956,433	2,431,882	3,388,315
Total comprehensive income	280,974	-	280,974
At 30 June 2011	1,237,407	2,431,882	3,669,289
Total comprehensive income	94,342	-	94,342
At 30 June 2012	1,331,749	2,431,882	3,763,631

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

## Statement of cash flows

For the year financial ended 30 June 2012

	Notes	2012 \$	2011 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Receipts from members, sponsorship and general activities		168,279	240,486
Payments to suppliers		(154,272)	(109,657)
Interest/Dividends received		91,039	89,852
<b>Net cash inflow from operating activities</b>		<b>105,046</b>	<b>220,681</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Proceeds from other financial assets		32,000	232,920
Proceeds from held to maturity investments		563,379	110,200
Payments for other financial assets		(580,559)	(263,115)
Payments for held to maturity investments		-	(240,155)
<b>Net cash (outflow) inflow from investing activities</b>		<b>14,820</b>	<b>(160,150)</b>
Net increase/(decrease) in cash and cash equivalents		119,866	60,531
Cash and cash equivalents at the beginning of the year		130,696	70,165
<b>Cash and cash equivalents at the end of the year</b>	<b>9</b>	<b>250,562</b>	<b>130,696</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 2012

## 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).

#### *Compliance with Australian Accounting Standards – Reduced Disclosure Requirements*

The financial statements of Barristers' Benevolent Association of NSW comply with Australian Accounting Standards – Reduced Disclosure Requirements as issued by the Australian Accounting Standards Board ('AASB').

#### *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.

### (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) Dividend and distribution income*

Distributions and dividends 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.

### (d) Cash and cash equivalents

For purposes of presentation in the statement cash flows, cash and cash equivalents includes cash at bank.

# Notes to the financial statements

For the financial year ended 30 June 2012

## 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONT'D)

### (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 profit or loss with other expenses. When a loan or receivable for which an impairment allowance had been recognised becomes uncollectible 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 profit or loss.

### (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 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 profit or loss in the period in which they arise. Dividend income is recognised in profit or loss 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 of 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 the effective interest method.

### (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.

# Notes to the financial statements

For the financial year ended 30 June 2011

## 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONT'D)

### (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 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.

	2012 \$	2011 \$
<b>2. REVENUE FROM CONTINUING OPERATIONS</b>		
Contributions	134,287	154,650
Distribution/ dividend income	117,869	124,087
Interest income	120,138	118,587
Membership income	318	600
<b>Revenue from continuing operations</b>	<b>372,612</b>	<b>397,924</b>

	2012 \$	2011 \$
<b>3. LOANS AND RECEIVABLES</b>		
<b>Current</b>		
New South Wales Bar Association	42,821	69,123
Accrued interest	26,823	-
Interest free loans (net of allowance for impairment)	12,500	4,240
GST receivable	1,164	235
	<b>83,308</b>	<b>73,598</b>

## 4. HELD-TO-MATURITY INVESTMENTS

<b>Term deposits</b>		
Current	1,547,083	1,844,184
Non current	-	100,000
	<b>1,547,083</b>	<b>1,944,184</b>

# Notes to the financial statements

For the financial year ended 30 June 2012

	2012 \$	2011 \$
<b>5. OTHER FINANCIAL ASSETS</b>		
<b>Non-current</b>		
Designated at fair value through profit or loss		
- Fixed interest securities	933,255	450,925
- Shares in Australian listed companies	480,633	553,205
- Australian managed funds	479,790	527,282
	<b>1,893,678</b>	<b>1,531,412</b>

## 6. RESERVES

Capital reserve	<b>2,431,882</b>	<b>2,431,882</b>
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### Nature and purpose of reserves

#### Capital reserve

Changes in the fair value of financial assets at fair value through profit and loss 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.

## 7. RELATED PARTY DISCLOSURES

### (a) Committee of management

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

P Boulten SC	J Gormly SC	V Lydiard	I Temby QC
S Callan	A Healey	P Maiden SC	D Toomey
B A Coles QC	W Hunt	G McGrath	K M Traill
M Condon	P Khandhar	M McHugh	R Weinstein
T Game SC	G Lindsay SC	J Needham SC	A Street SC
J Gleeson SC	C Loukas	K Nomchong	Z Steggall
E Peden	D Smallbone	M Walker	

The members of the Committee of Management are also directors of the New South Wales Bar Association.

### (b) Key management

The key management personnel is the Committee of Management of the association.

No compensation was paid, or payable, to the members of the Committee of Management of the association during the financial year.



# Notes to the financial statements

For the financial year ended 30 June 2012

## (c) Other transactions

The association conducts its business from the premises of New South Wales Bar Association.

## 8. REMUNERATION OF AUDITORS

2012	2011
\$	\$

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

Audit of the financial statements	8,900	8,600
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## 9. CASH AND CASH EQUIVALENTS

Reconciliation of cash

For the purposes of the presentation in the statement of 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 of cash flows is reconciled to the related items in the statement of financial position as follows:

Cash at bank	250,562	130,696
--------------	---------	---------

## 10. EVENTS OCCURRING AFTER THE REPORTING DATE

Changes since reporting date in the market values of financial assets at fair value through profit or loss held by the association has impacted the total value of the financial assets. As at 31 August 2012, the total market value of financial assets at fair value through profit or loss held by the association was \$1,951,840 compared with \$1,893,678 as at 30 June 2012, an increase of 3%.

## Committee of Management Declaration


In the opinion of the Committee of Management of Barristers' Benevolent Association of NSW, the financial statements and notes as set out on pages 76 to 83:

- a) have been drawn up in accordance with Accounting Standards – Reduced Disclosure Regime and other mandatory professional reporting requirements in Australia;
- b) present fairly the association's financial position as at 30 June 2012 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; and
- 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 the Committee of Management:



B. Coles QC



I. Temby QC

Sydney  
6 September 2012

## Independent auditor's report

To the members of Barristers' Benevolent Association of NSW:

We have audited the accompanying financial report of Barristers Benevolent Association of NSW, ('the association'), which comprises the statement of financial position as at 30 June 2012, the statement of comprehensive income, the statement of changes in accumulated funds and the statement of cash flows for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information, and the Committee of Management declaration as set out on pages 76 to 84.

### Committee of Management responsibility for the financial report

The Committee of Management is responsible for the preparation of the financial report that gives a true and fair view in accordance with Australian Accounting Standards – Reduced Disclosure Requirements and for such internal control as the Committee of Management determine is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

### Auditor's responsibility

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. Those 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 association'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 association's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the

## Independent auditor's report

Committee of Management, 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 the Committee of Management or management.

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

### Independence

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

### Auditor's opinion

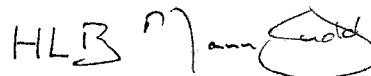
In our opinion the financial report presents fairly, in all material respects, the financial position of Barristers' Benevolent Association of NSW as at 30 June 2012, and its performance and its cash flows for the year then ended in accordance with Australian Accounting Standards – Reduced Disclosure Requirements.

### Matters relating to the electronic presentation of the audited financial report

This Auditor's Report relates to the financial report of the association for the financial year ended 30 June 2012 included on The New South Wales Bar Association's website. The directors of The New South Wales Bar Association are responsible for the integrity of The New South Wales Bar Association's website. We have not been engaged to report on the integrity of this website. The audit report refers only to the financial report identified above.

It does not provide an opinion on any information which may have been hyperlinked to/from the financial report. If users of this report are concerned with the inherent risks arising from electronic data communications they are advised to refer to the hard copy of the audited financial report to confirm the information included in the audited financial report presented on The New South Wales Bar Association's website.

Sydney  
7 September 2012



HLB MANN JUDD  
Chartered Accountants



D K Swindells  
Partner

## Contributions to the Barristers' Benevolent Fund

### \$10,000 and above

Anonymous

### \$4,000 to \$4,999

P R Boulten SC

Mario Licha

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

W Terracini SC

\$2,000 to \$2,999

T F Robertson SC

A Healey

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

Neil Murray

Bret Walker SC

D P M Ash

A Bannon SC

M Cranitch SC

D F Jackson AM QC

J Murphy

B McClintock SC

A H Slater QC

K W Andrews

C R C Newlinds SC

Stephen Burley SC

The Hon Justice A Rees

The Hon George Sharpe

S A Woods

J Stoljar SC

R Cavanagh SC

### \$500 to \$999

Maureen De Vere

The Hon Barry O'Keefe AM QC

P P O'Loughlin

D S Timmins

G J Jones

H P T Bevan

I Barker QC

C Barry QC

Campbell Bridge SC

B A Coles QC

B W Collins QC

M R Gracie

I Cullen

P J Doherty SC

J J Cauchi SC

The Hon R J Ellicott QC

I Temby AO QC

The Hon R V Gyles AO QC

His Honour Judge M C Marien SC

A M Martin

G Curtin SC

Federal Magistrate G A Coakes

S D Kalfas SC

L King SC

P M Kite SC

His Honour Judge C Hoy SC

B C Oslington QC

B W Rayment QC

F Santisi

S Rushton SC

J E Sexton SC

D A Smallbone

C Steirn SC

T K Tobin QC

P Webb QC

J N West QC

T Lynch

J E Robson SC

R Graycar

R S Sheldon SC

I M Neil SC

The Hon J E Brownie QC

I C Duane

M Green

M Painter

J R Clarke

J C Sheahan SC

D R J Toomey

Shane Prince

Garry Rich

Geoff Gersbach

G T Young

D Hirsch

Anastasia Tsekouras

### \$250 to \$499

C A Webster

J B Whittle SC

J Needham SC

P Callaghan SC

A A Henskens SC

D J Lloyd SC

The Hon Justice D L Davies SC

Martin Gorrick

D Wilson

The Hon Acting Justice R F Smart

M J Perry

S J Stanton

P G W Stitz

His Honour Judge S Norrish QC

Martin John Walsh

His Honour Judge J Bennett SC

J Phillips SC

R M Sweet

Michael B Willia SC

J Gleeson

R H Weinstein SC

David Kell

A M Pickles

Mandy Tibbey

Scott Robertson

W Strathdee

D P Kelly

M Dicker

M P Cahill

J Sheller

C E Backhouse QC

Gus Van Der Vlag

D A Buchanan SC

Gregory Burton SC

The Hon Justice R Edmonds

J J Garnsey QC

J T Gleeson SC

D J Hooke SC

G Hoeben

T A Game SC

R Keller

J E Maconachie QC

M Lynch

P W Neil SC

His Honour Judge J Nicholson SC

D Ronzani

A Stenmark SC

Robert Stitt QC

J Cranston Thompson

J A Waters

A R Moses SC

Peter Russell

I Taylor

P T Newton

Dr Melissa Perry QC

John F Heazlewood

G Gemmell

Rashelle L Seiden

A T S Dawson

T M Mehigan

### \$100 to \$249

C P Heazlewood

S Hughes

D B O'Neil

F P Hicks

Paul Blackburn-Hart SC

A Givney

R J Grady

J J Fernon SC

P J Deakin QC

M Einfeld QC

R P Greenhill SC

W Dawe QC

P Hastings QC

G Moore

The Hon Justice P A Johnson

J Kildea

His Honour Judge M J King SC

N A Confos

His Honour Judge P Maiden SC

K Morrissey

S Duggan SC

The Hon J K McLaughlin

The Hon Justice H Nicholas

M Oakes SC

P J O'Connor

The Hon J Hatzistergos

B R Pape

R Royle

G Rundle

W J Walsh

J Shaw

C I Twomey

Her Honour Judge R C Tupman

W M Fitzsimmons

R J Taylor

A J Lidden SC

M J Maxwell

A J J Renshaw

Dr B Glennon

M J Windsor SC

K J Howard SC

M K Meek SC

J O Tancred

G Farmer SC

J M Galluzzo

D R Pritchard SC

M G Gilbert

G J Graham

The Hon J R Dunford QC

D Priestley

P R Cummings

J V Gooley

M Thangaraj SC

R Lancaster SC

S Flanigan

A J Stone

A J McInerney

## Contributions to the Barristers' Benevolent Fund

Kate Eastman	Andrew R Davis	His Honour Judge P G Mahony SC	A J Bulley
G J Watkins	Kate Barrett	M McAuley	R C Beasley SC
J J Ryan	Craig Bolger	M F McDermott	D Day
A D Campbell	G Berecny	R S McIlwaine SC	The Hon Justice R A Pepper
Nicholas Newton	The Hon Justice S Rothman AM	R McKeand SC	Her Honour Judge L M Ashford
Leah J Rowan	The Hon R J Peterson QC	G P McNally SC	G J Sundstrom
G A Bashir	The Hon G Fitzgerald AC QC	B A Odling	N J Kidd
E Boyle	R A Hewson	J Priestley	T J Davie
Mary Falloon	A W Mooney	E Petersen	T J Bates
Jo Haughton	J Barnett	The Hon Justice S D Rares	J Chapman
Michelle Hirschhorn	Justin Doyle	M W Robinson	P J Livingstone
Michael J Easton	H J Marshall SC	J E Rowe	C Champion
Peter Kulevski	A Sullivan QC	J O North	W Thompson
Guy Donnellan	The Hon Justice Ainslie-Wallace	S Russell	T G Howard
Darrell Barnett	David Bennett AC QC	G Scragg	W P Lowe
Yaseen Shariff	J Berry OAM	P Strasser	Simon Davis
Gerald Ng	D A Bertini	The Hon T J Studdert QC	M Fanning
Larry Brazel	G M Johnston	J A Trebeck	R D Glasson
R N O'Neill	J R Sainty	His Honour Judge S L Walley SC	Hugh Stowe
The Hon Dr Rodney Purvis AM QC	Keith Chapple SC	E Wasilenia	I H Pike AM
P A Beale	David Cowan SC	S Wheelhouse SC	R K Newton
Dr C J Birch SC	The Hon Justice S Campbell	M C Ramage QC	G Kumarasinhe
The Hon Justice Cowdroy OAM	W J Dalley	The Hon Justice D J Collier	R Jankowski
R Driels	D M Loewenstein	K J Pierce	Paul J Nolan
A M Gruzman	I D Bourke	P A Rowe	G Carolan
L Lamprati	L T Grey	K L Stewart	B E Haverfield
The Hon G A Palmer AM QC	R A Bonnici	Dr John Keogh	T Z Messner
J Poulos QC	S Burchett	R W Hood	A Cheshire
J P Sewell	His Honour Judge Finnane RFD QC	M Christie SC	R J Carruthers
D J Thorley	N Francey	R P Battley	M J Darke
G Digby QC	His Honour Judge D Frearson SC	A Cotter-Moroz	A J Bowen
S J Harben SC	S Galitsky	S W Climpson	P Bruckner
Philip Durack SC	H Gerondis	D A Caspersenn	David M Roberts
The Hon J P Bryson QC	G Graham	J M Harris	D Dura
C A Moore SC	G M Gould	G McIlwaine	T Jowett
R Francois	M A McDonogh	W Baffsky	Paul Moorhouse
The Hon Justice M Stone	T Hughes	P M Skinner	J F Gormly
Paul Batley	N A Nicholls	R A Stanton	J P Redmond
L McBride	T Healey	R L Hamilton SC	Scott Nixon
Tony Di Francesco	D J Higgs SC	His Honour H H Bell	S Hill
David Healey	T A Kolomyjec	The Hon J A Miles AO	James T G Gibson
T J Ryan	A Jamieson	Dr F R McGrath AM OBE	S Gollledge
A Goldsworthy	R I Bellamy	V A Hartstein	Dr S Blount
J D McDonald	The Hon D Kirby QC	The Hon J P Slattery AO QC	Magistrate Janet Stevenson
L P McFee	J T Kearney	J B Phelan	A Combe
K Roser	J Kelly	The Hon P J Newman RFD QC	K Deards
A G Todd	G McGrath	Sophie York	Ruth C A Higgins
I J McGillicuddy	G Nicholson QC	S M Kettle	Douglas Barry
D K Jordan	His Honour Judge L A Levy SC	D Hogan-Doran	J Redwood
A J O'Brien	C Lonergan	Dr J G Renwick SC	Christopher H Withers
M K Rollinson	T M Rowles	W L S Lloyd	W Hunt
N H Rudland	R Montgomery	B Pluznyk	A Conwell

Craig Simpson	R F Sutherland SC	D S Inverarity	Anthony M Goodridge
S Callan	C M Simpson SC	Dr C Mantziaris	M Campbell
E Elbourne	J Bartos	D G Price	Beth Oliak
Lester Fernandez	The Hon L D S Waddy AM RFD QC	Jarrod White	Anthony Kaufmann
A Miller	The Hon Lance Wright QC	T J Dixon	The Hon H P W Johnston QC
D C P Stewart	G M Thomas	Tiffany L Wong	R H B Wood
Bernard D Brassil	P L Dodson	Mark Seymour	M C Beveridge
Lucas Shipway	Dr R J Webb	John Travassaros	M G Crowley
J B Kay Hoyle	The Hon M L Foster QC	David Imlah	The Hon R W Gee
M Auld	P A Barnes	Mark Friedgut	A Kumar
His Honour Judge J North	The Hon J A Nader RFD QC	Bill Ilkovski	Sandrine Alexandre-Hughes
Declan Roche	The Hon P W Young AO	David J Currie	A P Barlow
Michael J Weightman	P R Moran	The Hon P R Graham QC	J A Kearney
Ashley Stafford	W D Hosking QC	P D Santamaria SC	Marina Dulhunty
Catherine Gleeson	G A Seib	I D Hill QC	Clarissa Amato
Matthew Graham	B G Docking	Federal Magistrate L Henderson	E Kerkyasharian
M Neville	W J Hadley	Gary Doherty	E N Gramelis
Angus Stewart	E T Finnane	L Paraska	
F T Roughley	N S Jackson	P B Lott	
Philip Wallis	M S Spartalis	G R Rummery QC	
	E J Johnston	The Hon T Buddin QC	
<b>\$25 to \$99</b>	G Lucarelli	Greg Jones	
M A Gillies	P R Carr	The Hon B J K Cohen QC	
Dr D E Berry	M McHugh	The Hon J L O'Meally AM RFD	
The Hon Justice C Hoeben AM RFD	J Trevallion	J Henness	
The Hon M W Campbell QC	L McManus	P E Koroknay	
G M Barter	Leonard Karp	K Sant	
Dr A L Connolly	Luke Brasch	Stephen Gardiner	
J Cohen	Christopher Wood	Nic Angelov	
C A Evatt	G Elliott	Federal Magistrate S Scarlett	
B Hull	Roger Harper	B J Tronson	
O G Watt	A Gibbons	Colin Purdy	
W D Thompson	A E Maroya		
C J Bannon QC	Nicole S Carroll	<b>Under \$25</b>	
A Doig	The Hon JM Boland	G Wright	
His Honour Judge Richard	R Potter	I Strathdee QC	
Cogswell SC	David Forster	M J Bateman	
R J Colquhoun	Carl Boyd	W P Brewer	
J Davis	K Conte-Mills	E H Baskerville	
Dr R J Desiatnik	Michelle Castle	P J Krebs	
P Dwyer	Paul Coady	The Hon Greg Smith SC MP	
His Honour Judge M A Elkaim SC	David Parish	S J McMillan	
The Hon Justice P J Hidden AM	G Denman	A S Kostopoulos	
A Hogan	Margaret Pringle	R J A Sergi	
J R Dupree	G Antipas	C Magee	
The Hon Justice R Beech-Jones	Pouyan Afshar	Justin Young	
L E Judge	Anonymous	Jenny Baxter	
J Parnell	The Hon D M Ryan QC	Mark Gunning	
P J Mooney SC	A Hill	Andrew P L Naylor	
A L McSpedden	The Hon B E Hill QC	Andrew Metcalfe	
D Rickard	C Stewart	B M Britt	
G R Heathcote	M J Heath	Melissa Humphreys	



# Indigenous Barristers' Trust - The Mum Shirl Fund

Financial report for the year ended 30 June 2012

## Contents

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

The financial statements were authorised for issue by the trustees on 29 August 2012. The Trustees have the power to amend and re-issue the financial statements.

## Statement of comprehensive income

For the year ended 30 June 2012

	Note	2012 \$	2011 \$
Revenue from continuing operations	2	200,315	93,253
Audit and accounting		(4,500)	(4,300)
Bank charges		(98)	(85)
Conference expenses		(97,168)	(13,491)
Fundraising		(14,944)	(4,470)
Grants		(27,530)	(49,441)
Other expenses		(888)	(525)
Surplus before income tax expense		55,187	20,941
Income tax expense		-	-
<b>Net surplus</b>		<b>55,187</b>	<b>20,941</b>
<b>Other comprehensive income</b>		<b>-</b>	<b>-</b>
<b>Total comprehensive income</b>		<b>55,187</b>	<b>20,941</b>

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

## Statement of financial position

As at 30 June 2012

	Note	2012 \$	2011 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents		65,471	68,997
Held-to-maturity investments	4	412,967	345,262
Other receivables	3	24,614	52,406
<b>TOTAL CURRENT ASSETS</b>		503,052	466,665
<b>TOTAL ASSETS</b>		503,052	466,665
<b>CURRENT LIABILITIES</b>			
Trade and other payables		4,500	23,300
<b>TOTAL CURRENT LIABILITIES</b>		4,500	23,300
<b>TOTAL LIABILITIES</b>		4,500	23,300
<b>NET ASSETS</b>		498,552	443,365
<b>ACCUMULATED FUNDS</b>			
Accumulated surplus		498,552	443,365

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 2012

	2012 \$	2011 \$
<b>As at 1 July - opening</b>	443,365	422,424
Total comprehensive income	55,187	20,941
<b>As at 30 June - closing</b>	498,552	443,365

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 2012

	2012 \$	2011 \$
<b>Cash flows from operating activities</b>		
Receipts from sponsorship and general activities	210,402	65,288
Payments to suppliers & grantees	(163,928)	(53,161)
Net cash inflow from operating activities	46,474	12,127
<b>Cash flows from investing activities</b>		
Proceeds/(payments) from term deposits	(50,000)	13,840
Net increase/(decrease) in cash and cash equivalents	(3,526)	25,967
Cash and cash equivalents at the beginning of the year	68,997	43,030
Cash and cash equivalents at the end of the year	65,471	68,997

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 2012

### 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 and other authoritative pronouncements of the Australian Accounting Standards Board (including Australian Accounting Interpretations).

##### *Compliance with Australian Accounting Standards – Reduced Disclosure Requirements*

The financial statements of Indigenous Barristers' Trust ('the trust') comply with Australian Accounting Standards – Reduced Disclosure Requirements as issued by the Australian Accounting Standards Board ('AASB').

##### *Historical cost conversion*

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 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.

# Notes to the financial statements

For the financial year ended 30 June 2012

## (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.

### *(iii) Other income*

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

## (c) Income tax

The trust is exempt from income tax.

## (d) Cash and cash equivalents

For purposes of presentation in the statement of cash flows, and in the statement of financial position cash and cash equivalents includes cash at bank.

## (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.

## (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 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 taxation authority are presented as operating cash flows.

# Notes to the financial statements

For the financial year ended 30 June 2012

2012  
\$

2011  
\$

## 2. REVENUE FROM CONTINUING OPERATIONS

Contributions received	68,443	70,593
Interest	24,631	21,785
Conference revenue	98,441	-
Fundraising income	8,800	875
	<hr/>	<hr/>
Revenue from continuing operations	200,315	93,253

## 3. OTHER RECEIVABLES

<b>Current</b>		
New South Wales Bar Association	7,182	47,375
GST receivable	7,223	1,667
Accrued interest	10,209	3,364
	<hr/>	<hr/>
	24,614	52,406

## 4. HELD-TO-MATURITY INVESTMENTS

<b>Current</b>		
Term deposits	412,967	345,262
	<hr/>	<hr/>

## 5. 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 statements	4,500	4,300
	<hr/>	<hr/>

## 6. 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	Bernard Coles QC
Justice Michael Slattery	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.

# Notes to the financial statements

For the financial year ended 30 June 2012

2012	2011
\$	\$

## 7. CASH AND CASH EQUIVALENTS

### Reconciliation of cash

For the purposes of the presentation in the statement of 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 of cash flows is reconciled to the related items in the statement of financial position as follows:

Cash at bank	65,471	68,997
--------------	--------	--------

## 8. EVENTS OCCURRING AFTER THE REPORTING DATE

No significant events have occurred since the reporting date which would impact on the financial position of the association disclosed in the statement of financial position as at 30 June 2012 or on the results and cash flows of the association for the year ended on that date.

# Trustees' declaration

In the opinion of the trustees of Indigenous Barristers' Trust – The Mum Shirl Fund, the financial statements and notes as set out on pages 89 to 94:

- (a) have been drawn up in accordance with Accounting Standards – Reduced Disclosure Requirements and other mandatory professional reporting requirements in Australia; and
- (b) present fairly the trust's financial position as at 30 June 2012 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.

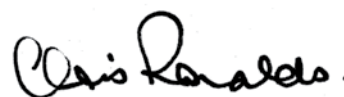
Signed in accordance with a resolution of trustees:



B. Coles QC  
Trustee

Sydney

29 August 2012



C Ronalds SC  
Trustee

## Independent auditor's report

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

We have audited the accompanying financial report of The Indigenous Barristers' Trust – The Mum Shirl Fund ('the trust'), which comprises the statement of financial position as at 30 June 2012, the statement of comprehensive income, the statement of changes in accumulated funds and the statement of cash flows for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information, as set out on pages 89 to 94.

### Trustees responsibility for the financial report

The trustees are responsible for the preparation of the financial report that gives a true and fair view in accordance with Australian Accounting Standards – Reduced Disclosure Requirements and for such internal control as the trustees determine is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

### Auditor's responsibility

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. Those 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 trustee'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 trust'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 involve an analysis of the prudence of business decisions made by the trustees or management.

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

### Independence

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



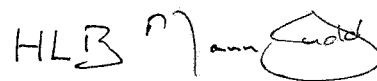
### Auditor's opinion

In our opinion the financial report presents fairly, in all material respects, the financial position of The Indigenous Barristers' Trust – The Mum Shirl Fund as at 30 June 2012, and of its performance and its cash flows for the year then ended in accordance with Australian Accounting Standards – Reduced Disclosure Requirements.

### Matters relating to the electronic presentation of the audited financial report

This Auditor's Report relates to the financial report of the trust for the financial year ended 30 June 2012 included on The New South Wales Bar Association's website. The directors of The New South Wales Bar Association are responsible for the integrity of The New South Wales Bar Association's website. We have not been engaged to report on the integrity of this website. The audit report refers only to the financial report identified above.

It does not provide an opinion on any other information which may have been hyperlinked to/from the financial report. If users of this report are concerned with the inherent risks arising from electronic data communications they are advised to refer to the hard copy of the audited financial report to confirm the information included in the audited financial report presented is on The New South Wales Bar Association's website.



**HLB MANN JUDD**  
Chartered Accountants

Sydney  
31 August 2012



**D K Swindells**  
Partner