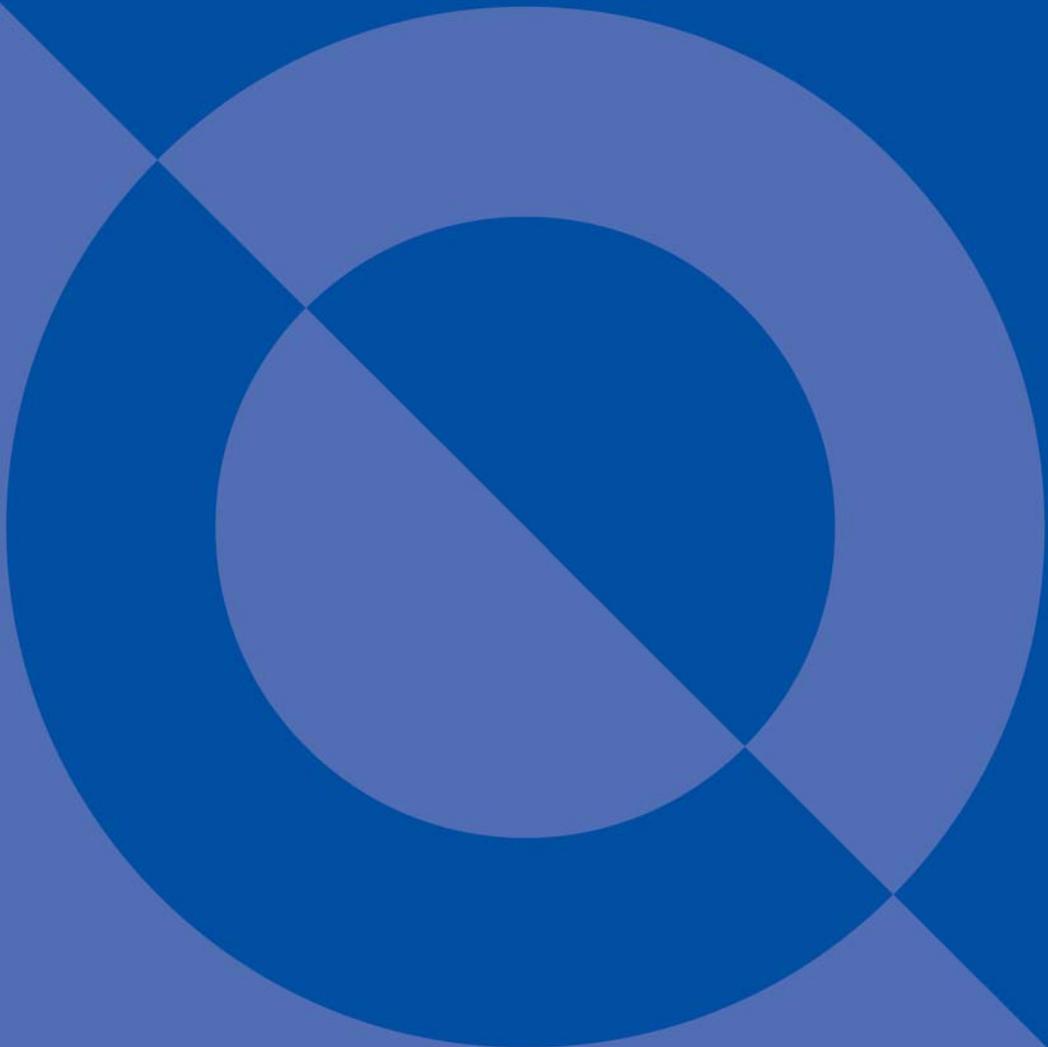




LEGAL OMBUDSMAN

ANNUAL REPORT
2003/2004



Legal Ombudsman Annual Report 2003/2004

The Legal Ombudsman's office is dedicated to helping the people of Victoria who have trouble in their dealings with lawyers.

The annual report for 2003/2004 presents the activities of the Legal Ombudsman over the past financial year together with the audited financial statements.

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THE LEGAL OMBUDSMAN

History

The statutory position of the Legal Ombudsman was created by the *Legal Practice Act 1996*.

The office commenced operations on 2 January 1997, with the Chief Justice of Victoria, the Honourable Mr Justice John Harber Phillips, officially opening the office on 6 February 1997.

Mrs Kate Hamond was appointed Legal Ombudsman in February 1999. The Attorney-General, the Hon Rob Hulls MP, opened the current premises of the office at Level 10, 461 Bourke Street, Melbourne on 18 May 2000.

Mission

The Legal Ombudsman recognises that:

- Lawyers are essential agents in the delivery of justice to Victorians.
- The effective handling of complaints against lawyers contributes to the development and maintenance of high standards of service and enhances understanding between lawyers and Victorian consumers.

The Legal Ombudsman will therefore promote the highest standard of service delivery by lawyers to all Victorians by:

- Raising the understanding of the ethical standards required in legal practice.
- Assisting lawyers in understanding the contemporary expectations of legal consumers including the particular needs of women, people of non-English speaking background, Aboriginal and Torres Strait Islanders, regional and rural people, people with disabilities and young people.
- Promoting consumer knowledge about legal practice and the legal profession.
- Maintaining and enhancing an independent, just and accessible system of handling complaints against lawyers.
- Stopping anti-competitive practices in the legal profession.

Guarantee

To Consumers

- All telephone enquiries will be answered by a member of staff from Monday to Friday between the hours of 9am and 5pm.
- All enquiries and complaints made to the Legal Ombudsman will be given careful consideration.
- All complaints that the Legal Ombudsman has jurisdiction to investigate will be handled quickly, fairly and impartially.
- Where appropriate, complaints or disputes will be referred to the Recognised Professional Associations for investigation.

To Lawyers

- If conduct is the subject of a complaint, the Legal Ombudsman will investigate the matter quickly, fairly and impartially.

Objectives

- To provide an independent, impartial and accessible system of handling complaints against lawyers.
- To educate the public and the legal profession about the ethical standards required of lawyers.
- To stop anti-competitive practices in the legal profession.
- To operate as a progressive and dynamic office at the optimal level.
- To monitor the Legal Ombudsman's performance and service to both consumers and lawyers.
- To be accountable to stakeholders.

MESSAGE FROM THE LEGAL OMBUDSMAN



This is likely to be the last time I will be reporting to you as the Legal Ombudsman.

As this report was going to press, Parliament was scheduled to debate legislation for a new regulatory system for the legal profession in Victoria. Under the legislation, my office and the Legal Practice Board will be replaced by a Legal Services Commissioner reporting to a Legal Services Board.

The new system is expected to come into being some time in the next calendar year. While I continue to have serious concerns about aspects of the new system, it does include some positive elements, which are in line with changes I have long been recommending. Most importantly, the new Legal Services Commissioner will be responsible for receiving all complaints against lawyers, doing away with the most confusing feature of the existing complaint process - its multitude of gateways for complaints. Handling of costs disputes will also be streamlined and the new Legal Services Board may have direct control over all other aspects of legal regulation.

These elements of the new system represent change for the better. Unfortunately, I find it hard to be positive about other changes on the way. But more of that later. As this is the last annual report of the Legal Ombudsman, I want to focus on the achievements of this office since it opened almost eight years ago.

The first Legal Ombudsman, Marg O'Donnell, established a regulatory body based on principles of propriety, integrity and fairness. Ably assisted by Deputy Janet Cohen and a committed staff, Marg O'Donnell put in place a complaint handling system with two core purposes in mind – the protection of the public and the betterment of the legal profession.

For the first time Victorian legal consumers were able to take their complaints to a body independent of the lawyers' professional associations – the Law Institute and the Bar. Also for the first time, there was a body taking a pro-active approach to informing legal consumers about what to do if they had a problem with a lawyer. In addition to complaint handling, the Legal Ombudsman launched an extensive outreach program to not only explain the complaints system to consumers but also to advise them on how to establish productive relationships with lawyers. This outreach program also extended to lawyers, with ethics workshops and guidance on how to avoid problems with clients. This emphasis on prevention was as much in the interests of lawyers as it was consumers.

The office of the Legal Ombudsman came into being as part of a broader overhaul of legal regulation with the introduction of the *Legal Practice Act* 1996. It represented a significant shift away from decades of self-regulation, whereby the professional associations received, investigated and prosecuted complaints against their members with very little independent oversight. The office of the Legal Ombudsman became the independent regulator of the complaint handling system, receiving and investigating complaints in its own right and also overseeing and reviewing the complaint handling functions performed by the Law Institute and the Bar.

The arrival of an independent regulator did much to enhance public trust, however the system had an inherent flaw - it was not fully independent in that the lawyers' professional associations retained a substantial role in complaint handling. With the Legal Ombudsman and the lawyers' professional associations all receiving and handling complaints, there was not only confusion for consumers but also tension between the complaint handlers. Having fought hard to retain self-regulation, the lawyers' professional associations resisted accountability to an independent regulator.

While this system of co-regulation was an improvement on the old self-regulatory model, its structure made for inevitable conflict and confusion. It was an admirable transitional step in the reform process, but true and lasting reform needed one further step to achieve fully independent regulation.

That brings me to the new system. It has the surface appearance of a fully independent model, but the devil, as they say, is in the detail.

The Legal Services Commissioner will be the sole receiver of all complaints. As I have already stated, this is a positive step that will end confusion for complainants. However, while the commissioner will receive all complaints it is not clear what will happen to these complaints after they have been received.

The new legislation contains a provision for the commissioner to delegate powers and functions. This means the commissioner will be able to refer complaints to the lawyers' associations for investigation. It is also possible the commissioner could delegate to these professional associations the power to prosecute. Or any other powers for that matter. This provision to delegate has the potential to undermine the whole purpose of reform. We could end up with a system less independent than what we have now.

In the hands of a strong and forthright commissioner, the power to delegate would not be a problem because this commissioner would be careful to exercise that power in a judicious and responsible way. But we should not have to rely on the strength of an individual to uphold the integrity of a system – integrity must be built into the system.

Other features of the new system will make it difficult for even a strong and forthright commissioner to remain independent.

In addition to being responsible for complaint handling, the Legal Services Commissioner will also be CEO of the Legal Services Board, the body responsible for other regulatory functions such as issuing practising certificates and operating the fidelity fund. The board will comprise three members of the legal profession, three non-lawyers and a chairperson who may or may not be a lawyer.

The commissioner is supposed to be independent of the board with regard to complaint handling, however it is difficult to see how this will work in practise. The commissioner will be reappointable by and answerable to the board on all other matters including expenditure. It will be important for the commissioner to stay in the board's favour, so there is the very real risk that this could influence the commissioner's complaint handling role.

A possible scenario: under pressure from the lawyers on the board, the commissioner decides to delegate all investigations and prosecutions to the professional associations. If anyone thinks that is a worst-case scenario, it is worth noting that it is nothing more than what the professional associations lobbied for in the review process.

As it is currently proposed, the new system will only work in the hands of a very strong commissioner prepared to stare down the lawyers' professional associations. Such strength and integrity will be hard to find in an individual. They are virtues that should have been built into the system.

In closing, it has been a great privilege to serve in this role for the last 5 years and to have played a part in such an important area of consumer protection.

My sincere thanks go to the dedicated staff of this office. I applaud the dedication and professionalism of my team. Their performance as administrators and complaint handlers, the thoroughness and fairness of their investigations, and their even handed dealings with both complainants and lawyers serve as a model for other investigative agencies in the consumer sector.

It is hoped that the expertise and experience of my staff will be put to use in the new system.

KATE HAMOND
Legal Ombudsman

STAFF OF THE LEGAL OMBUDSMAN (as at 30 June 2004)

Deputy Legal Ombudsman

Janet Cohen

LL.B.(Monash), B.Sc.(Monash), MBA(Melb.),
LL.M.(Melb.)

Investigations & Standards Advisers

Denise Boughton

LL.B.(Melb.), BA(Hons)(Melb.), Dip. Family
Law(Monash)

Peter Byrne (P/T)

LL.B.(Monash), B.Ec(Monash)

Denise Weybury (P/T)

LL.B.(Melb.), BA(ANU), LL.M.(Melb.)

Elisa Whittaker (P/T)

LL.B.(Melb.)

Andrea Woolhouse (P/T)

LL.B.(Monash), B.Juris.(Monash)

Roz Zalewski (P/T)

LL.B. (Melb.), BA(LaTrobe),
Grad.Cert.Prof.Eth.(Melb.)

Senior Inquiry Officer

Shirley Joseph

Inquiry Officers/Administrative Assistants

Belinda McPherson (P/T)

Julie Cugley (P/T)

Dip.Teaching (Toorak)

Community Outreach & Administrative Project Officer

Angela Barac

BA(Crim. Justice Admin.) (RMIT)

2nd Year LL.B. student (Monash)

Community Outreach Administrative Officer

Alistair Nairn (P/T)

BA(Hons) (LaTrobe)

Final year Grad. Dip. Conflict Resolution student
(LaTrobe)

Administrative Manager

Margaret Betts

Administrative Assistant

Carol Wallis

Receptionist/Administrative Assistant

Elizabeth Lack (P/T)

BA(LaTrobe)

Junior Administrative Assistant

Rebecca-Lee Murfet (P/T)

Research Clerk

Kate Burke (P/T)

Final year BA/LL.B. student (Melb)

(P/T) Part-time employee



THE YEAR IN REVIEW – MAJOR EVENTS AND ACHIEVEMENTS

New regulatory system

The final details of the new legal regulatory framework announced by the Attorney-General in July 2003 are still being determined and the Legal Ombudsman contributed during the year to the Legal Practice Act Implementation Group. Staff from our office worked cooperatively with the Attorney-General and the Department of Justice. It is hoped that a fair and just system that protects the rights of consumers, maintains community confidence and enshrines independence in the regulation of the legal profession will be adopted.

The Attorney-General's Justice Statement, *New Directions for the Victorian Justice System 2004-2014*, was released in May 2004. Described as a "map outlining the various ways in which the legal system needs to be modernised and the rights of individuals protected", the Statement flags 25 major initiatives and minor projects to be undertaken by the Government during the next decade.

Report to Parliament

The Legal Ombudsman's Report Pursuant to Section 427 of the Legal Practice Act 1996 in the Matter of Victorian Lawyers RPA Ltd was tabled in Parliament in October 2003.

The report detailed issues of concern to the Legal Ombudsman relating to the handling of trust moneys and the conduct of receiverships by staff of the Victorian Lawyers RPA Ltd (now known as the Law Institute of Victoria) and outlined by her in the Legal Ombudsman's 2002/03 annual report.

Visit from the Thai Ombudsman

Three staff members from the Thai Ombudsman's office visited Australia for training in investigation techniques in December 2003. They spent a week at the office of the Commonwealth Ombudsman and visited Melbourne for one day to meet with staff of the Legal Ombudsman who provided them with an overview of the role our office plays in examining complaints about legal practitioners.

The visit from the Thai Ombudsman, together with the visit from a delegation of the Government of Singapore in September 2002, is an indication of this office's reputation for high quality investigations and efficient complaint handling and its recognition both nationally and internationally as a leading independent regulator.

Training staff from the office of the Queensland Legal Services Commissioner

Following a visit from the newly appointed Queensland Legal Services Commissioner, Mr John Briton, in mid-June 2004, arrangements were made for the Legal Ombudsman Victoria to assist in the training of his Client Liaison Officers.

On 30 June 2004, two staff members from the Queensland Legal Services Commission came to Melbourne for a one-day intensive training program, the goal of which was to equip the staff with techniques on dealing with the public and the diverse range of matters that may be brought before them.

The training focused on handling complainant calls, complainant contact – in person and over the phone (including "the difficult caller"), statement taking procedures, cost disputes, pecuniary loss disputes, conduct complaints, exercises in determining jurisdiction and advising callers of alternative referral organisations.

Queensland Legal Services Commissioner staff reported that the training program had provided them with a good basis to work from and further develop in line with their own legislation.

Independent regulators meet

Following the inaugural meeting of the Independent Regulators and Complaint Handlers (IRCH) in February 2002, initiated by the Legal Ombudsman Victoria, a meeting was held in Melbourne in October 2003, hosted by this office.

The purpose of these meetings is for independent regulators and complaint handlers from across Australia to share information and knowledge and discuss current issues surrounding complaint handling and regulatory frameworks.

The October meeting was attended by independent regulators from New South Wales, Queensland, South Australia, Tasmania and Victoria.

Department of Justice Koori Youth Careers Meeting

In order to support and provide greater opportunities for young Koori people, the Department of Justice set up a working group from across the portfolio to address current barriers to employment and identify ways to help Koori youth.

The Legal Ombudsman hosted the inaugural meeting in July 2004 to discuss issues and concerns in relation to the future careers of indigenous youth and the problems that young Kooris face in the justice system in Victoria today.

Record attendances at Ethics Workshops

The Legal Ombudsman's ethics workshops are now a part of the Continuing Professional Development Scheme for legal practitioners. These free workshops are proving to be valuable and popular with both metropolitan and regional practitioners. There have been full attendances at most workshops with the number of participants almost double that of previous years.

A major objective of the workshops is to provide lawyers with constructive feedback gained from the complaint handling process.

The Legal Ombudsman also ran a well attended ethics workshop to coincide with Law Week in May 2004.

Community Legal Centres (CLCs)

Community Legal Centres play a vital role in the justice system, providing legal advice and advocacy to a wide variety of groups and individuals, particularly for people without the means to afford their own lawyers.

It is often the case that people who contact the Legal Ombudsman have legal problems in addition to their complaints against lawyers. In many cases these people are referred by the Legal Ombudsman to their nearest, or appropriate specialist, CLC.

This year, the Legal Ombudsman, when appropriate, enclosed an information brochure for a relevant CLC with her letter to the complainant. By providing this information, it is hoped that people will have more understanding of the roles, location and availability of the service and that public awareness of community legal centres will be enhanced.

HANDLING COMPLAINTS AGAINST LAWYERS

The Legal Ombudsman is the only independent body in Victoria with a specific duty to oversee and investigate complaints against members of the legal profession.

The powers of the Legal Ombudsman derive from the *Legal Practice Act 1996* ("the Act").

The Legal Ombudsman has a range of powers to inquire into complaints made to the office and may also initiate enquiries into various aspects of legal service provision, where there has been no formal complaint. This power facilitates the investigation of matters drawn to the Legal Ombudsman's attention by 'whistleblowers', or in other cases where the complainant seeks anonymity.

The Legal Ombudsman only has jurisdiction to handle 'complaints' about the conduct of lawyers. The Act makes a distinction between 'complaints' and 'disputes'.

Complaints (section 138 of the Act) are:

Allegations that a legal practitioner has committed breaches of professional conduct. They relate to ethical matters and the Legal Ombudsman or the Recognised Professional Associations (RPAs) may investigate them.

Disputes (section 122 of the Act) are:

Disagreements concerning 'legal costs' not exceeding \$15,000 or claims that the actions of the clients' legal practitioners have caused the clients to suffer financial loss. The Legal Ombudsman **does not** have the jurisdiction to investigate 'disputes' and all 'dispute' matters are referred to the RPAs.

The Legal Ombudsman and complaints

The Legal Ombudsman has prepared a complaint form to assist consumers to provide the Legal Ombudsman with relevant information, but a letter will suffice. All complaints made to the Legal Ombudsman must be in writing pursuant to section 140 of the Act.

The complaint procedure

Many complaints begin with a basic telephone enquiry. During this initial contact, staff of the Legal Ombudsman may take a conciliatory approach in dealing with matters in an effort to resolve the complaint at the first instance. Complainants making enquiries outside the scope of the Legal Ombudsman's jurisdiction are directed to other official bodies or organisations that may be able to help.

If an enquiry reveals a matter of concern, then the complainant is invited to lodge a formal complaint.

Investigating complaints

When the Legal Ombudsman receives a written complaint:

- the relevant RPA (Recognised Professional Association) is notified;
- the Legal Ombudsman assesses whether it falls within the powers under the Act; and
- if the complaint involves a 'dispute', as defined in section 122 of the Act, pursuant to section 142 of the Act it is referred to the RPA for attempted resolution.

The Legal Ombudsman can dismiss a complaint if satisfied that the complaint is, 'frivolous, vexatious, misconceived or lacking in substance', (section 141 of the Act).

If the complaint is not dismissed pursuant to section 141 of the Act and it raises questions of misconduct or unsatisfactory conduct, the Legal Ombudsman must investigate the matter.

Legal Ombudsman investigations

The Legal Ombudsman, depending on the severity or nature of the matters raised, can require a lawyer to respond immediately to the complaint, or the Legal Ombudsman may send an approved auditor to visit the lawyer's practice, often without notice, to inspect the lawyers trust accounts.

The Legal Ombudsman sends a copy of the complaint to the lawyer, who is then required to provide the Legal Ombudsman with a full written explanation of the issues raised in the complaint pursuant to section 149 of the Act. Almost without exception, a copy of the lawyer's response is sent to the complainant for comment.

When the Legal Ombudsman has received **all** information relevant to the complaint, an assessment is made as to whether there is a reasonable likelihood that the Legal Profession Tribunal would find the legal practitioner guilty of misconduct or unsatisfactory conduct.

Investigation outcomes

If the Legal Ombudsman considers that a legal practitioner has acted improperly, depending on the seriousness of the matter, such conduct is classified as either 'unsatisfactory conduct' or 'misconduct'.

What is Misconduct?

Misconduct is defined in section 137 of the Act as:

- (a) misconduct by a legal practitioner or firm in the course of engaging in legal practice, including:
 - (i) wilful or reckless contravention of this Act, the regulations or practice rules that apply to the practitioner or firm or any other Act that relates to legal practice;
 - (ii) wilful or reckless failure to comply with a condition or restriction to which a practising certificate held by the legal practitioner is subject;
 - (iii) wilful or reckless failure to comply with an undertaking given to a court or tribunal or the Legal Ombudsman, the Board or an RPA;
 - (iv) unsatisfactory conduct that amounts to a substantial or consistent failure to reach reasonable standards of competence and diligence;
 - (v) the charging of grossly excessive legal costs; or
- (b) conduct by a legal practitioner or firm that is unconnected with legal practice but would justify a finding that the practitioner or firm is not of good character or is otherwise unsuited to engage in legal practice.

What is Unsatisfactory Conduct?

Unsatisfactory conduct is an offence created by the Act and is defined in section 137 of the Act as:

- (a) conduct by a legal practitioner or firm in the course of engaging in legal practice that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent legal practitioner or firm; or
- (ab) conduct by a legal practitioner or firm in the course of engaging in legal practice that would be regarded by a legal practitioner or firm in good standing as being unacceptable, including –
 - (i) conduct unbecoming a legal practitioner or firm;
 - (ii) unprofessional conduct; or
- (b) contravention of this Act, the regulations or practice rules that apply to the practitioner or firm or any other Act that relates to legal practice, not amounting to misconduct; or
- (c) failure to comply with a condition or restriction to which a practising certificate held by the legal practitioner is subject, not amounting to misconduct; or
- (d) failure to pay a premium or an instalment of premium due under a contract of professional indemnity insurance, not amounting to misconduct.

Notices of Decision and the Legal Profession Tribunal

The Legal Ombudsman provides written notices of decisions to both complainants and lawyers in accordance with section 152 of the Act.

If the Legal Ombudsman is satisfied that there is a reasonable likelihood that the Legal Profession Tribunal would find the legal practitioner guilty of misconduct, a charge must be brought before the Legal Profession Tribunal pursuant to section 151(2) of the Act.

If the Legal Ombudsman is satisfied that there is a reasonable likelihood that the Legal Profession Tribunal would find the lawyer guilty of unsatisfactory conduct, the Legal Ombudsman, pursuant to section 151(3) of the Act, may:

- bring a charge in the Legal Profession Tribunal; or
- with his/her/its consent, reprimand or caution the legal practitioner or firm; or
- take no further action if satisfied that:
 - the legal practitioner or firm is generally competent and diligent; and
 - there has been no substantiated complaint about the legal practitioner or firm for the last five years.

The Legal Ombudsman can also, pursuant to section 151(4) of the Act, as a condition for not bringing a charge in the Legal Profession Tribunal, require a lawyer to pay compensation to the complainant.

Right of Review

Where a Recognised Professional Association has investigated a complaint at first instance, a complainant, pursuant to section 153 of the Act, can request that the Legal Ombudsman review a decision made by an RPA, within three months of the decision being made.

The Legal Ombudsman, pursuant to section 154 of the Act, upon request, must review the decision.

The Legal Ombudsman under section 156 of the Act may:

1. confirm the decision of the RPA; or
2. reinvestigate the matter.

All parties are notified of the decision of the Legal Ombudsman.

If a reinvestigation is required, it may be carried out by the Legal Ombudsman or by the RPA if so directed by the Legal Ombudsman.

If an RPA closes a file pursuant to section 141 of the Act as frivolous, vexatious, misconceived or lacking in substance then a complainant has 30 days from receiving the RPA's decision to ask the Legal Ombudsman to reconsider the matter.

COMMUNITY OUTREACH

The Legal Ombudsman is committed to making services accessible to all Victorians. To achieve this, the Legal Ombudsman and her staff schedule regular visits to rural and regional centres as well as to the suburbs of inner and outer Melbourne. In addition to ensuring the service is accessible to all consumers, these visits enable the Legal Ombudsman to forge positive working relationships with support and referral agencies, community leaders and local lawyers.

Achievements

- In 2003/2004 the Legal Ombudsman and her staff visited 30 centres in regional and rural Victoria and 15 centres in suburban and outer Melbourne.
- Of the total 807 complaints and disputes received by the Legal Ombudsman this year, 248 (32.5%) were made by people in rural and regional Victoria.
- During community outreach visits this year, staff of the Legal Ombudsman distributed information about the Victorian Law Foundation and the Victorian Privacy Commissioner in addition to information on the role of our office.

Rural & Regional

Ararat
Benalla
Bendigo
Broadford
Cann River
Corio
Eaglehawk
Geelong
Kangaroo Flat
Lakes Entrance
Mallacoota
Mansfield
Maryborough
Mildura
Moe

Morwell
North Geelong
Omeo
Orbost
Portland
Red Cliffs
Robinvale
Seymour
Stawell
Swan Hill
Swifts Creek
Traralgon
Wangaratta
Warrnambool
Wodonga

Metro & outer metropolitan

Altona
Brunswick
Coburg
Glen Waverley
Hoppers Crossing
Hughesdale
Koo Wee Rup
Laverton
Mount Waverley
Newport
Northcote
Pakenham
St Albans
Werribee
Williamstown



Legal Ombudsman Kate Hamond and Community Outreach Project Officer Angela Barac.
Photo: The Herald & Weekly Times Photographic Collection

EDUCATION AND COMMUNITY AWARENESS

In order to improve access to justice for consumers with complaints about the professional conduct of lawyers, the office of the Legal Ombudsman provides educational programs designed to inform and educate the community and members of the legal profession about:

- Legal ethics.
- Client expectations.
- A lawyer's duties and responsibilities.
- A client's rights and responsibilities.
- The independent role, duties and responsibilities of the Legal Ombudsman.

Educational programs and community awareness activities undertaken by the Legal Ombudsman this year included:

- Ethics workshops for lawyers.
- Seminars, lectures and workshops for tertiary students and those undertaking the Bar Readers' course.
- Meetings and seminars with community groups and support agencies throughout the State.
- The provision of information to Members of Parliament, their electorate officers and to representatives of government departments, members of the judiciary and the legal profession.
- Media contact.
- Information for consumers, students and lawyers on the Legal Ombudsman website www.legalombudsman.vic.gov.au.



Ethics workshop: Geelong, September 2003

Ethics Workshops

The Legal Ombudsman provides workshops on 'legal ethics' for Victorian lawyers in order to promote quality professional conduct procedures and enhance professional ethical standards. Ethics workshops are based on actual case scenarios and ethical dilemmas handled by the Legal Ombudsman. An objective of the workshops is to provide lawyers with constructive feedback gained from the complaint handling process.

Achievements

- The Legal Ombudsman ethics workshops became part of the legal practitioners' Continuing Professional Development Scheme. As a consequence, the number of participants attending the workshops was almost double that of previous years.
- In 2003/2004, 19 workshops were provided on request to law firms, law schools and to local lawyers in rural and regional centres.

MELBOURNE AND METROPOLITAN

Deakin University x 2
La Trobe University
Law Week May 2004 Ethics Workshop
University of Melbourne x 6

REGIONAL

Bendigo
Geelong
La Trobe Valley
Mansfield
Mildura
Seymour
Swan Hill
Warrnambool
Wodonga

- Regional visits were planned to coincide with County Court circuits to enable judges and their staff to attend workshops with local lawyers and magistrates.

Tertiary Students and Bar Readers

The Legal Ombudsman conducts seminars and lectures to provide information concerning professional conduct, ethics and client expectation, to people entering the legal profession and to social science and community development students.

Achievements

- In 2003/2004 lectures, seminars and workshops were held at:
Deakin University – Law Students
La Trobe University – Law Students
La Trobe University – Legal Practice & Conduct Law Students
Monash University – Lawyers, Ethics and Society Law Students x 2
Monash University – Postgraduate Diploma of Legal Practice
Monash University – Postgraduate Law Students
NMIT – 1st Year Advanced Diploma of Business (Legal Practice) Students
RMIT – Applied Diploma of Business (Legal Practice)
University of Melbourne – Legal Ethics & Professional Conduct Law Students
University of Melbourne – Legal Ethics Law Students
Victoria University – Professional Conduct Law Students
Victorian Bar – Bar Readers' Course
- The Legal Ombudsman is a member of the Board of the Faculty of Law at Monash University and also a member of the RMIT Law Course Advisory Committee. Mrs Hamond attended the quarterly meetings of both institutions to discuss matters relating to legal ethics and the teaching of law at the tertiary level.

Public Education

The Legal Ombudsman and her staff conduct seminars and meet with community groups to provide constructive information to the wider community about the roles and responsibilities of the Legal Ombudsman. These meetings provide community groups with a platform to raise issues directly with the Legal Ombudsman and aim to ensure that community support agencies provide appropriate referral information to people who have concerns about the conduct of a lawyer.

Achievements

In 2003/2004, presentations and visits were made to the following community organisations:

STATE-WIDE

Royal Melbourne Agricultural Show

MELBOURNE AND METROPOLITAN

Altona Green Neighbourhood House
Anglicare Werribee
Australian Greek Welfare Society – Workcover Program, Brunswick
Australian Greek Welfare Society – Workcover Program, Oakleigh
Bayswater North Ladies Probus Club
Baywest Youth Housing Group Inc.
Beaumaris Heights Probus Club
Bentleigh Probus Club
Boronia Legacy
Brighleigh Uniting Church Friendship Centre
Brunswick Neighbourhood House
Bulleen Templestowe Probus Club
Cardinia Community Health Service
Child and Family Care Network – Glen Waverley
Coburg Brunswick Community Legal & Financial Counselling Centre
Coburg Community Information Centre
Consumer Credit Legal Service AGM
Court Network AGM
Disability, Advocacy & Information Service Inc.
Eastern Community Legal Centre Inc – AGM
Federation of Community Legal Centres AGM
Flemington / Kensington Community Legal Centre AGM
Friendship Group
Glen Waverley Ladies Probus Group
Good Shepherd Youth and Family Service Inc.
Graduate Union of University of Melbourne
Greensborough Probus Club
Hobsons Bay City Council
Homegarth Community Centre
ISIS Primary Care – Hoppers Crossing
Karinya Counselling Centre
Kew Gardens Ladies Probus Club
Kiwanis Club of Doncaster & Templestowe
Koo Wee Rup Neighbourhood House
Ladies Probus Club of Oakleigh Inc.
Ladies Probus Club of Ormond

Laverton Community Centre
Liberty Victoria (Victorian Council for Civil Liberties)
Life Activities Club Waverley
LifeWorks – Relationship Counselling & Education Services – Wyndham
Maroondah Citizens Advice Bureau AGM
Mentone Probus Club
Migrant Resource Centre Altona
Migrant Resource Centre, North West
Monash Link Community Health Service
Monash Youth and Family Services – Monash City Council
Monash Youth Issues Network
Monash-Waverley Community Information & Support
Moreland Community Health Service
Moreland Migrant Resource Centre
Mount Waverley Combined Probus Club Inc.
Mt Waverley VIEW Club
Mulgrave VIEW Day Club
Outlets Cooperative & Neighbourhood House
Pakenham Living & Learning Inc.
Parkdale Women's Club
Real Estate Institute of Victoria
Relatwell – Coburg
Ricketts Point Probus Club, Beaumaris
St Lukes, Anglicare
Salvation Army– Pakenham
Sandbelt Ladies Probus Club
SHIFT – UnitingCare Connections
South Eastern Branch of Over 50's Association – Mt Waverley
Tenants' Union of Victoria
The Youth Access Centre – St Albans
Uniting Care Connections – Pakenham
Victoria Legal Aid, Outer Eastern Suburbs (Ringwood)
Waverley Central Ladies Probus Group
Werribee Community Centre Inc.
Werribee Support & Housing Group Inc.
Western Region U3A – Footscray
Westvale Community Centre
Wheeler's Hill Probus Club
Williamstown Community & Education Centre
Women In Retirement
Women on the Move, Ferntree Gully
Women's Information Support and Housing in the North

REGIONAL

Ararat

Ararat Advisory and Assistance Centre
Ararat Neighbourhood House and Adult Learning Centre
Ararat Family Services
Consumer Affairs
East Grampians Health Service, Centre for Community Health
Grampians Community Health Centre

Benalla

Benalla Community Correctional Services

Bendigo

Bendigo Community Correctional Services
Bendigo Community House
Bendigo Court House
CENTACARE – Counselling Services
St Luke's Anglicare
Victoria Legal Aid

Broadford

Broadcare Community Centre
Mitchell Community Health
Salvation Army Broadford

Cann River

Cann River Community House

Corio

Cloverdale Community Centre
Community Information and Referral Association Inc.
Rosewall Neighbourhood Centre

Eaglehawk

Eaglehawk Community House

Geelong

Court Network
Geelong Community Legal Service
Geelong Court House
Jindara Community Programs
Lifeline Geelong Inc.
Salvation Army Family Services
Victoria Legal Aid
Villamanta Legal Service
Wathaurong Aboriginal Cooperative Ltd.

Kangaroo Flat

Kangaroo Flat Community House

Lakes Entrance

Lakes Entrance Neighbourhood House
East Gippsland Shire – Lakes Entrance Business Centre

Mallacoota

Mallacoota Community House
Mallacoota District Health and Support Service

Mansfield

Mansfield and District Community Centre
Mansfield and District Welfare Group
Mansfield Court House
Mansfield Shire Council

Maryborough

Maryborough Community Information Centre
Maryborough Community Health Service
Maryborough Community House
Maryborough Court House
St Luke's Anglicare

Mildura

Consumer and Tenancy Advice Service
Mallee Domestic Violence Services
Mallee Family Care
Mallee Sexual Assault Unit
Mildura Court House
Murray Mallee Community Legal Service
Northern Mallee Migrant Service Group
Salvation Army Family Support Services
Sunraysia Information and Referral Service Inc.

Moe

Eastcoast Housing Association
Moe Court House
Moe Neighbourhood House

Morwell

Anglicare
Gippsland Community Legal Centre
Gippsland Migrant Resource Centre
La Trobe Information and Support Centre
Lifeline Gippsland
Morwell Neighbourhood House and Learning Centre
Quantum Support Services
Victoria Legal Aid

North Geelong

Bethany Community Support Inc.
Victims' Referral and Assistance Service

Omeo

East Gippsland Shire – Omeo Business Centre

Orbost

East Gippsland Shire – Orbost Business Centre
Orbost Neighbourhood House

Portland

Brophy Family and Youth Services
Community Connections Victoria
Portland Neighbourhood House

Red Cliffs

Red Cliffs Community Resource Centre

Robinvale

Murray Valley Aboriginal Cooperative
Robinvale Community Resource Centre

Seymour

Goulburn Valley Family Care Inc.
Pathways
Rural Housing Network Ltd.
Seymour Community House
Seymour Court House

Stawell

Grampians Community Health Centre
Stawell Court House
Stawell Neighbourhood House
Wimmera Community Care

Swan Hill

Mallee Family Care
Mallee Sexual Assault Unit
Mallee Tenancy and Consumer Advice Service
Salvation Army Community Centre
Swan Hill Court House

Swifts Creek

Community Centre Swifts Creek Inc.

Traralgon

La Trobe Shire Council
Relationships Australia
Salvation Army Welfare Service
Traralgon Neighbourhood House and Learning Centre

Wangaratta

Showcase Community Information

Warrnambool

Brophy Family and Youth Services
CASA South Western
Community Connections Victoria
Emma House Domestic Violence Services
Gunditjmara Aboriginal Cooperative

Lifeline Access and Resource Centre
Salvation Army – Family Support Services
Southwest Advocacy Association Inc.
Warrnambool Community Correctional Services
Warrnambool Community House Inc.
Warrnambool Court House

Wodonga

Albury Wodonga Community Legal Service
Community Corrections Centre
Community Information and Referral Centre Wodonga Inc.
Consumer and Tenancy Advice Service
Disability Advocacy and Information Service Inc.
Felltimber Community Centre
Multicultural Resource Centre
Mungabareena Aboriginal Corporation
Rural Housing Network Ltd.
Upper Hume Community Health Service
Upper Murray Family Care Inc.
Wodonga Court House
Women's Centre Albury Wodonga Inc.

Community Legal Centres

Recognising the client base of Community Legal Centres, the Legal Ombudsman seeks to ensure that community lawyers are fully apprised of the roles and functions of the Legal Ombudsman's office. Seminars and workshops are held for the community legal sector thus providing Centre staff with a platform to raise issues directly with the Legal Ombudsman.

Achievements

- When appropriate, a brochure on the relevant Community Legal Centre (CLC) was included in the initial letter from the Legal Ombudsman responding to a complainant. People who contact the Legal Ombudsman often have legal problems in addition to their complaints against lawyers and the aim of doing this was to provide them with a greater understanding of the role, locations and availability of the service provided by CLCs.

Members of Judiciary and the Legal Profession

The Legal Ombudsman meets regularly with members of the judiciary and the legal profession to discuss her role and duties as an independent regulator of professional conduct.

Achievements

- The Legal Ombudsman or her representative attended fortnightly meetings of the Bar Ethics Committee as an observer.
- A meeting of Independent Regulators and Complaint Handlers was held at the office of the Legal Ombudsman in Melbourne in October 2003. The meeting was attended by independent regulators from New South Wales, Queensland, South Australia, Tasmania and Victoria.
- The Legal Ombudsman met with the Chief Justice of the Supreme Court, the Chief Judge of the County Court and the Chief Magistrate of Victoria during the year to discuss matters relating to the court system and the experiences of legal clients as documented by her office.

Parliament and Government Departments

The Legal Ombudsman meets with the Attorney-General and with key officers of the Department of Justice and maintains regular contact with the electorate offices of State and Federal Parliamentarians to provide information to Members of Parliament, their staff and constituents.

Achievements

- The Legal Ombudsman contributed to the Legal Practice Act Implementation Group set up to determine final details for the new legal regulatory framework announced by the Attorney-General in July 2003.
- *The Legal Ombudsman's Report Pursuant to Section 427 of the Legal Practice Act 1996 in the Matter of the Victorian Lawyers' RPA Ltd* was tabled in Parliament in October 2003. The report is available from Information Victoria and details the Legal Ombudsman's concerns regarding the handling of trust moneys and conduct of receiverships by staff of the Victorian Lawyers' RPA Ltd (now known as the Law Institute of Victoria). These concerns were documented in the Legal Ombudsman's 2002/2003 annual report.

Media

The media (print, radio and television) plays an important role in disseminating information regarding the operation of the office of the Legal Ombudsman to the Victorian community.

Achievements

- The role and services of the Legal Ombudsman were promoted this year through a number of communication activities in particular community, regional and country radio, specialist newsletters and key government publications. Community Outreach visits attracted wide coverage in regional newspapers and on local radio and television.
- Commentary on the activities associated with the Legal Ombudsman's office was featured in the following media:

PRINT

Herald Sun
Justinian
Lawyers' Weekly
Moreland Community News
Sunraysia Daily
The Age
The Australian Financial Review
The Guardian
The Melbourne Graduate Newsletter
The Weekend Australian

RADIO

ABC Radio National – The Law Report
ABC Radio Gippsland
ABC Radio Mildura
3AK Melbourne Radio
3CS Radio Colac
3GV Radio Traralgon
3HA Radio Hamilton
3MAFM Radio Mildura
3NE Radio Wangaratta
3WM Radio Horsham
3YB Radio Warrnambool
3SH Radio Swan Hill
3SRFM Radio Shepparton
3RPP Radio Moorooduc
The Pulse 94.7FM Geelong
774 ABC

TV

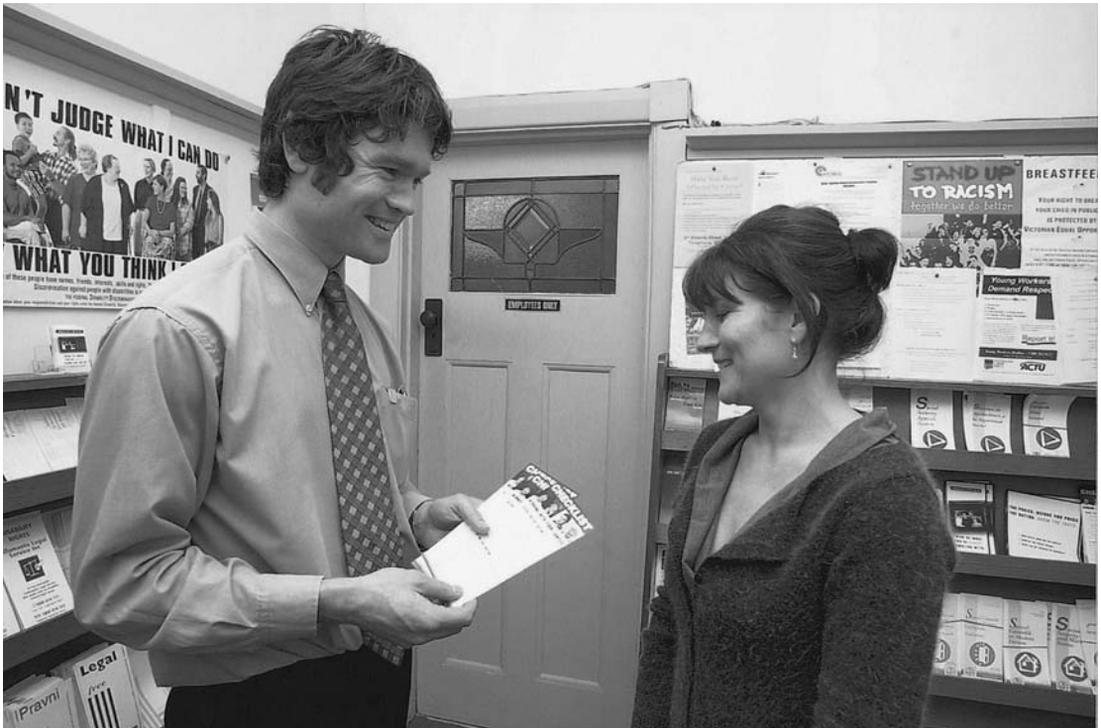
ABC TV NEWS – Canberra
ABC TV NEWS – Sydney
ABC TV NEWS – Tasmania
ABC TV NEWS – Victoria
Ten News
WIN TV – Bendigo
WIN TV – Mildura

Publications and the Legal Ombudsman's Website

The Legal Ombudsman produces print and online information for the consumers of legal services, students and lawyers on matters relevant to legal practice in Victoria.

Achievements

- The popular publication *Checklist: Working with your lawyer*, is available in English and 21 community languages. A further six languages, Albanian, Dari, Hindi, Punjabi, Samoan and Urdu are being prepared and will be available in late 2004.
- The Legal Ombudsman website, www.legalombudsman.vic.gov.au, was regularly updated during the year with information on outreach visits and information for the consumer on the role of the Legal Ombudsman and how to make a complaint about a lawyer. The consumer Fact Sheets are also available on the website as is the Checklist in English and 21 community languages.
- Audio files of radio interviews with the Legal Ombudsman were made available on the website.



Allistair Nairn with Ruth Thomson of the Brunswick - Coburg Community Legal & Financial Counselling Centre.

Photo: Fairfax Community Newspapers

FUTURE DIRECTIONS

New regulatory legislation

As previously noted in this report, the Attorney General has foreshadowed a Legal Profession Act, which will repeal the current *Legal Practice Act 1996*. The new Act purports to improve the regulation of the legal profession and establish new bodies for regulating the profession. The office of the Legal Ombudsman will continue to assist the Department of Justice to achieve these goals noting how important it is not to diminish structural integrity, independence, accountability or public protection.

During this development and consultative process, the Legal Ombudsman and staff will also continue to undertake core roles of complaint handling, laying charges, and professional and community education in an efficient, responsive and responsible manner. The office will operate on a business as usual basis.

Sensitive to the insecure employment of her staff with the likely closure of the office, the Legal Ombudsman will actively pursue appropriate human resource safeguards and programs.

Educating the legal profession

The office of the Legal Ombudsman will continue to be a significant provider of continuing education for the legal profession through its ethics workshops program. Designed to assist lawyers to appropriately deal with day-to-day ethical dilemmas, these workshops also provide an invaluable platform for the office to report on trends and issues recognised through the Legal Ombudsman's complaint management system. The workshops are free of charge, conducted throughout Victoria and earn each attendee two compulsory professional development points.

Multicultural initiative

In keeping with its commitment to assist culturally and linguistically diverse communities, the office will launch Phase Three of the Legal Ombudsman's multicultural communication strategy in October 2004. The *Checklist: Working With Your Lawyer* will be produced in a further six languages – Albanian, Dari, Hindi, Punjabi, Samoan and Urdu.

Australian Legal Regulatory System

Since 1994, the Australian legal regulatory landscape has changed significantly, gradually shifting from self-regulation by lawyers' professional associations to independent regulation by statutory regulators. To inform the profession and the community, the Legal Ombudsman will research, prepare and publish a chart comparing legal regulatory systems across all Australian states and territories. This will be supported by a description of the various legal regulatory roles.

Television community service announcement

The Legal Ombudsman's highly effective television announcement will be broadcast on Melbourne metropolitan and regional stations from September to December 2004.

Informing other professions and industries

Customised for specific readership, articles on how to work with lawyers will be prepared by the Legal Ombudsman for publication in professional and trade journals. The first in this series will be *Selling Property and Working with Solicitors* published in the journal of the Real Estate Institute Of Victoria.

MONITORING THE RPAS (RECOGNISED PROFESSIONAL ASSOCIATIONS)

Investigations conducted by Law Institute of Victoria

In May 2004, the Legal Ombudsman wrote to the Law Institute of Victoria advising that a monitoring exercise was to be conducted by her pursuant to the provisions of section 146 of the *Legal Practice Act 1996* ("the Act").

By monitoring the Law Institute's complaint files, the Legal Ombudsman is able to:

1. Examine the files to determine whether the Law Institute has complied with statutory obligations relating to complaint handling.
2. Critically assess standards of uniformity and consistency by all complaint handling bodies.
3. Make appropriate recommendations as to proper and prudent practices.

As on previous occasions, the Legal Ombudsman requested files closed within the previous six months. In past years the Law Institute had always made such closed files available to the Legal Ombudsman as part of the monitoring exercise. However on this occasion, the Law Institute refused to provide certain closed files to the Legal Ombudsman alleging that they were not required to do so.

The Law Institute's refusal to provide these files to her for scrutiny was of great concern as during their handling by the Law Institute it appears that:

1. The Law Institute failed to notify the Legal Ombudsman of all these investigations.
2. The Law Institute failed to give notices of decision to the Legal Ombudsman.
3. The Law Institute refused the Legal Ombudsman access to those files during her investigation on the basis that they were required by the Law Institute and in Counsels' chambers.
4. The Law Institute made changes to charges laid without complying with the provisions of the Act.

The files requested from the Law Institute were no different to any other files that were closed within the previous six months and which the Institute was prepared to make available to the Legal Ombudsman as part of the monitoring exercise. Nor were they any different to similar closed files which had been made available for previous monitoring exercises.

The Legal Ombudsman considered that the Law Institute had hindered her in her monitoring role by refusing to grant her access to files.

Temporary Closure of Files by Law Institute of Victoria

Pursuant to section 150 of the *Legal Practice Act 1996*, investigations into complaints about the conduct of legal practitioners must be conducted as expeditiously as possible. Furthermore, section 150(2) of the Act provides that where a Recognised Professional Association (RPA) is conducting the investigation, it must report to the Legal Ombudsman as to its progress at six monthly intervals.

In November 2003, the Legal Ombudsman expressed her concern about the practice of 'temporary closure' that had been adopted by the Law Institute of Victoria, and the potential use of 'temporary closure' of complaint files to circumvent the Law Institute of Victoria's obligations pursuant to section 150 of the Act. Regular reports in accordance with section 150(2) of the Act are not made in relation to 'temporarily closed' files. This would appear to be a clear contravention of the Act, and a disregard for the rights conferred on complainants by the Act.

Furthermore it would appear that the practice of 'temporary closure' leads to a distortion of the statistics as the Law Institute treats each re-opening as a new matter for statistical purposes.

As a result of the above concerns, and pursuant to the power conferred upon her by section 148 of the Act, the Legal Ombudsman directed that the practice cease immediately.

The Chief Executive Officer of the Law Institute of Victoria advised in December 2003 that the practice of 'temporary closure' would be replaced by a new category of "inactive files", and that regular progress reports in relation to inactive files would be provided to the Legal Ombudsman in accordance with section 150(2) of the Act.

However at the time of preparation of this report, the Legal Ombudsman was advised that two files had been temporarily closed and it would appear that despite earlier reassurances, Institute staff members continue to disregard the Legal Ombudsman's direction in relation to this issue.

COMPLAINTS DATA



COMPLAINTS DATA

Complaints about legal practitioners are made pursuant to Part 5 of the *Legal Practice Act 1996* ("the Act"). Complaints about solicitors are made to the Legal Ombudsman or the Law Institute of Victoria Limited (formerly Victorian Lawyers RPA Ltd). Complaints about barristers are made to the Legal Ombudsman or the Victorian Bar Incorporated. These complaints are categorised as "disputes" or "complaints" or a combination of both.

Complaints/Disputes with the prefix LOV were originally sent by persons complaining to the Legal Ombudsman, with the prefix LIV to the Law Institute of Victoria Limited, and with the prefix BAR to the Victorian Bar Incorporated.

This section provides a quantitative and qualitative overview of the operational aspects of the Legal Ombudsman's office over the preceding year. Also, pursuant to section 426 of the Act, the Legal Ombudsman must present the complaints data for the Law Institute of Victoria Limited (formerly Victorian Lawyers RPA Limited) and the Victorian Bar Incorporated.

The statistical information contained in this section is presented in table format and comparative figures with the 2002/2003 year are represented in (brackets).

Definitions/Abbreviations used in the tables

BAR	Victorian Bar Incorporated
LIV	Law Institute of Victoria Limited
LOV	Legal Ombudsman
LPT	Legal Profession Tribunal
RPA	Recognised Professional Association

NOTE: The Victorian Lawyers' RPA Limited became the Law Institute of Victoria Limited effective from 22 December 2003. The abbreviation LIV is used for all Law Institute data in this 2003/2004 annual report including data and determinations dated prior to 22 December 2003.

1. ENQUIRIES

Not all enquiries fell within the ambit of the Legal Ombudsman's jurisdiction. Where this occurred, consumers received a response or a referral to an appropriate service to resolve their concerns. For example, staff encouraged callers with particular types of concerns to raise them with their practitioners directly. This intervention sometimes included a telephone call from the office of the Legal Ombudsman to assist in the clarification of the consumer's issues. The following table provides the outcomes of the enquiries made to the Legal Ombudsman:

TABLE 1 – ACTION TAKEN BY THE LOV ON ENQUIRIES

	COMPLAINT FORM SENT TO COMPLAINANT		INFORMATION PROVIDED TO COMPLAINANT – NO FURTHER ACTION		REFERRAL TO OTHER BODY		TOTAL	
	1763	(1807)	1311	(1841)	1288	(1572)	4362	(5220)

2. COMPLAINTS AND DISPUTES

This table represents the total number of complaints, including disputes, which have been received by the Legal Ombudsman, the Law Institute of Victoria Limited and the Victorian Bar Incorporated as notified to the Legal Ombudsman. (While these figures represent the complaints received by these organisations, the organisation that opens the file does not necessarily handle the file – an organisation's handling of files will be reflected in Table 3.)

TABLE 2 – FILES OPENED

	DISPUTES ONLY		CONDUCT AND DISPUTE		CONDUCT ONLY		TOTAL	
LOV FILES	97	(96)	210	(233)	500	(521)	807	(850)
LIV FILES	681	(583)	433	(475)	807	(896)	1921	(1954)
BAR FILES	6	(2)	18	(30)	62	(50)	86	(82)
TOTAL	784	(681)	661	(738)	1369	(1467)	2814	(2886)

3. WHO HANDLED WHAT?

This table shows the number of files handled by each organisation at the first instance. While one organisation may receive a complaint, that matter may be referred to another organisation to handle. For example, if a complaint to the Legal Ombudsman involves a costs dispute or pecuniary loss matter, it would be referred to the relevant Recognised Professional Association to handle.

TABLE 3 – WHO HANDLED WHAT?

	NUMBER OF FILES HANDLED BY THE LOV		NUMBER OF FILES HANDLED BY THE LIV		NUMBER OF FILES HANDLED BY THE BAR		TOTAL	
OF THE FILES COMING DIRECTLY TO THE LOV (COMPLAINTS INCLUDING DISPUTES)	491	(519)	299	(316)	17	(15)	807	(850)
OF THE FILES COMING DIRECTLY TO THE LIV	6	(7)	1915	(1947)	0	(0)	1921	(1954)
OF THE FILES COMING DIRECTLY TO THE BAR	0	(0)	0	(0)	86	(82)	86	(82)
TOTAL	497	(526)	2214	(2263)	103	(97)	2814	(2886)

Comments

- The Bar only receives a small number of complaints directly or indirectly.

4. FILES CLOSED

Tables 4, 5 and 6 show the time taken to close files (that did not become reviews) in the 12 months ending 30 June 2004. These figures relate to the organisation that actually handled the matter. Table 7 refers to files that were initially investigated by the relevant Recognised Professional Association and subsequently reviewed by the Legal Ombudsman.

Table 4 – Legal Ombudsman case handling

This table provides an analysis of the time taken by the Legal Ombudsman to investigate and close a complaint.

TABLE 4 – LOV CASE HANDLING

DAYS TAKEN TO INVESTIGATE COMPLAINTS	< 30 DAYS	31-60 DAYS	61-90 DAYS	91-120 DAYS	> 120 DAYS	TOTAL
CONDUCT ONLY FILES	266 (277)	52 (57)	49 (42)	38 (36)	91 (102)	496 (514)

Table 5 – Law Institute of Victoria Limited Case handling

This table provides an analysis of the time taken by the Law Institute of Victoria Limited to investigate and close conduct complaints, pecuniary loss matters and cost disputes.

TABLE 5 – LIV CASE HANDLING (WHEN THE FILES DID NOT BECOME REVIEWS)

DAYS TAKEN TO INVESTIGATE COMPLAINTS	< 30 DAYS	31-60 DAYS	61-90 DAYS	91-120 DAYS	> 120 DAYS	TOTAL
CONDUCT ONLY	215 (237)	118 (136)	113 (126)	73 (88)	205 (193)	724 (780)
CONDUCT AND COSTS DISPUTE	17 (30)	20 (28)	51 (48)	45 (49)	136 (117)	269 (272)
CONDUCT AND PECUNIARY LOSS/OTHER DISPUTE	9 (13)	8 (9)	23 (32)	26 (30)	103 (99)	169 (183)
CONDUCT, COSTS AND PECUNIARY LOSS/OTHER DISPUTE	7 (4)	7 (4)	13 (23)	20 (18)	84 (70)	131 (119)
COSTS AND PECUNIARY LOSS/OTHER DISPUTE	16 (11)	16 (11)	23 (12)	33 (18)	30 (43)	118 (95)
COSTS DISPUTE ONLY	145 (108)	92 (60)	98 (82)	78 (63)	85 (103)	498 (416)
PECUNIARY LOSS/OTHER DISPUTE ONLY	24 (13)	22 (25)	40 (32)	22 (20)	48 (39)	156 (129)
TOTAL	433 (416)	283 (273)	361 (355)	297 (286)	691 (664)	2065 (1994)

Table 6 – Victorian Bar Incorporated Case handling

This table provides an analysis of the time taken by the Victorian Bar Incorporated to investigate and close conduct complaints, pecuniary loss matters and cost disputes.

TABLE 6 – BAR CASE HANDLING (WHEN THE FILES DID NOT BECOME REVIEWS)

DAYS TAKEN TO INVESTIGATE COMPLAINTS	< 30 DAYS	31-60 DAYS	61-90 DAYS	91-120 DAYS	> 120 DAYS	TOTAL
CONDUCT ONLY	15 (9)	7 (8)	9 (8)	4 (4)	8 (9)	43 (38)
CONDUCT AND COSTS DISPUTE	1 (1)	1 (0)	3 (1)	1 (4)	0 (3)	6 (9)
CONDUCT AND PECUNIARY LOSS/OTHER DISPUTE	1 (2)	0 (2)	3 (1)	3 (1)	2 (3)	9 (9)
CONDUCT, COSTS AND PECUNIARY LOSS/OTHER DISPUTE	1 (1)	2 (1)	0 (3)	2 (1)	1 (4)	6 (10)
COSTS AND PECUNIARY LOSS/OTHER DISPUTE	0 (0)	0 (0)	0 (0)	0 (1)	0 (0)	0 (1)
COSTS DISPUTE ONLY	2 (0)	0 (0)	4 (0)	0 (0)	0 (2)	6 (2)
PECUNIARY LOSS/OTHER DISPUTE ONLY	0 (0)	0 (0)	1 (0)	0 (0)	1 (1)	2 (1)
TOTAL	20 (13)	10 (11)	20 (13)	10 (11)	12 (22)	72 (70)

Table 7 – Reviews

This table shows the total length of time the Recognised Professional Associations took to investigate a matter and the Legal Ombudsman took to conduct a review of the decision of the Recognised Professional Association. Section 153 of the Act provides that applications for review must be made within 3 months after the Recognised Professional Association has closed its file. The table also reflects files closed by the Recognised Professional Association as misconceived, lacking in substance, frivolous or vexatious and reinvestigated by the Legal Ombudsman.

TABLE 7 – REVIEWS – CLOSED

DAYS TAKEN TO INVESTIGATE COMPLAINTS	< 30 DAYS		31-60 DAYS		61-90 DAYS		91-120 DAYS		> 120 DAYS		TOTAL	
CONDUCT ONLY – HANDLED BY LIV	5	(5)	9	(20)	14	(9)	9	(7)	44	(73)	81	(114)
CONDUCT ONLY – HANDLED BY BAR	0	(2)	3	(2)	3	(0)	3	(1)	9	(7)	18	(12)
CONDUCT AND COSTS DISPUTE – HANDLED BY LIV	0	(0)	2	(2)	0	(3)	0	(1)	15	(26)	17	(32)
CONDUCT AND COSTS DISPUTE – HANDLED BY BAR	0	(0)	0	(0)	0	(0)	1	(0)	3	(3)	4	(3)
CONDUCT AND PECUNIARY LOSS/OTHER DISPUTE – HANDLED BY LIV	0	(1)	0	(2)	1	(0)	1	(1)	35	(49)	37	(53)
CONDUCT AND PECUNIARY LOSS/OTHER DISPUTE – HANDLED BY BAR	0	(0)	0	(0)	0	(0)	1	(1)	2	(9)	3	(10)
CONDUCT, COSTS AND PECUNIARY LOSS/OTHER DISPUTE – HANDLED BY LIV	0	(0)	0	(0)	0	(1)	0	(2)	21	(28)	21	(31)
CONDUCT, COSTS AND PECUNIARY LOSS/OTHER DISPUTE – HANDLED BY BAR	0	(0)	0	(0)	0	(0)	1	(0)	7	(6)	8	(6)
COSTS AND PECUNIARY LOSS/OTHER DISPUTE – HANDLED BY LIV	0	(0)	0	(0)	0	(1)	0	(1)	1	(0)	1	(2)
COSTS AND PECUNIARY LOSS/OTHER DISPUTE – HANDLED BY BAR	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)
COSTS DISPUTE ONLY – HANDLED BY LIV	0	(1)	2	(0)	0	(0)	0	(0)	2	(4)	4	(5)
COSTS DISPUTE ONLY – HANDLED BY BAR	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)
PECUNIARY LOSS/OTHER DISPUTE ONLY – HANDLED BY LIV	0	(1)	0	(1)	0	(1)	0	(0)	0	(1)	0	(4)
PECUNIARY LOSS/OTHER DISPUTE ONLY – HANDLED BY BAR	0	(0)	0	(0)	0	(0)	0	(0)	0	(1)	0	(1)
TOTAL	5	(10)	16	(27)	18	(15)	16	(14)	139	(207)	194	(273)

Comments

- The time taken to investigate a matter also includes delays in complainants making application to the Legal Ombudsman for the review.

5. NUMBER AND TYPE OF COMPLAINTS OUTSTANDING AS AT 30 JUNE 2004

Tables 8, 9, 10 and 11 show the Legal Ombudsman's and the Recognised Professional Associations' open files as at 30 June 2004 according to the Legal Ombudsman's records. These figures represent files being handled by an organisation at the first instance irrespective of where the complaint/dispute was sent. These tables do not include reviews.

Table 8 – Legal Ombudsman Open Complaint Files

This table provides an analysis of how many and how long the Legal Ombudsman's current open files have been under investigation. (This table does not include current review files which are contained in Table 15a.)

TABLE 8 – LOV OPEN FILES

DAYS TAKEN TO INVESTIGATE COMPLAINTS	< 30 DAYS		31-60 DAYS		61-90 DAYS		91-120 DAYS		> 120 DAYS		TOTAL	
CONDUCT ONLY	25	(30)	25	(20)	8	(10)	10	(17)	43	(39)	111	(116)
TOTAL	25	(30)	25	(20)	8	(10)	10	(17)	43	(39)	111	(116)

Table 9 – Law Institute of Victoria Limited Open Files

This table provides an analysis of how many and how long the Law Institute of Victoria Limited current open files have been under investigation.

TABLE 9 – LAW INSTITUTE OF VICTORIA LIMITED OPEN FILES

DAYS TAKEN TO INVESTIGATE COMPLAINTS	< 30 DAYS		31-60 DAYS		61-90 DAYS		91-120 DAYS		> 120 DAYS		TOTAL	
CONDUCT ONLY	34	(29)	45	(63)	39	(46)	21	(26)	84	(84)	223	(248)
CONDUCT AND COSTS DISPUTE	20	(22)	26	(33)	19	(20)	7	(20)	48	(33)	120	(128)
CONDUCT AND PECUNIARY LOSS/OTHER DISPUTE	12	(6)	15	(13)	2	(10)	12	(17)	43	(46)	84	(92)
CONDUCT, COSTS AND PECUNIARY LOSS/OTHER DISPUTE	10	(5)	12	(11)	5	(12)	11	(8)	34	(30)	72	(66)
COSTS AND PECUNIARY LOSS/OTHER DISPUTE	3	(6)	8	(13)	8	(5)	12	(6)	14	(8)	45	(38)
COSTS DISPUTE ONLY	23	(29)	36	(27)	19	(23)	17	(13)	21	(25)	116	(117)
PECUNIARY LOSS/OTHER DISPUTE ONLY	4	(7)	4	(10)	6	(3)	6	(5)	13	(9)	33	(34)
TOTAL	106	(104)	146	(170)	98	(119)	86	(95)	257	(235)	693*	(723)

Comments

- *The figure of 693 was the figure that was showing on the Legal Ombudsman's database records. The Legal Ombudsman has been advised by the Law Institute of Victoria Limited that the actual number of files open on 2 July 2004 at the Law Institute was 633. This may be due to a delay in the Law Institute advising the Legal Ombudsman that files had been closed (see page 20 for further comment).

Table 10 – Victorian Bar Inc. Open Files

This table provides an analysis of how many and how long, current open files have been under investigation by the Victorian Bar Inc.

TABLE 10 – BAR OPEN FILES

DAYS TAKEN TO INVESTIGATE COMPLAINTS	< 30 DAYS		31-60 DAYS		61-90 DAYS		91-120 DAYS		> 120 DAYS		TOTAL	
CONDUCT ONLY	9	(8)	5	(5)	2	(2)	3	(4)	1	(2)	20	(21)
CONDUCT AND COSTS DISPUTE	1	(0)	1	(1)	1	(0)	0	(0)	1	(1)	4	(2)
CONDUCT AND PECUNIARY LOSS/OTHER DISPUTE	2	(2)	1	(0)	0	(0)	0	(0)	0	(1)	3	(3)
CONDUCT, COSTS AND PECUNIARY LOSS/OTHER DISPUTE	0	(0)	2	(0)	1	(0)	1	(1)	0	(1)	4	(2)
COSTS AND PECUNIARY LOSS/OTHER DISPUTE-	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)
COSTS DISPUTE ONLY	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)
PECUNIARY LOSS/OTHER DISPUTE ONLY	1	(1)	0	(0)	1	(0)	0	(0)	0	(0)	2	(1)
TOTAL	13	(11)	9	(6)	5	(2)	4	(5)	2	(5)	33	(29)

Table 11 – Total Open Files

This table provides the number of total current open files under investigation by the Legal Ombudsman, the Law Institute of Victoria Limited and the Victorian Bar Incorporated as at 1 July 2004.

DAYS TAKEN TO INVESTIGATE COMPLAINTS	< 30 DAYS		31-60 DAYS		61-90 DAYS		91-120 DAYS		> 120 DAYS		TOTAL	
TABLE 11												
GRAND TOTAL	144	(145)	180	(196)	111	(131)	100	(117)	302	(279)	837	(868)

6. WHAT AREAS OF LAW FEATURE IN COMPLAINTS?

Table 12 provides a detailed overview of the specific areas of law clients complain about.

TABLE 12 – SPECIFIC AREA OF LAW COMPLAINED ABOUT

	LOV (INC ALL COMPLAINTS NOT ENQUIRIES)		LIV		BAR		TOTAL	
ADMINISTRATIVE	23	(31)	70	(25)	2	(3)	95	(59)
BANKING	1	(2)	3	(5)	1	(2)	5	(9)
BUILDING – COMMERCIAL	3	(1)	13	(22)	0	(2)	16	(25)
BUILDING – RESIDENTIAL	11	(13)	24	(13)	3	(0)	38	(26)
CIVIL LIBERTIES	1	(2)	5	(5)	0	(0)	6	(7)
COMMERCIAL	57	(64)	99	(121)	9	(3)	165	(188)
COMPANY	3	(5)	13	(21)	0	(1)	16	(27)
CONSTITUTIONAL	0	(0)	0	(0)	0	(0)	0	(0)
CONVEYANCING	104	(108)	273	(323)	0	(0)	377	(431)
CRIMES COMPENSATION	3	(4)	7	(20)	0	(0)	10	(24)
CRIMINAL	84	(60)	85	(67)	10	(13)	179	(140)
DEBT COLLECTION	49	(33)	83	(86)	4	(1)	136	(120)
DEFAMATION	3	(3)	3	(6)	0	(1)	6	(10)
ENVIRONMENTAL	0	(0)	0	(2)	0	(0)	0	(2)
EQUAL OPPORTUNITY	0	(0)	2	(5)	2	(0)	4	(5)
FAMILY/DEFACTO	181	(183)	317	(298)	19	(11)	517	(492)
FREEDOM OF INFORMATION	0	(0)	1	(0)	0	(0)	1	(0)
IMMIGRATION	9	(12)	22	(19)	0	(0)	31	(31)
INDUSTRIAL RELATIONS	20	(23)	55	(53)	1	(1)	76	(77)
INSOLVENCY	5	(5)	11	(16)	4	(0)	20	(21)
INTELLECTUAL PROPERTY	0	(1)	1	(6)	0	(0)	1	(7)
LEASING	10	(14)	52	(41)	0	(2)	62	(57)
MORTGAGES	10	(20)	23	(36)	0	(0)	33	(56)
MOTOR VEHICLE REPAIRS/CLAIMS	21	(9)	53	(53)	1	(2)	75	(64)
PERSONAL INJURY – INDUSTRIAL	9	(10)	13	(18)	0	(2)	22	(30)
PERSONAL INJURY – MOTOR VEHICLE ACCIDENT	21	(27)	20	(50)	1	(0)	42	(77)
PERSONAL INJURY – OTHER	38	(35)	86	(62)	1	(2)	125	(99)
PLANNING	2	(1)	6	(5)	2	(1)	10	(7)
PROBATE & ESTATE	70	(72)	159	(169)	2	(1)	231	(242)
TAXATION	2	(2)	2	(5)	0	(0)	4	(7)
TRADE PRACTICES	0	(0)	3	(0)	0	(1)	3	(1)
WILLS	6	(8)	30	(25)	0	(0)	36	(33)
WORKERS COMPENSATION	40	(71)	81	(75)	5	(6)	126	(152)
OTHER/UNKNOWN	21	(31)	306	(302)	19	(27)	346	(358)
TOTAL	807	(850)	1921	(1954)	86	(82)	2814	(2886)

Comments

- As in previous years, Family Law, Conveyancing, Probate & Estate and Criminal Law matters are the areas of law in which a higher proportion of complaints are made.

7. WHAT DO PEOPLE COMPLAIN ABOUT?

Table 13 provides a detailed overview of what clients complain about concerning legal practitioners. This table indicates the major types of allegations made in complaints and disputes. (The number of total allegations far exceeds the number of files opened as each file may involve a number of allegations.) People who make complaints about their legal practitioners often have more than one grievance. For example, a client may claim that his/her practitioner was rude, negligent and charged too much.

TABLE 13 – NATURE OF ALLEGATIONS MADE AGAINST LEGAL PRACTITIONERS (SUBJECT MATTER)

	LOV (INC ALL COMPLAINTS NOT ENQUIRIES)		LIV		BAR		TOTAL	
ABUSIVE/RUDE	36	(28)	70	(51)	4	(4)	110	(83)
ADVERTISING	1	(1)	2	(3)	0	(0)	3	(4)
ANTI-COMPETITIVE	0	(3)	0	(1)	0	(3)	0	(7)
BREACH OF UNDERTAKING, ACT, CONDUCT, RULES OR COURT ORDER	11	(15)	83	(108)	12	(14)	106	(137)
COMMUNICATION – INCLUDING FAILURE TO RETURN TELEPHONE CALLS, GIVE PROGRESS REPORTS AND FAILURE TO CORRESPOND	104	(88)	309	(338)	4	(4)	417	(430)
COMMUNICATION WITH CLIENT OF OTHER PRACTITIONER	2	(1)	18	(18)	1	(0)	21	(19)
CONFIDENTIALITY BREACH	8	(12)	21	(23)	3	(1)	32	(36)
CONFLICT OF INTEREST	35	(58)	91	(102)	8	(7)	134	(167)
COSTS COMMUNICATION – INCLUDING FAILURE TO COMPLY WITH SECTION 86 AND 87 AND 89 OF THE ACT & LEGAL AID INFORMATION	41	(43)	103	(137)	0	(2)	144	(182)
COSTS/BILLS	309	(321)	913	(915)	22	(24)	1244	(1260)
COURT SYSTEM	2	(2)	1	(0)	0	(0)	3	(2)
DEBTS – INCLUDES PRACTITIONER'S FAILURE TO PAY DEBTS	13	(18)	5	(22)	1	(0)	19	(40)
DELAY	75	(61)	179	(206)	2	(1)	256	(268)
DISHONEST/MISLED	55	(50)	103	(110)	16	(19)	174	(179)
DOCUMENTS – INCLUDING RETENTION OF DOCUMENTS AND LOST DOCUMENTS	38	(46)	145	(180)	1	(1)	184	(227)
DURESS/PRESSURE/ INTIMIDATING	27	(33)	84	(82)	14	(20)	125	(135)
INSTRUCTIONS – INCLUDING FAILURE TO COMPLY WITH INSTRUCTIONS, ACTING CONTRARY TO INSTRUCTIONS AND ACTING WITHOUT INSTRUCTIONS	67	(60)	156	(167)	7	(17)	230	(244)

NEGLIGENCE – INCLUDING BAD CASE HANDLING AND ADVICE	321	(353)	537	(497)	22	(28)	880	(878)
PRACTISING WHILST UNQUALIFIED	2	(2)	16	(11)	1	(1)	19	(14)
SEXUAL IMPROPRIETY	1	(1)	2	(1)	0	(1)	3	(3)
TRUST MONEY – INCLUDING FAILURE TO ACCOUNT, MISMANAGEMENT OF FUNDS AND MISAPPROPRIATION OF FUNDS	38	(53)	120	(139)	1	(0)	159	(192)
OTHER CONDUCT ISSUES	14	(49)	62	(235)	11	(34)	87	(318)

Comments

- There is no 'total' number for Table 13 as complainants may make a number of allegations in a complaint.
- The dominant issues of complainants are still:
 - *Costs/Bills – 1244 complaints.*
 - *Negligence (including bad case handling etc) – 880 complaints.*
 - *Communication (failure to return calls etc) – 417 complaints.*
 - *Delay – 256 complaints.*

Table 14 provides details of the number and types of disputes lodged during 2003/2004 and the outcome of those disputes.

TABLE 14 – DISPUTES

	LIV	LOV REFERRED TO LIV	SUB-TOTAL	BAR	LOV REFERRED TO BAR	SUB-TOTAL	TOTAL
COST DISPUTES							
STILL OPEN	267 (279)	89 (66)	356 (345)	1 (8)	6 (3)	7 (11)	363 (356)
SETTLED BY RPA	262 (223)	59 (73)	321 (296)	1 (0)	1 (1)	2 (1)	323 (297)
CLOSED BY RPA WITHOUT ACHIEVING SETTLEMENT	246 (219)	68 (70)	314 (289)	11 (15)	5 (6)	16 (21)	330 (310)
SUB-TOTAL	775 (721)	216 (209)	991 (930)	13 (23)	12 (10)	25 (33)	1016 (963)
PECUNIARY LOSS DISPUTES – INCLUDING OTHER DISPUTES							
STILL OPEN	176 (166)	54 (31)	230 (197)	3 (7)	7 (5)	10 (12)	240 (209)
SETTLED BY RPA	73 (64)	17 (18)	90 (82)	0 (0)	1 (0)	1 (0)	91 (82)
CLOSED BY RPA WITHOUT ACHIEVING SETTLEMENT	301 (256)	89 (87)	390 (343)	9 (15)	4 (7)	13 (22)	403 (365)
SUB-TOTAL	550 (486)	160 (136)	710 (622)	12 (22)	12 (12)	24 (34)	734 (656)
TOTAL	1325 (1207)	376 (345)	1701 (1552)	25 (45)	24 (22)	49 (67)	1750 (1619)

Comments

- These figures were generated by the Legal Ombudsman's general records and from information provided by the Recognised Professional Associations. (If a file involved a costs dispute and a pecuniary loss dispute, it has been listed in both columns.)

8. REVIEWS BY LEGAL OMBUDSMAN

Table 15 shows that the Legal Ombudsman received 214 requests to review the decisions of the Recognised Professional Associations, including files closed pursuant to section 141 of the *Legal Practice Act 1996*.

TABLE 15 – REVIEW REQUESTS RECEIVED

	REVIEW OF FILES HANDLED BY THE LIV		REVIEW OF FILES HANDLED BY THE BAR		TOTAL	
REVIEW REQUESTS RECEIVED BY THE LOV	184	(214)	30	(42)	214	(256)

TABLE 15A – OPEN REVIEW FILES (AS AT 30 JUNE 2004)

	REVIEW OF FILES HANDLED BY THE LIV		REVIEW OF FILES HANDLED BY THE BAR		TOTAL	
REVIEW REQUESTS RECEIVED BY THE LOV	60	(43)	6	(10)	66	(53)

TABLE 16 – COMPLETED REVIEWS

TABLE 16A – REVIEW FILES CLOSED	NUMBER OF FILES	
LEGAL OMBUDSMAN HAS NO JURISDICTION TO REVIEW, FOR EXAMPLE REQUEST FOR REVIEW RECEIVED OUT OF TIME	30	(35)
FILES REVIEWED	165*	(238)
TOTAL	195	(273)

TABLE 16B – FILES REVIEWED	NUMBER OF FILES	
LEGAL OMBUDSMAN AFFIRMS RECOGNISED PROFESSIONAL ASSOCIATION'S DECISION AFTER EXAMINING MATERIAL (AND REINVESTIGATION, IF IT WAS DETERMINED NECESSARY)	126	(214)
LEGAL OMBUDSMAN DISAGREES/VARIES RECOGNISED PROFESSIONAL ASSOCIATION'S DECISION AFTER EXAMINING MATERIAL (AND REINVESTIGATION, IF IT WAS DETERMINED NECESSARY)	39	(24)
TOTAL	165*	(238)

*Of the 165 files reviewed and closed by the Legal Ombudsman during the period:

- 34 required reinvestigation by her office; and
- 4 were referred back to the Recognised Professional Associations for reinvestigation by the RPA.

TABLE 17 – FILES CLOSED WHERE UNSATISFACTORY CONDUCT BUT NO REFERRAL TO THE LEGAL PROFESSION TRIBUNAL (SEE PAGE 10 “NOTICES OF DECISION AND THE LEGAL PROFESSION TRIBUNAL”)

	REPRIMAND ss151(3)(b)		CAUTION ss151(3)(b)		COMPETENCE ss151(3)(c)		COMPENSATION ss151(4)		TOTALS	
ACTION TAKEN BY LOV – FILE HANDLED AT FIRST INSTANCE	6	(2)	4	(2)	13	(11)	1	(0)	24	(15)
ACTION TAKEN BY LOV – FILE HANDLED ON REVIEW WHEN LIV CLOSED AS NO DISCIPLINARY BREACH	3	(6)	3	(3)	6	(5)	1	(0)	13	(14)
ACTION TAKEN BY LOV – FILE HANDLED ON REVIEW WHEN BAR CLOSED AS NO DISCIPLINARY BREACH	0	(0)	0	(0)	2	(0)	0	(0)	2	(0)
ACTION TAKEN BY LIV – FILE HANDLED AT FIRST INSTANCE	29	(42)	21	(18)	61	(60)	0	(0)	111	(120)
ACTION TAKEN BY BAR – FILE HANDLED AT FIRST INSTANCE	2	(2)	2	(2)	3	(2)	0	(0)	7	(6)
TOTAL	40	(52)	30	(25)	85	(78)	2	(0)	157	(155)

9. HAVE ANY PRACTITIONERS BEEN REFERRED FOR DISCIPLINARY OFFENCES?

Details of the charges brought against practitioners in the Legal Profession Tribunal are contained in Tables 18, 19, 20 and 21.

DETERMINATIONS OF THE LEGAL
PROFESSION TRIBUNAL



TABLE 18 – DETERMINATIONS OF THE LEGAL PROFESSION TRIBUNAL IN THE PERIOD 1 JULY 2003 TO 30 JUNE 2004 WHERE

HEARING DATE(S)	WHO LAID THE CHARGES; DATE CHARGES BROUGHT	NAME OF LEGAL PRACTITIONER/FIRM	TYPE OF CHARGE(S)
31/10/03 before Duty Registrar	LIV, T0237 of 2003; 30/9/03	ADGEMIS, Jo Ann Louise	Misconduct – breach of s.182(1) – failing to produce trust account ledgers; s.183(1) – failing to maintain an annual audit of trust account; s.183(2) – failing to arrange trust account audit; s.184(1) – failing to lodge audit reports; s.188(1)(a) – trust account deficiency; Trust Account Rule 9(1) – failing to provide a Statement of Trust Moneys; Trust Account Rule 8(3) – failing to appoint another auditor; Trust Account Rule 21 – failing to reconcile trust records; Rule 3 – delay.
21/4/04 before Registrar	LIV, T0059 of 2004; 31/3/04	ANGELATOS, Sam	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
17/5/04 before Full Tribunal	LIV, T0278 of 2003; 13/4/04	BERNSTEIN, Maurice	Misconduct intercepting communications addressed to another practitioner, breaching an undertaking to the LPT that he would not further intercept communications between the LPT and another practitioner, falsely claiming to be another practitioner.
26/3/04 before Deputy Registrar	LIV, T0028 of 2004; 2/3/04	BISUCCI, Charles Francis	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
8/9/03 before Full Tribunal	LIV, T0178 of 2002; 1/11/02	BOUROZIKAS, George	Misconduct – breach of s.184(1) or (3) – failure to lodge a report of the audit of their trust account; s.23(3D) – failure to surrender his practising certificate; s.314(1) – engaging in legal practice without a current practising certificate.
17/11/03 before Full Tribunal	LIV, T0165 of 2003; 14/10/03	BREWER, Hadyn John	Unsatisfactory conduct – prepared a Transfer of land to an infant who was not capable of purchasing land, whose power of attorney was void and of no effect; witnessing the signature on the Transfer knowing the execution of the Transfer was defective; lodging the transfer when the transfer should not have been lodged.
29/8/03 before Registrar	LIV, T0188 of 2003; 13/8/03	BROTT, Issac Alexander	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.

CHARGES PROVEN

FINDING (MISCONDUCT OR UNSATISFACTORY CONDUCT)	REPRIMAND?	PRACTISING CERTIFICATE ("P/C") AFFECTED?	FINE TO BE PAID TO THE LEGAL PRACTICE BOARD	COSTS TO BE PAID TO LEGAL OMBUDSMAN OR RPA	ANY OTHER ORDER
Misconduct	Yes	No		\$3040 to LIV	
Unsatisfactory conduct	No	No	\$400	\$1600 to LIV	Provide LIV with a full written explanation of his conduct in relation to the subject matter of the complaint.
Misconduct	Yes – severely	No	\$30,000 in total	\$4920 to LIV	Provide LIV with a report on the introduction and maintenance of practice management systems in his legal practice. Ordered to attend such course of practice or office management as shall be nominated by the LIV. Gave additional undertakings.
Unsatisfactory conduct	Yes	No		\$1900 to LIV	Provide LIV with a full written explanation of his conduct in relation to the subject matter of the complaint.
Misconduct	No	No	\$2000 in total	\$3855 to LIV	
Unsatisfactory conduct	No	No		\$6550 to LIV	
Unsatisfactory Conduct	No	No	\$400	\$1500 to LIV	Provide to LIV the balance of the files held by him on behalf of the complainants. Provide access to, and allow inspection of, the files held or controlled by him relating to Mrs X.

HEARING DATE(S)	WHO LAID THE CHARGES; DATE CHARGES BROUGHT	NAME OF LEGAL PRACTITIONER/FIRM	TYPE OF CHARGE(S)
21/11/03 before Full Tribunal	LIV, T0295 of 2002; 28/9/03	CANALS, Stephen Anthony	Misconduct – failing to keep accurate records of trust money received, failing to read and/reply to letters from a liquidator and making payments without any proper explanation or purpose; s.188(1)(a) – trust account deficiency of \$28,000.
26, 27, 28/5/03, 1/8/03 before Full Tribunal	LIV, T0108 of 2003; 19/5/03	CHAKERA, Mohsin M	Misconduct – conflict of interest; gross breach of duty; failing to record details of payments in trust ledger; failing to keep proper trust account records; failing to record details of transactions in the mortgage register.
26, 27, 28/5/03, 1/8/03 before Full Tribunal	LIV, T0109 of 2003; 19/5/03	CHAKERA, Mohsin M	Misconduct – conflict of interest; gross breach of duty.
26, 27, 28/5/03, 1/8/03 before Full Tribunal	LIV, T0110 of 2003; 19/5/03	CHAKERA, Mohsin M	Misconduct – conflict of interest; gross breach of duty; failing to record details of payments in trust ledger.
26, 27, 28/5/03, 1/8/03 before Full Tribunal	LIV, T0111 of 2003; 19/5/03	CHAKERA, Mohsin M	Misconduct – conflict of interest; gross breach of duty.
24, 25 & 26/11/03 and 4/3/04 before Full Tribunal	LIV, T0285 of 2002; 19/8/03	CHAPMAN, David Ivo	Misconduct – drawing a contract of sale of company assets with a false date for the express purpose of deceiving a liquidator; participating in a fraudulent design to keep company assets out of the hands of a liquidator.
9, 10/12/02, 29 & 30/9/03, 30/10/03 & 18/11/03 before Full Tribunal	LIV, T0164 of 2002; 18/10/02	CHAPMAN, Suzanne Margaret	Misconduct – breach of s.178 – receiving trust money without authority, dealing with money improperly by depositing it into a personal account, breach of Trust Account Practice Rules 15, 16, 18, 19, 20, 21 & 23.

FINDING (MISCONDUCT OR UNSATISFACTORY CONDUCT)	REPRIMAND?	PRACTISING CERTIFICATE ("P/C") AFFECTED?	FINE TO BE PAID TO THE LEGAL PRACTICE BOARD	COSTS TO BE PAID TO LEGAL OMBUDSMAN OR RPA	ANY OTHER ORDER
Misconduct	Yes	No		\$4560 to LIV	
Misconduct	No	Yes – not to apply for a PC until after 1/8/09. Any PC issued after 1/8/09 should be confined to practice as an employee	\$31,000 in total	\$60,000 to LIV	
Misconduct	No	Yes – not to apply for a PC until after 1/8/09. Any PC issued after 1/8/09 should be confined to practice as an employee	\$1000	Incorporated in T0108 of 2003	
Misconduct	No	Yes – not to apply for a PC until after 1/8/09. Any PC issued after 1/8/09 should be confined to practice as an employee	\$2000 in total	Incorporated in T0108 of 2003	
Misconduct	No	Yes – not to apply for a PC until after 1/8/09. Any PC issued after 1/8/09 should be confined to practice as an employee	\$1000	Incorporated in T0108 of 2003	
Misconduct	No	No	\$18,000	Costs to LIV	
Misconduct	Yes	No			Gave an undertaking to the Full Tribunal to reopen her statutory trust account; appoint an auditor for her trust account approved by LIV; diligently maintain a full set of trust account records in accordance with the Act and Trust Account Practice Rules; complete all entries required by the Trust Account Practice Rules for the audit years 2002 and 2003 to date; continue to engage an auditor for a period of 2 years from this date.

HEARING DATE(S)	WHO LAID THE CHARGES; DATE CHARGES BROUGHT	NAME OF LEGAL PRACTITIONER/FIRM	TYPE OF CHARGE(S)
18/2/04 before Deputy Registrar	LIV, T0205 of 2003; 22/8/03	DEAN, Noor Rahmat	Unsatisfactory conduct – breach of s.185 – failing to lodge trust account audit reports, after ceasing to be authorized to receive trust money.
19/4/04, 31/5/04, 7/6/04 before Full Tribunal	LIV, T0174 of 2003; 10/3/04	DEAN, Noor Rahmat	Misconduct – breach of s.314(1) – engaging in legal practice without a current practising certificate; s.314(2) – representing that he is qualified to engage in legal practice without being the holder of a current practising certificate.
25 & 31/3/04 before Registrar	LIV, T0027 of 2004; 1/3/04	DU BOURG, Michael Trenear Winter	Unsatisfactory conduct – failure to exercise a reasonable level of supervision as to the affairs of the firm of Mitchell McKenzie & Co as a whole, or failure to act or inquire so as to ensure that amounts of costs charged to personal injury clients of the firm were appropriate; signed a bill of costs in matters without ensuring that the bill of costs was for an appropriate amount.
6/10/03 & 20/11/03 before Full Tribunal	LOV, T0114 of 2003; 3/9/03	FLAVEL, Pauline Joanne	Misconduct – breach of s.178(1) – unauthorized receipt of trust monies; s.174 – failure to deposit trust money into a trust account; failure to procure payment of stamp duty and registration fee to the Controller of Stamps and/or Registrar of Titles so as to complete the transaction; Rule 12(1) – failure to communicate with the client.
5 & 7/8/03 before Full Tribunal	LIV, T0235 of 2002; 1/11/02	GUNN, John Caldwell	Misconduct at common law – conflict of interest, misappropriation of trust monies, breach of Rule 8(1)(a) Solicitors' (Professional Conduct and Practice) Rules 1984 – borrowing from clients.
19/11/03, 12 & 18/12/03 before Full Tribunal	BAR, T0079 of 2003; 26/8/03	HAMILTON, Julian Rohan	Unsatisfactory conduct – breach of BAR Rule 4 – engaging in conduct which is discreditable to a barrister, prejudicial to the administration of justice and brings the legal profession into disrepute.

FINDING (MISCONDUCT OR UNSATISFACTORY CONDUCT)	REPRIMAND?	PRACTISING CERTIFICATE ("P/C") AFFECTED?	FINE TO BE PAID TO THE LEGAL PRACTICE BOARD	COSTS TO BE PAID TO LEGAL OMBUDSMAN OR RPA	ANY OTHER ORDER
Unsatisfactory conduct	Yes	No	\$500	\$2675 to LIV	Ordered to lodge audit reports for all periods of 12 months or part thereof commencing on 1 April 1999 during which he held trust money.
Misconduct	Yes – severely	No	\$7000 in total	\$5411.50 to LIV	
Unsatisfactory conduct	No	No	\$1800 in total	\$20,000 to LIV	
Misconduct	Yes	Yes – not to apply for any PC other than an employee certificate until 1/7/2007		Costs incurred incidental to hearing to be assessed or settled by Registrar in failure of agreement.	Ordered to pay to the complainant the sum of \$523.84 being costs incurred by the complainant securing stamping and registration transfer. Ordered to pay to the complainant compensation for stress caused to the complainant in the sum of \$1000.00.
Misconduct	No	Yes – not to apply for a PC before 1/8/2009		\$3500 to LIV	
Unsatisfactory conduct	Yes			\$3500 to BAR	Practitioner appealed to Full Tribunal of LPT. Appeal allowed on 18/12/03 and these orders made. Orders of the Deputy Registrar of 25/7/03 are set aside. Ordered to undertake a course of counselling and education on the subject of the ethics of barristers including the expression of those ethics in the current Rules of Conduct of the BAR.

HEARING DATE(S)	WHO LAID THE CHARGES; DATE CHARGES BROUGHT	NAME OF LEGAL PRACTITIONER/FIRM	TYPE OF CHARGE(S)
11 & 14/5/04 before Registrar	LIV, T0073 of 2004; 8/4/04	HAMIT, Victor	Unsatisfactory conduct – failing to supervise or pay sufficient attention to the billing practices of his partners and employees practising in the personal injury practice of the Firm, with the result that some clients of the personal injury practice of the Firm were overcharged.
18/3/04 before Deputy Registrar	LIV, T0258 of 2003; 2/3/04	HAMPSON, Kenneth Edward	Misconduct – s.314(1)(a)(ii) – engaging in legal practice without current practising certificate; s.314(2)(a)(ii) – representing that you were qualified to engage in legal practice.
6/2/04 before Deputy Registrar	LIV, T0159 of 2003; 9/7/03	HARRIS, Jodie Narelle	Misconduct – breach of Rule 3 – excessive delay; Rule 12 – failing to communicate with a client; misleading a client.
27/11/03 & 19/5/04 before Full Tribunal	LIV, T0151 of 2003; 10/9/03	HORESH, Dan	Misconduct – contravention of s.436 – failing to comply with Orders of the Legal Profession Tribunal dated 7/4/03 T0020 of 2003.
15/7/03 before Full Tribunal	LIV, T0201 of 2002; 1/11/02	HUGHES, Keith Thomas Bagot	Unsatisfactory conduct – gross breach of duty to client, failing to enforce order, failing to make application to EOC.
5/4/04 before Registrar	LIV, T0023 of 2004; 12/2/04	HUGHES, Keith Thomas Bagot	Misconduct / Unsatisfactory conduct – breach of Rule 3 – delay; gross breach of duty to client; s.149 or Rule 6 – failure to respond to a request for information regarding a complaint; Trust Account Practice Rule 31 – applied client trust money towards payment of legal costs without providing a statement of account.
17/9/03 & 15/10/03 before Full Tribunal	BAR, T0067 of 2003; 5/8/03	ISLES, James J	Misconduct/Unsatisfactory conduct – breach of BAR Rule 188 – receiving payment of fees from various clients which did not pass through the hands of his clerk; Rule 176 – commencing work on a direct access brief before both the practitioner and his client had executed standard terms of engagement; Rule 177 – failing to pay certain fees for direct access work into a trust account; persistently accepted briefs from or on behalf of a firm without delivery of a backsheet.
2/9/03, 26/9/03 before Full Tribunal	LIV, T0193 of 2001; 24/7/03	JOHN, Jeffrey Jacobs	Misconduct – breach s.174(1) and s.174(3) – misappropriation of trust moneys.
2/9/03, 26/9/03 before Full Tribunal	LIV, T0311 of 2001; 24/7/03	JOHN, Jeffrey Jacobs	Misconduct – breach of s.174(1) and s.174(3) – misappropriation of trust monies; s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
2/12/03 before Full Tribunal	LIV, T0235 of 2001; 9/10/2001	JONAS, Wayne Stuart	Misconduct – advising on a course of conduct and preparing documentation contrary to the provisions of s.22 of the Prostitution Control Act 1994; convicted of being an unlicensed prostitution service provider.

FINDING (MISCONDUCT OR UNSATISFACTORY CONDUCT)	REPRIMAND?	PRACTISING CERTIFICATE ("P/C") AFFECTED?	FINE TO BE PAID TO THE LEGAL PRACTICE BOARD	COSTS TO BE PAID TO LEGAL OMBUDSMAN OR RPA	ANY OTHER ORDER
Unsatisfactory conduct	No	No	\$800	\$20,000 to LIV	
Misconduct	No	No	\$1,000	\$5040 to LIV	
Misconduct	Yes	No	\$1000 in total	\$3750 to LIV	
Misconduct	Yes	No	\$5,000	\$5326 to LIV	
Unsatisfactory conduct	No	No	\$750	\$4000 to LIV	
Misconduct and Unsatisfactory conduct	Yes	No	\$1750 in total	\$4839.30 to LIV	Gave undertaking to deliver all relevant files, documents and ledgers to the LIV. Further undertakes to distribute the balance of the subject estate to the beneficiaries and provide evidence of the distribution to the LIV.
Misconduct and Unsatisfactory conduct	Yes	No	\$5000	Costs to BAR	
Misconduct	Yes – severely	Yes – suspended from obtaining any PC, including an employee PC until the year 2037		\$6425 to LIV	
Misconduct	Yes – severely	Yes – suspended from obtaining any PC, including an employee PC until the year 2037		\$6425 to LIV	
Misconduct		Yes – PC suspended for a period of 5 months from 16/12/03 (that is from 16/12/03 to 15/5/04 inclusive)	\$20,000	\$35,000 to LIV	

HEARING DATE(S)	WHO LAID THE CHARGES; DATE CHARGES BROUGHT	NAME OF LEGAL PRACTITIONER/FIRM	TYPE OF CHARGE(S)
29/6/04 before Full Tribunal	LIV, T0298 of 2003; 21/4/04	KINGDON, Robert Arthur	Misconduct – engaging in legal practice whilst unqualified.
1/9/03 before Deputy Registrar	LIV, T0199 of 2003; 13/8/03	LAWRENCE, John Leo	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
21/4/04 & 2/6/04 before Full Tribunal	LIV, T0172 of 2003; 12/3/04	LAWRENCE, John Leo	Misconduct – gross breach of duty by failing to comply with his client’s instructions, failing to communicate, failing to institute proceedings and falsely telling his client that he had instituted proceedings; Rule 3 – delay; Rule 12 – failing to communicate effectively and promptly with his client.
21/4/04 & 2/6/04 before Full Tribunal	LIV, T0173 of 2003; 12/3/04	LAWRENCE, John Leo	Misconduct – failing to comply with client’s instructions, failure to communicate, failure to comply with orders of VCAT and permitting VCAT proceedings to be dismissed or struck out on three occasions; Rule 3 – delay; Rule 12 – failing to communicate effectively and promptly with the complainant.
29/1/04 before Registrar	LIV, T0268 of 2003; 21/11/03	LUZAIC, Danijela	Unsatisfactory conduct – filing and swearing a false affidavit in the Family Court.
17/9/03 before Deputy Registrar	LIV, T0160 of 2003; 16/7/03	MALONEY, Peter	Unsatisfactory conduct – breach of Rule 10 – conflict of interest.
19/3/04 before Deputy Registrar	LIV, T0034 of 2004; 2/3/04	MAYUKA, Alfred Phillip	Misconduct – breach of s.178(1) – unauthorized receipt of trust monies.
25 & 31/3/04 before Registrar	LIV, T0026 of 2004; 1/3/04	MCKITERICK, Terrence Leslie	Unsatisfactory conduct – failure to exercise a reasonable level of supervision as to the affairs of the firm of Mitchell McKenzie & Co as a whole, or failure to act or inquire so as to ensure that amounts of costs charged to personal injury clients of the firm were appropriate; signed a bill of costs in a matter without ensuring that the bill of costs was for an appropriate amount.
20/8/03 before Deputy Registrar	LIV, T0150 of 2003; 3/7/03	MICHEL, Louis George Yves	Misconduct – breach of Rule 3 – substantial and excessive delay; failure to communicate with the client as to the client’s liability for costs and disbursements in relation to his personal injury weekly payments matter.
19/9/03, 31/10/03 before Full Tribunal	LIV, T0217 of 2002; 14/10/02	MILLS OAKLEY LAWYERS PTY LTD and its Partners at the relevant time: Stephen Fletcher Moulton, Michael Hamilton Smith, Roger Alexander Jepson, Ivan Richard Sest, Laurance Davis, Peter White and Stephen Walters	Misconduct – contravention of s.174(1); misconduct at common law – failing to deposit moneys into a trust account as soon as practicable after receipt.

FINDING (MISCONDUCT OR UNSATISFACTORY CONDUCT)	REPRIMAND?	PRACTISING CERTIFICATE ("P/C") AFFECTED?	FINE TO BE PAID TO THE LEGAL PRACTICE BOARD	COSTS TO BE PAID TO LEGAL OMBUDSMAN OR RPA	ANY OTHER ORDER
Misconduct	Yes	No	\$4000	\$4066 to LIV	
Unsatisfactory conduct	No	No	\$1000	\$500 to LIV	
Misconduct	Yes	No	\$6000	\$3720 to LIV	
Misconduct	Yes	No	\$6000	\$3920 to LIV	
Unsatisfactory conduct	No	No		\$1500 to LIV	
Unsatisfactory conduct	Yes	No		\$4600 to LIV	
Misconduct	Yes	No		\$2540 to LIV	
Unsatisfactory conduct	No	No	\$1200 in total	\$20,000 to LIV	
Misconduct	Yes	No	\$750	\$2181.84 to LIV	
Misconduct	No	No	\$110,000 in total	\$17,760 to LIV	Any two of the seven members fined above attend any course provided by the LIV for the conduct of trust accounts in the next twelve months.

HEARING DATE(S)	WHO LAID THE CHARGES; DATE CHARGES BROUGHT	NAME OF LEGAL PRACTITIONER/FIRM	TYPE OF CHARGE(S)
4/9/03 before Full Tribunal	LIV, T0061 of 2002; 6/09/02	MORGAN, Mark Matthew	Misconduct – borrowing from his client; s.182 (2)(e)(i) – failing to record true particulars of the payee of a cheque as required; s.188 – trust account deficiency; s.174(3)(a) – dealing with client trust money contrary to a client's directions; Trust Account Practice Rule 31(1)(b) – applied client trust money towards payment of legal costs without providing a statement of account.
28/8/03, 24/10/03, 18/11/03 before Full Tribunal	LIV, T0283 of 2002; 23/7/03	NELSON, Darroll Ernest	Misconduct – failing to act with all due skill and diligence; failing to avoid conflicts of interest; s.174(1) – failing to deposit monies into his trust account as soon as practicable; s.174(3)(b) & s.174(5) – withdrawing monies without authority from his trust account; s.178 – unauthorized receipt of trust monies; s.188 – trust account deficiency; Trust Account Practice Rules 15(2), 16(i), 18, 19, 20, 23, 30 and 31; Rule 8(i) – borrowing from clients; Rule 10(1A) – conflict of interest; Rule 10(2)(d) and 10(9) – acting for both financier and borrower in connection with the loan of money; failing to supervise employee solicitor; enabling borrowing of money on client's certificate of title and unsecured lending of clients money; failing to report same; allowing employee to continue and failing to restore deficiency.
24/2/04 before Deputy Registrar	LIV, T0206 of 2003; 22/8/03	NGUYEN, Si Tan	Misconduct/Unsatisfactory conduct – breach of s.184 and s.185(3) – failing to lodge trust account audit reports; Rule 9 – breach of a personal undertaking to another practitioner; s.314(1) – engaging in legal practice without a current practising certificate and s.314(2) – representing that he is qualified to engage in legal practice; s.149 – failure to respond to a request for information regarding a complaint.
9/2/04 before Registrar	LIV, T0279 of 2003; 4/12/03	NGUYEN, Vu Anh Huy	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
13/2/04 before Deputy Registrar	LIV, T0280 of 2003; 4/12/03	NGUYEN, Vu Anh Huy	Unsatisfactory conduct – breach of Rule 10(4) – failing to cease acting for all of the parties with whom it had agreed to act when a material conflict of interest arose.
30/1/04 before Registrar	LOV, T0293 of 2003; 11/12/03	NGUYEN, Vu Anh Huy	Misconduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
24/10/03 before Deputy Registrar	LIV, T0227 of 2003; 18/9/03	NGUYEN, Vu Anh Huy	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.

FINDING (MISCONDUCT OR UNSATISFACTORY CONDUCT)	REPRIMAND?	PRACTISING CERTIFICATE ("P/C") AFFECTED?	FINE TO BE PAID TO THE LEGAL PRACTICE BOARD	COSTS TO BE PAID TO LEGAL OMBUDSMAN OR RPA	ANY OTHER ORDER
Misconduct	Yes	A condition to be imposed on his PC, namely that the legal practitioner not receive trust money as defined in section 3 of the Legal Practice Act 1996 prior to 1/7/2006.		\$5850 to LIV	
Misconduct	Yes	Yes – practitioner is not currently authorized to engage in legal practice in Victoria and does not hold a current PC.		\$6021 to LIV	Gave undertaking to the Full Tribunal, an undertaking accepted by the Tribunal, that he would not apply for a PC before 1/12/2006.
Misconduct and Unsatisfactory conduct	Yes	No	\$1000 in total	\$2880 to LIV	
Unsatisfactory conduct	No	No	\$700	\$2950 to LIV	
Unsatisfactory conduct	Yes	No		\$2040 to LIV	Ordered to pay to the complainant compensation fixed by the LPT in the sum of \$1990.
Misconduct	No	No	\$1000	\$1000 to LOV	
Unsatisfactory conduct	Yes	No	\$500	\$1000 to LIV	

HEARING DATE(S)	WHO LAID THE CHARGES; DATE CHARGES BROUGHT	NAME OF LEGAL PRACTITIONER/FIRM	TYPE OF CHARGE(S)
23/8/02 before Deputy Registrar	LIV, T0180 of 2002; 26/7/02	OWENS, Suzann Janet	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
23/8/02 before Deputy Registrar	LIV, T0181 of 2002; 26/7/02	OWENS, Suzann Janet	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
26/4/04 before Full Tribunal	LIV, T0232 of 2003; 16/3/04	PARANAVITANA, Ananda Sathiavan	Misconduct– attesting the signature of a party on a Transfer of Land document in the absence of that party.
15/3/04 before Full Tribunal	LIV, T0197 of 2003; 19/8/03	PATRICK, Douglas Alan	Misconduct – Defalcation; breaches of Legal Profession Practice Act 1958; breaches of Legal Practice Act 1996; breach of Solicitors' (Audit and Practising Certificate) Rules 1990; breaches of Trust Account Practice Rules; gross overcharging.
18/8/03 before Registrar	LIV, T0149 of 2003; 3/7/03	PRASSINOS, Nicholas	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
11/8/03 before Deputy Registrar	LIV, T0176 of 2003; 24/7/03	RALLIS, Elias	Misconduct – breach of s.184 and s.185(1)(a) – failing to lodge trust account audit reports; s.185(3)(b) – failed to lodge a completed statutory declaration in the prescribed form within 60 days after ceasing to hold trust money.
25 & 30/3/04 before Full Tribunal	BAR, T0030 of 2004; 5/3/04	REYNOLDS, Paul S	Misconduct/Unsatisfactory conduct – breach of BAR Rule 176 – commencing work on a direct access matter before the standard terms of engagement was executed; Rule 4 – engaging in conduct which is discreditable to a barrister and brings the legal profession into disrepute.
7/11/03, 11, 16, 17, 19, 20, 25 & 27/2/04, 4/3/04, 25/5/04 before Full Tribunal	LIV, T0070 of 2003; 18/6/03	RYAN, Mark Raymond	Misconduct – gross overcharging; failing to provide or to ensure the provision of a statement of account to clients in respect of moneys recovered from third parties on their behalf (statutory costs) and failing to apply or ensure the application of the said moneys for or towards payment of costs for work performed for the clients.

FINDING (MISCONDUCT OR UNSATISFACTORY CONDUCT)	REPRIMAND?	PRACTISING CERTIFICATE ("P/C") AFFECTED?	FINE TO BE PAID TO THE LEGAL PRACTICE BOARD	COSTS TO BE PAID TO LEGAL OMBUDSMAN OR RPA	ANY OTHER ORDER
Unsatisfactory conduct	Yes	No	\$500	\$1410 to LIV	Provide LIV with a full written explanation of her conduct in relation to the subject matter of the complaint.
Unsatisfactory conduct	Yes	No	\$500	\$1410 to LIV	Provide LIV with a full written explanation of her conduct in relation to the subject matter of the complaint.
Misconduct	Yes – severely	No		\$2940 to LIV	
Misconduct	No	Yes – not to apply for any PC until 15/9/2007 and until 1/7/2040 he only be permitted to apply for an employee PC with the condition that he is not authorized to receive trust money.		\$66,000 to LIV	
Unsatisfactory conduct	No	No	\$600	\$400 to LIV	Provide LIV with a full written explanation of his conduct in relation to the subject matter of the complaint.
Misconduct	Yes	No	\$600	\$2300 to LIV	Ordered to lodge with LIV the audit reports and statutory declaration required by the Act in relation to trust money held by him during the periods from 1/4/99 to 17/8/01.
Misconduct and Unsatisfactory conduct	Yes	Yes – PC suspended until 1/10/2004		\$13,000 to BAR	
Misconduct	Yes	Yes – PC is suspended and not to apply for a PC before 1/7/2013	\$10,000	\$30,000 to LIV	

HEARING DATE(S)	WHO LAID THE CHARGES; DATE CHARGES BROUGHT	NAME OF LEGAL PRACTITIONER/FIRM	TYPE OF CHARGE(S)
28/6/04 before Full Tribunal	LOV, T0277 of 2003; 10/3/04	SANDOR, Michael	Misconduct – commenced proceedings in the Magistrates’ Court without first obtaining full instructions from his client and advising the likely cost of the litigation; drafted an amended Magistrates’ Court Complaint without clarifying the client’s instructions; ceased acting for the client without first clarifying the client’s instructions and notifying the client he had ceased to act.
19 & 20/6/03, 22/8/03, 23, 24 & 26/9/03, 7/10/03, 27/11/03 & 10/12/03 before Full Tribunal	BAR, T0293 of 2002; 4/4/03	SHEALES, Damian Peter	Misconduct/Unsatisfactory conduct – breach BAR Rule 106 – failed to advise the complainant that he would be unable to appear in Court; Rule 108 – handed the brief to other counsel without the knowledge or consent of the complainant; concealed from the complainant that he was unable to fulfil his obligations, that he had handed the brief to other counsel and that he had not appeared before the Court; concealed from the complainant the terms on which he had handed the brief to the other barrister; represented that he had appeared for the client and that he was entitled to claim a fee; Rule 188 – failed to hand a cheque, for payment of tax invoices, to the clerk.
27 & 28/10/03 before Full Tribunal	LIV, T0233 of 2002; 31/10/02	SHEEHAN, Matthew Peter Patrick	Misconduct – Cheating at the New York State Bar Examinations; subsequently being charged and found guilty of dishonesty by the New York State Board of Law Examiners.
29/4/04, 19/5/04 before Full Tribunal	LIV, T0214 of 2003; 16/3/04	SIDAOU, Hisam Mahmoud	Misconduct – breach of s.314 – engaging in unqualified practice, practising without a valid practising certificate; s.178(1) – unauthorized receipt of trust monies; s.188(1) – trust account deficiency.
9/2/04 before Deputy Registrar	LIV, T0291 of 2003; 11/12/03	SIMS, David Baring	Misconduct – breach of Rule 3 – excessive delay in handling his client’s adverse possession matter and failing to complete the work as soon as reasonably possible.
22 & 23/10/03 before Full Tribunal	LIV, T0152 of 2003; 10/9/03	SIRIANNI, Gaspare	Unsatisfactory conduct – breach of s.178 – receiving trust money without authority.
3 & 26/5/04 before Full Tribunal	LOV, T0247 of 2003; 16/3/04	SKREKAS, Nicholas	Misconduct – obtaining employment and thereby a financial advantage from legal firms by a deception; provided recruitment agencies with false resumes, personal histories and supporting academic transcripts; provided a false reference from a law firm; breach of s.314(1)(a)(ii) – engaging in legal practice without a current practising certificate; s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.

FINDING (MISCONDUCT OR UNSATISFACTORY CONDUCT)	REPRIMAND?	PRACTISING CERTIFICATE ("P/C") AFFECTED?	FINE TO BE PAID TO THE LEGAL PRACTICE BOARD	COSTS TO BE PAID TO LEGAL OMBUDSMAN OR RPA	ANY OTHER ORDER
Misconduct	Yes	No		Costs of and incidental to these proceedings to be assessed or settled by the Registrar or Deputy Registrar of the LPT.	
Misconduct and Unsatisfactory conduct	Yes	Yes – PC suspended for a period of three months		\$68,000 to BAR	
Misconduct	Yes	No	\$1000	\$5200 to LIV	
Misconduct	Yes	No	\$1000	\$3640 to LIV	
Misconduct	Yes	No	\$1000	\$2150 to LIV	
Unsatisfactory conduct	No	No		\$7715 to LIV	
Misconduct	Yes – severely			\$11,097.12 to LOV	Referred to the Supreme Court of Victoria with a recommendation that the practitioner be struck off the roll of practitioners.

HEARING DATE(S)	WHO LAID THE CHARGES; DATE CHARGES BROUGHT	NAME OF LEGAL PRACTITIONER/FIRM	TYPE OF CHARGE(S)
30/6/04 before Registrar	LIV, T0116 of 2004; 10/6/04	SNYDER, Susan	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
1 & 15/6/04 before Full Tribunal	LIV, T0162 of 2003; 1/10/03	THOMAS, Geoffrey Lloyd	Misconduct/Unsatisfactory conduct – failing to properly supervise staff; conducting the mortgage practice in breach of the requirements of Chapter 5C of the Corporations Act 2001; failing to properly supervise staff in connection with a mortgage in default.
9 & 10/10/03 before Full Tribunal	LIV, T0076 of 2003; 10/9/03	THOMSON, Susan Regine	Unsatisfactory conduct – failing to comply with the rules of the Federal Magistrate’s Court, deceiving or attempting to deceive all of the persons involved in the client’s proceeding that the affidavit was made and sworn in accordance with Rule 15.26(2) of the Federal Magistrate’s Court Rules 2001.
7/11/03, 11, 16, 17, 19, 20, 25 & 27/2/04, 4/3/04, 25/5/04 before Full Tribunal	LIV, T0068 of 2003; 18/6/03	WATERS, Geoffrey John	Misconduct – gross overcharging.
21/8/03 before Deputy Registrar	LIV, T0301 of 2002; 12/12/02	WERTHEIM, Bernard Gerard	Misconduct – breach of s.314– engaging in legal practice without a current practising certificate; representing or advertising that he is qualified to engage in legal practice.
21/8/03 before Deputy Registrar	LIV, T0177 of 2003; 25/7/03	WERTHEIM, Bernard Gerard	Misconduct conduct – breach of s.314(1) – engaging in legal practice without a current practising certificate.

FINDING (MISCONDUCT OR UNSATISFACTORY CONDUCT)	REPRIMAND?	PRACTISING CERTIFICATE ("P/C") AFFECTED?	FINE TO BE PAID TO THE LEGAL PRACTICE BOARD	COSTS TO BE PAID TO LEGAL OMBUDSMAN OR RPA	ANY OTHER ORDER
Unsatisfactory conduct	No	No	\$1000	\$1700 to LIV	Provide to LIV a full written explanation of her conduct in relation to the matter that is the subject of the complaint.
Misconduct and Unsatisfactory conduct	Yes	No	\$20,000 in total	\$6340 to LIV	
Unsatisfactory conduct	Yes	No	\$1000	\$4500 to LIV	
Misconduct	Yes	Yes – PC is suspended and not to apply for a PC before 1/7/2009	\$5000	\$30,000 to LIV	
Misconduct	Yes	No	No		
Misconduct	Yes	No	\$500	\$2325 to LIV	

TABLE 19 – CASES DISMISSED BY THE LEGAL PROFESSION TRIBUNAL

Details of the charges brought in the Legal Profession Tribunal prior to 30/6/2004 that were dismissed by the Tribunal in the period 1/7/2003 to 30/6/2004

CASE	WHO BROUGHT THE CHARGE(S)	DATE CHARGE(S) BROUGHT	TYPE OF CHARGE(S)
Case 1	LIV	19/8/03	Misconduct – breach of Rule 1A(3) – participating in a fraudulent scheme designed to keep company assets out of the hands of a liquidator.
Case 2	LIV	18/3/04	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
Case 3	LIV	18/3/04	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint
Case 4	LIV	18/6/03	Misconduct – gross overcharging; breach of Trust Account Practice Rule 31(1) – failing to provide statements of account in various matters.
Case 5	LIV	4/12/03	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
Case 6	LIV	18/6/03	Misconduct – gross overcharging.
Case 7	LIV	3/12/03	Unsatisfactory conduct – breach of s.174(3)(e) – withdrawing monies from the firm trust account otherwise than as authorized.
Case 8	LIV	1/11/02	Misconduct – making improper sexual advances to a client who had consulted the practitioner for the purpose of obtaining legal advice.
Case 9	LIV	11/12/03	Unsatisfactory conduct – breach of Rule 3 – excessive delay in finalizing and disbursing to a client the party/party costs due under terms of settlement.
Case 10	LIV	18/6/03	Misconduct – gross overcharging.
Case 11	LIV	20/6/03	Unsatisfactory conduct – breach of s.86 – failure to provide a statement setting out costs, legal practitioner and complaint information to a client.
Case 12	LIV	29/8/03	Misconduct – breach of Rule 10(1A)(i) – conflict of interest; drawing a Will for a client knowing that he would receive a substantial benefit under the terms of the Will; failing to advise the client to seek independent legal advice; concealing involvement in the preparation of the Will from the Registrar of Probates.
Case 13	LIV	11/12/03	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
Case 14	LIV	23/12/03	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.
Case 15	BAR	26/7/02	Unsatisfactory conduct – Rule 82 of the Practice Rules – impugning the dignity and high standing of the profession by alleging without foundation, before the Court, the barrister's account was an 'outrageous misrepresentation' and the barrister stated a number of 'untruths'.

TABLE 20 – UNFINISHED CASES

Details of the charges brought in the Legal Profession Tribunal which are awaiting hearing and/or final orders as at 30 June 2004

CASE	WHO BROUGHT THE CHARGE(S)	DATE CHARGE(S) BROUGHT	TYPE OF CHARGE(S)	CURRENT STATUS
Case 1	LIV	3/6/04	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.	Listed for hearing on 19/7/04 before Registrar.
Case 2	LIV	4/9/03	Misconduct/Unsatisfactory conduct – breach of Rule 3 – delay; Rule 12 – failing to communicate with clients; failing to report regularly to clients on the progress of a matter, acting without instructions, removal of file material, failing to adequately prepare a matter for hearing.	Directions hearing on 24/3/04 before Full Tribunal.
Case 3	LIV	7/10/03	Misconduct – breach of s.178(1) – defalcation of trust funds; theft; obtaining property by deception; obtaining a financial advantage by deception; false accounting; making and using false documents.	Listed for hearing on 7/6/04. Adjourned to August 2004. Listed for hearing on 9 & 10/8/04 before Full Tribunal.
Case 4	LIV	10/3/04	Misconduct – conflict of interest; gross breach of duty to a client; and failing to protect the client's interests by recommending that she seek independent legal advice.	Matter heard on 14/4/04 before Full Tribunal. Decision reserved.
Case 5	LIV	27/10/99	Misconduct – engaging in legal practice without a current practising certificate s.178 & s. 182 and failing to maintain trust account records.	Listed for hearing on 29/11/99. Adjourned to a date to be fixed.
Case 6	LIV	6/5/04	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.	Listed for hearing on 12/7/04 before Registrar.
Case 7	LIV	29/4/04	Misconduct – failing to comply with a condition or restriction to which his practising certificate was subject, namely that he was to receive no trust money; s.178(1) – receiving trust money when not authorized to do so.	Listed for hearing on 3 & 4/6/04 before Full Tribunal.
Case 8	LIV	14/4/04	Misconduct – breach of s188 – trust account deficiency; transferring estate monies without Letters of Administration.	Listed for hearing on 22 & 23/6/04 before Full Tribunal.
Case 9	LIV	26/10/01 (initially referred on 10/08/99)	Misconduct – misappropriation of funds belonging to clients, breach of fiduciary duties, withdrawing sums from trust for costs to which he was not entitled, causing a deficiency in his trust account.	Adjourned sine die on 15/11/99 before Full Tribunal. Re-listed for hearing. Further adjourned. Re-fixed for hearing 5, 6 & 7/08/03. Adjourned to a date to be fixed.
Case 10	LIV	29/8/03	Misconduct/Unsatisfactory conduct – failing to discover a relevant document which is indicative of a failure either to understand or to practise the precepts of honesty or fair dealing expected of a legal practitioner; engaging in conduct which is dishonest or otherwise discreditable to a practitioner.	Preliminary hearing on 24/9/03. Listed for mention on 5/5/04. Listed for a hearing on 20 & 21/5/04 before Full Tribunal.

CASE	WHO BROUGHT THE CHARGE(S)	DATE CHARGE(S) BROUGHT	TYPE OF CHARGE(S)	CURRENT STATUS
Case 11	LIV	22/1/04	Misconduct – breach of Rule 8 of the Solicitors’ (Professional Conduct and Practice) Rules 1984 – borrowing funds from a client.	Listed for hearing on 4/3/04. Adjourned.
Case 12	LIV	24/3/04	Misconduct – gross overcharging; breach of Trust Account Practice Rule 22 – failing to record the bank accounts of the client in the investment register.	Listed for directions hearing on 27/4/04.
Case 13	LIV	12/08/02	Misconduct – charging grossly excessive fees; misappropriation of trust monies; failing to keep adequate records; contravention of Solicitors’ Audit & Practising Rules 1990; contravention of Trust Account Practice Rules 1998; delay; failure to keep proper Trust Account records; conflict of interest; contravention of s.99 – entering into a contingency fee agreement.	7, 21, 23 & 25/10/2002, 26/11/2002 before Full Tribunal. Interim Order 26/11/02 – adjourned sine die. Directions hearing on 21/5/03. Further adjourned.
Case 14	BAR	5/3/04	Misconduct – failing to comply with an undertaking given by the practitioner to the County Court; breach of BAR Rule 4 – engaging in conduct that was prejudicial to the administration of justice.	Listed for hearing on 12 & 13/7/04 before Full Tribunal.
Case 15	LOV	12/3/04	Misconduct/Unsatisfactory conduct – signing and using a letter of demand which was likely to mislead the recipient into believing that a mercantile agent was a legal practitioner or employee of a legal firm and capable of providing legal advice; carrying on his practice with deliberate or reckless disregard for the rights and obligations of the client, and for his professional duties as its supposed legal advisor; conflict of interest; breach of s.174(3) – misappropriation of trust monies; breach of Trust Account Practice Rules 30 & 31.	Listed for hearing on 2/8/04 before Full Tribunal.
Case 16	LIV	8/4/04	Misconduct – breach of s.178(1) – unauthorized receipt of trust monies; Trust Account Practice Rule 23(2) – failure to record monies received on behalf of a client as transit monies.	Listed for hearing on 14/5/04 before Registrar. Further hearing adjourned to 5/7/04.
Case 17	LIV	22/6/04	Misconduct – breach of Rule 3 – delay; Rules 12 – failure to keep the complainants informed as to the progress of their matter; gross breach of duty to client.	Listed for hearing on 4/8/04 before Registrar.
Case 18	LIV	14/11/2001	Misconduct / Unsatisfactory conduct – engaging in legal practice without a current practising certificate, delay, failing to account for moneys received, s.149 – failing to provide to the RPA on request, information, documents and files.	Listed for hearing 17 & 18/12/01. Adjourned sine die. On 9/5/02 matter further adjourned sine die. Refixed for 21/05/03 before Registrar. Further adjourned sine die. Relisted for directions hearing on 27/7/04 before Full Tribunal.

CASE	WHO BROUGHT THE CHARGE(S)	DATE CHARGE(S) BROUGHT	TYPE OF CHARGE(S)	CURRENT STATUS
Case 19	LIV	14/11/2001	Misconduct / Unsatisfactory Conduct – engaging in legal practice without a current practising certificate, misleading a client, s.149 – failing to provide to the RPA on request, information, documents and files.	Listed for hearing 17 & 18/12/01. Adjourned sine die. On 9/5/02 matter was further adjourned sine die. Listed for Mention hearing on 21/05/03 before Registrar. Further adjourned sine die. Relisted for directions hearing 27/7/04 before Full Tribunal.
Case 20	LIV	3/6/04	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.	Listed for hearing on 19/7/04 before Registrar.
Case 21	LIV	6/2/04	Misconduct – breach of s48(4) Victims of Crime Assistance Act 1996 – recovering costs in respect of a VOCAT application when not entitled.	Heard on 3/5/04. Further hearing on 30/7/04 before Deputy Registrar, prior to the making of an order.
Case 22	LIV	8/6/04	Misconduct at common law – failing to disclose to the Supreme Court of Victoria, the Board of Examiners, Blake Dawson Waldron and Victorian Lawyers RPA Limited that falsified records of Monash University academic records were knowingly uttered for the purposes of obtaining seasonal clerkships and articles of clerkship.	Listed for hearing on 16, 17 & 18/8/04 before Full Tribunal.
Case 23	LIV	20/6/03	Misconduct – unauthorized entry and sale of client's property for legal costs; conflict of interest; failing to account.	Listed for hearing on 18/07/03 before Registrar.
Case 24	LIV	21/03/01	Misconduct – s.324 permitting an unqualified person to practice, permitting an unqualified person to operate A/C and use letterhead.	Listed for hearing on 4, 5 & 6/10/04 before Full Tribunal.
Case 25	LIV	2/09/02	Misconduct – conflict of interest; failing to protect clients' interests; putting personal interests ahead of the interests of the client; preparing, swearing and filing false document.	On 25/9/02 directions hearing. Further directions hearing 1/7/03. Dates set for hearing are 7,8,9,10 & 14/10/03. Adjourned on 7/10/03. Relisted for hearing on 3,4,5,6 & 10/2/04.
Case 26	LIV	14/4/04	Misconduct – dishonesty, harassment, intimidation in relation to dealings with his articled clerk, an articles premium and purchase of his practice.	Listed for hearing on 22 & 23/6/04 before Full Tribunal.
Case 27	LIV	14/4/04	Misconduct – breach of s.86 – failing to give a concise written statement setting out details concerning legal costs and information as required; Rule 1A(2) – failing to act honestly and fairly in his clients' best interests and to maintain his clients' confidences; Rule 1A(3) – engaging in conduct which was dishonest or discreditable to the practitioner.	Listed for hearing on 22 & 23/6/04 before Full Tribunal.

CASE	WHO BROUGHT THE CHARGE(S)	DATE CHARGE(S) BROUGHT	TYPE OF CHARGE(S)	CURRENT STATUS
Case 28	BAR	7/6/04	Misconduct/Unsatisfactory conduct – speaking and uttering words which were abusive of and offensive and insulting to the Member of VCAT and to the Tribunal, and which were intemperate and vituperative; persisting in making submissions that the Member of VCAT should disqualify himself after he had ruled on that matter and declined to hear him further in that regard; being found guilty of contempt of the Tribunal by reason of the matters mentioned above and fined in the sum of \$2500; breach of BAR Rules 4(a), (b) and (c) – engaging in conduct which is discreditable to a barrister and brings the legal profession into disrepute.	Listed for hearing on 22 & 23/6/04 before Full Tribunal.

TABLE 21(A) – CASES ON APPEAL TO FULL TRIBUNAL, LEGAL PROFESSION TRIBUNAL

Details of charges brought in the Legal Profession Tribunal which are awaiting hearing of appeal and/or final orders of appeal

CASE	WHO BROUGHT THE CHARGE(S)	DATE CHARGE(S) BROUGHT	TYPE OF CHARGE(S)	CURRENT STATUS
Case 1	LIV	1/3/02	Misconduct – breach of Rule 10 – conflict of interest; Trust Account Practice Rule 30 – failure to account to a client for settlement monies.	Matter heard on 14 & 15/10/02, 16/5/03 & 10/2/04 before Registrar. Found guilty of misconduct by LPT and fined \$1000. Ordered to pay LIV costs. Appeal to Full Tribunal, LPT listed for 7 & 8/7/04.
Case 2	LIV	8/4/04	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.	Matter heard on 21/5/04 before Registrar. Found guilty of unsatisfactory conduct by LPT and fined \$600. Ordered to pay LIV costs of \$1050. Appeal to Full Tribunal, LPT listed for 2, 3 & 4/8/04.
Case 3	LIV	29/4/04	Unsatisfactory conduct – breach of s.149 or Rule 6 – failure to respond to a request for information regarding a complaint.	Matter heard on 21/5/04 before Registrar. Found guilty of unsatisfactory conduct by LPT and fined \$600. Ordered to pay LIV costs of \$1050. Appeal to Full Tribunal, LPT listed for 2, 3 & 4/8/04.
Case 4	LIV	18/10/02	Unsatisfactory conduct within s.137(a) – withdrawing from acting for a client at a critical time; prejudicing the client's potential claim for compensation in an Industrial Relations matter.	Matter heard on 5/12/02, 19/2/03, 6/8/03, 24 & 25/11/03 before Deputy Registrar. LPT dismissed the charge of unsatisfactory conduct. Appeal by practitioner and LIV to Full Tribunal, LPT listed for 28, 29 & 30/7/04.

TABLE 21(B) – CASES ON APPEAL TO COURT OF APPEAL, SUPREME COURT OF VICTORIA

Details of charges brought in the Legal Profession Tribunal which are awaiting hearing of appeal and/or final orders of appeal

CASE	WHO BROUGHT THE CHARGE(S)	DATE CHARGE(S) BROUGHT	TYPE OF CHARGE(S)	CURRENT STATUS
Case 1	LIV	19/4/01 (initially referred on 5/12/00)	Misconduct – unauthorized removal of file from employer.	Listed for hearing on 1/8/01, 2/8/01 and 3/8/01. On 23/8/01 LPT ordered charge of Misconduct dismissed. On 25/9/01 LPT ordered LIV to pay practitioner's costs of this hearing. Costs order of 25/9/01 on appeal to Full Tribunal heard 14/12/01. Decision reserved. On 4/2/02 Full Tribunal ordered Appeal by LIV dismissed. Appeal by LIV to Court of Appeal, Supreme Court.
Case 2	LOV	20/2/01	Misconduct – conflict of interest, lack of supervision of unqualified person, gross breach of duty, sharing income with an unqualified person, attempting to have client release the firm from all liability for negligence.	Listed for hearing on 28/5/01 – 8/6/01. Further hearing 26/9/01. 8/5/02 LPT found firm guilty of Misconduct. On 25/6/02 LPT ordered the firm's practising certificate cancelled from, but not including, 16/8/02. The firm may not apply for re-registration for 8 years. Firm jointly responsible for LOV's costs in the sum of \$253,344. (Appeal lodged 23/7/02).
Case 3	LOV	20/2/01	Misconduct – conflict of interest, lack of supervision of unqualified person, attempting to have client release the firm from all liability for negligence.	Listed for hearing on 28/5/01 – 8/6/01. Further hearing 26/9/01. On 8/5/02 found guilty of Misconduct by LPT. On 25/6/02 LPT ordered PC cancelled from, but not including, 16/8/02. May not apply for a PC for 8 years. Jointly responsible for LOV's costs in the sum of \$253,344. (Appeal lodged 23/7/02).

Ex Gratia payments

Pursuant to section 430 of the Act, the Legal Ombudsman is able to make ex gratia payments to persons who have suffered pecuniary loss as the result of acts or omissions of legal practitioners.

Ex gratia payments are not made on the basis that the recipient is deserving, but rather that the claimant has exhausted all other reasonable avenues of redress in seeking compensation for such financial loss which was sustained as a result of the act or omission of a legal practitioner.

In the period under review, the Legal Ombudsman, made two payments of compensation totalling \$2,790 (\$1,519 & \$1,271), for pecuniary loss suffered by a client as the result of the acts or omissions of his/her legal practitioner.

DISCLOSURE ISSUES

Privacy Statement

The Legal Ombudsman collects personal information to allow the office to perform the wide variety of functions and activities for which we are responsible under the terms of the *Legal Practice Act 1996*. The Legal Ombudsman is committed to responsible and fair handling of personal information, consistent with the Information Privacy Principles in the *Information Privacy Act 2000*.

Commissioner for Public Employment

Information required under Commissioner Directions

As a statutory appointee with the functions of an agency head under the *Public Sector Management and Employment Act 1998* ("the Act"), the Legal Ombudsman is subject to the same reporting requirements as other Agency Heads under Commissioner Directions issued pursuant to section 37(1)(b) of the Act.

Selecting on Merit

The Legal Ombudsman made no appointments without general advertisement in the 2003/2004 year. However, to the extent that unforeseen future circumstances may arise where the option of appointment without advertisement was being considered, regard would be had to the Exemption from Notification of Vacancy guidelines issued by the Public Service Commissioner under the previous legislation.

Reviewing Personal Grievances

In the 2003/2004 financial year there were no personal grievances lodged with the Legal Ombudsman.

Managing and Valuing Diversity

Given the core functions of the office, awareness of employees in this area is high. In light of the small number of employees, broad-based initiatives in this area are neither necessary nor viable.

All appointees to the office are provided with a copy of the Department of Justice's Human Resources manual, which contains information on the Code of Conduct and other aspects of employment.

Upholding Public Sector Conduct

The code of conduct issued by the Commissioner under section 37(1)(a) of the Act applies within the Legal Ombudsman's office.

Employees are continually reminded of the necessity for probity and integrity issues and relevant processes.

Freedom of Information

The Legal Ombudsman provides information to people who make requests under the *Freedom of Information Act 1982* (the Act).

There were four requests made under the Act during the year under review. Two requests were granted in full with one of the requests resulting in a partial transfer of the request to another Department. One was granted in part. One was denied in full.

No decisions were appealed to the Victorian Civil and Administrative Tribunal.

Building Act 1993

The Legal Ombudsman does not own any buildings.

National Competition Policy

There were no competition policy matters affecting the operation of the Legal Ombudsman's office.

Whistleblowers Protection Act 2001

The office of the Legal Ombudsman is committed to the aims and objectives of the *Whistleblowers Protection Act 2001*. Procedures have been established pursuant to Part 6 of the Act in relation to reporting disclosures of improper conduct or detrimental action by the office of the Legal Ombudsman or any of its employees.

There were no disclosures made in relation to the Whistleblowers Protection Act during the period 1 July 2003 to 30 June 2004.

Victorian Industry Participation Policy Act 2003

The Legal Ombudsman did not commence and/or complete any contracts during the financial year that require disclosures under the Victorian Industry Participation Policy.

Occupational Health and Safety

Safe working practices and the maintenance of a safe working environment are of paramount concern to the office and staff are encouraged to raise issues as they occur with management or at staff meetings.

DISCLOSURE INDEX

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

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OFFICE OF THE LEGAL OMBUDSMAN
FINANCIAL REPORTS

FOR THE YEAR ENDED 30 JUNE 2004



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STATEMENT OF FINANCIAL PERFORMANCE

FOR THE YEAR ENDED 30 JUNE 2004

	Notes	2004 \$	2003 \$
Revenue from Ordinary Activities			
Funding: Legal Practice Board		1,900,000	1,500,000
Recovery of Legal Costs	5	11,600	262,379
Interest		6,268	7,211
Other		215	–
		1,918,083	1,769,590
Expenses from Ordinary Activities			
Employee Benefits expenses	1(c)/2/3/4	(1,048,695)	(999,383)
Legal expenses	5	(364,191)	(442,696)
Other expenses from ordinary activities	6	(166,848)	(191,801)
Occupancy expenses		(161,508)	(156,666)
Printing, postage and stationery expenses		(81,247)	(64,423)
Depreciation expense	8	(58,180)	(74,021)
		(1,880,669)	(1,928,990)
Net Result for the reporting period	10B	37,414	(159,400)
Total changes in equity other than those resulting from transactions with Victorian State Government in its capacity as owner	10B	37,414	(159,400)

The accompanying notes form an integral part of this statement.

STATEMENT OF FINANCIAL POSITION

AS AT 30 JUNE 2004

	Notes	2004 \$	2003 \$
Current Assets			
Cash Assets	1(d)/9/15	63,322	207,101
Prepayments		20,670	23,240
Receivables		13,558	7,854
Accrued Income		250,060	814
Total Current Assets		347,610	239,009
Non Current Assets			
Leasehold Improvements, Plant and Equipment	11A/11B	51,246	108,019
Total Non Current Assets		51,246	108,019
Total Assets		398,856	347,028
Current Liabilities			
Payables	1(d)/12/15	58,505	53,881
Provisions	13A	74,663	70,070
Total Current Liabilities		133,168	123,951
Non Current Liabilities			
Provisions	13B	95,225	90,027
Total Non current Liabilities		95,225	90,027
Total Liabilities		228,393	213,978
Net Assets		170,463	133,050
Equity			
Contributed Capital	10A	302,706	302,706
Accumulated Surplus/(Deficit)	10B	(132,243)	(169,656)
Total Equity	10C	170,463	133,050

The accompanying notes form an integral part of this statement

Commitments for Expenditure Notes 7 and 16.

Contingent Assets and Liabilities Note 17.

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED 30 JUNE 2004

	Notes	2004 \$	2003 \$
Cash Flows from operating activities			
Receipts from other entities		1,900,000	1,500,000
Receipts from operations		87,805	351,977
Payments to suppliers and employees (inclusive of goods and services tax)		(2,136,445)	(1,922,742)
		(148,640)	(70,765)
Interest received		6,268	7,211
Net Cash Flows from operating activities	18	(142,372)	(63,554)
Cash Flows from investing activities			
Payments for plant and equipment	11B	(1,407)	(19,376)
Net Cash Inflow/ (outflow) from investing activities		(1,407)	(19,376)
Net (Increase)/Decrease in Cash Held		(143,779)	(82,930)
Cash at beginning of financial year		207,101	290,031
Cash at end of the financial year	9	63,322	207,101

The accompanying notes form an integral part of this statement

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2004

Note 1 Summary of Significant Accounting Policies

a) Basis of Accounting

This general-purpose financial report has been prepared on an accrual basis in accordance with the *Financial Management Act 1994*, Australian accounting standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and Urgent Issues Group Consensus Views.

It is prepared in accordance with the historical cost convention. The accounting policies adopted, and the classification and presentation of items, are consistent with those of the previous year, except where a change is required to comply with an Australian accounting standard or Urgent Issues Group Consensus View, or an alternative accounting policy permitted by an Australian accounting standard is adopted to improve the relevance and reliability of the financial report. Where practicable, comparative amounts are presented and classified on a basis consistent with the current year.

For the reporting period ending 30 June 2002, the entity deemed all its accumulated surplus of \$302,706 as the opening balance for contributed capital. This accounting treatment was to comply with Urgent Issues Group Abstract 38 *Contributions by Owners Made to Wholly-Owned Public Sector Entities* and Financial Reporting Bulletin No. 39 *Accounting for Contributed Capital and No 40. Establishment of Opening Balances and Formal Designation for Contributed Capital*. The change in accounting policy resulted in the recognition, in the statement of financial position, as at 1 July 2002 of an opening balance of \$302,706 as contributed capital (1 July 2001 – \$302,706). There were no transfers to Contributed Capital this financial year. The accumulated deficit at the end of the year is (\$132,243).

b) Property Improvements, Plant and Equipment

Cost

Property improvements, plant and equipment are initially recorded at cost or valuation and depreciated as outlined below.

Any gain or loss on the disposal of assets is determined as the difference between the value of the asset at the time of disposal and the proceeds from disposal and is included in the operating result of the Office of the Legal Ombudsman in the year of disposal.

Depreciation

Depreciation is provided on all leasehold improvements and plant and equipment on a straight line basis, at rates which allocate their costs over the estimated useful life of the asset to the Office of the Legal Ombudsman. The depreciation rates applied to each of the asset classes are as follows:

Leasehold Improvements	20%
Office Equipment	10-20%
Office Furniture	10-20%
EDP Equipment	20-40%

Improvements to leasehold premises are amortised over their useful life or the unexpired period of the lease, whichever is the lesser.

c) Employee Benefits

(i) *Wages, salaries and annual leave*

Liabilities for wages and salaries, including non-monetary benefits, annual leave and accumulating sick leave expected to be settled within 12 months of the reporting date are recognized in respect of employees' services up to the reporting date and are measured as the amounts expected to be paid when the liabilities are settled. Liabilities for non-accumulating sick leave are recognized when the leave is taken and measured at the rates paid or payable.

(ii) *Long service leave*

The liability for long service leave expected to be settled within 12 months of the reporting date is recognized in the provision for employee benefits and is measured in accordance with (i) above. The liability for long service leave expected to be settled more than 12 months from the reporting date is recognized in the provision for employee benefits and measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date. Consideration is given to expected future wage and salary levels, experience of employee departures and periods of service. Expected future payments are discounted using interest rates on national Government guaranteed securities with terms to maturity that match, as closely as possible, the estimated future cash outflows.

(iii) *Superannuation*

The amount charged to the statement of financial performance in respect of superannuation represents the contributions made by the Legal Ombudsman to the superannuation funds in respect of current Legal Ombudsman staff (see Note 3).

(iv) *Employee benefit on-costs*

Employee benefit on-costs, including payroll tax, are recognised and included in employee benefit liabilities and costs when the employee benefits to which they relate are recognized as liabilities

d) Financial Instruments

Financial Assets

Cash Assets

Cash includes cash in hand and cash held at bank. The carrying amounts reported in the Statement of Financial Position are their net market value.

For the purposes of the statement of cash flows, cash includes short term deposits that are readily convertible to cash on hand and are subject to an insignificant risk of changes in value, net of outstanding cheques yet to be presented by the Legal Ombudsman suppliers and creditors. (see Note 9)

Financial Liabilities

Payables

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

e) Recognition of Revenue

Revenue (including interest income) is brought to account on receipt, control or official notification. Where income has been received prior to balance date, but which is attributable to the next period, the income is treated as a Current Liability – Income In Advance.

The Legal Practice Act s378 determines that the Office of the Legal Ombudsman must be paid such amount as the Legal Practice Board directs.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2004

f) Income Tax

As the Office of the Legal Ombudsman is a statutory authority, it is not liable to income tax.

g) Accounting for Leases

A distinction is made between finance and operating leases. Finance leases effectively transfer from the lessor to the lessee all substantial risks and benefits incidental to ownership of the leased asset. Operating leases are those in which the lessor effectively retains all substantial risks and benefits.

Operating lease payments are charged as an expense in the period in which they are incurred. The organisation's liability for lease commitments is shown in Note 7.

The organisation has not entered into any finance leases.

h) Goods and Services Tax

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

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

The GST component of a receipt or payment is recognised on a gross basis in the Statement of Cash Flows in accordance with Accounting Standard AAS28 Statement of Cash Flows.

i) The impact of adopting AASB equivalents to IASA standards

For interim and annual reporting periods ending on or after 30 June 2004, AASB 1047 *Disclosing the Impacts of Adopting Australian Equivalents to International Financial Reporting Standards (IFRS)* requires an explanation of how the transition process is being managed and a narrative explanation of the key differences in accounting policies that are expected to arise from the adoption of Australian equivalents to IFRS. Refer to Note 19 for further details.

Note 2 Employee Benefits Expenses

	2004 \$	2003 \$
This is made up of the following:		
■ Salaries	875,025	848,197
■ Superannuation	105,701	78,072
■ Payroll tax and Workcover	36,997	33,339
■ Provisions	9,790	25,696
■ External agency and temporary staff	13,279	6,621
■ Other staff expenses	3,428	3,125
■ Staff recruitment	1,114	2,182
■ Staff training	3,361	2,151
Total	1,048,695	999,383

Note 3 Superannuation

The Office of the Legal Ombudsman makes employer contributions in the following manner:

- Non-contributory superannuation is available to all full-time employees, effective from commencement of service.
- Employer contributions are 9% of base salary.
- Total employer contributions made to these schemes for the financial period ended 30 June 2004 was \$105,701 (2003 \$78,072).

Employer contributions were made to the following superannuation schemes:

	Contribution for the Year 2004 \$	Contribution for the Year 2003 \$	Contributions Outstanding at Year End 2004 \$	Contributions Outstanding at Year End 2003 \$
Private Sector Schemes	20,582	13,273	0	0
Public Sector Scheme – VicSuper	85,119	64,799	0	0
Total	105,701	78,072	0	0

Note 4 Responsible Persons and Remuneration of Executive Officers

The names of persons who were responsible persons at any time during the financial year were:

The responsible Minister during the period 1 July 2003 to 30 June 2004 was the Hon R Hulls, Attorney-General. The Legal Ombudsman (Accountable Officer) during the period 1 July 2003 to 30 June 2004 was Mrs K Hamond.

The Legal Ombudsman's remuneration has been disclosed as part of Employee Benefits Expenses (refer Note 2).

	2004	2003
Accountable and Executive Officer Remuneration over \$100,000	No.	No.
Income of:		
\$100,000 – \$109,999	–	–
\$110,000 – \$119,999	–	1
\$120,000 – \$129,999	1	–
\$130,000 – \$139,999	–	–
\$140,000 – \$149,999	1	1
The total remuneration for the year of the Accountable Officer and Executive Officers, included in salary and associated costs amounts to:	\$252,706	\$257,308

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2004

	2004 \$	2003 \$
Note 5		
Legal Expenses		
Legal Expenses		
– Investigations	80,986	227,065
– Legal Advice	246,818	149,723
– Consultants	36,387	65,908
	364,191	442,696
Less Recovery of Legal Costs	(11,600)	(262,379)
Total Legal Expenses	352,591	180,317
Note 6		
Other Expenses From Ordinary Activities		
Motor vehicle expenses	34,099	31,552
Community education expenses	17,057	30,840
Telephone and fax expenses	29,903	28,920
EDP expenses	23,503	26,280
General administration expenses	22,531	22,897
Insurance expense	23,745	21,140
Ex gratia expense	2,790	12,127
Travel and accommodation expenses	5,857	10,732
Audit fees	6,200	6,000
Bank fees	1,163	1,313
Total other expenses from ordinary activities	166,848	191,801
Note 7		
Lease Commitments		
a) Lease of Premises		
During the period 1 July 2003 to 30 June 2004 the Office of the Legal Ombudsman was located at Level 10, 461 Bourke Street Melbourne.		
Future operating lease not provided for in the financial statements:		
Due within one year	119,381	117,390
Later than 1 year but not later than 5 years	0	79,587
Later than 5 years	0	0
b) Lease of Motor Vehicle		
The Legal Ombudsman leases one motor vehicle.		
Future operating lease not provided for in the financial statements:		
Due within one year	9,794	11,400
Later than 1 year but not later than 5 years	3,265	22,800
Later than 5 years	0	0
Total Lease Commitments	132,440	231,177

	2004 \$	2003 \$
Note 8 Depreciation and Amortization		
Leasehold Improvements	23,414	23,230
Office Furniture	17,450	22,474
EDP Equipment	6,762	15,077
Office Equipment	10,554	13,240
Total	58,180	74,021
Note 9 Cash Assets		
Cash at bank	62,322	206,101
Cash on hand	1,000	1,000
Total	63,322	207,101
Note 10 Equity and Movements in Equity		
10A Contributed Capital		
Balance at 1 July 2003 (refer Note 1 (a))	302,706	302,706
Balance at 30 June 2004	302,706	302,706
10B Accumulated Surplus/(Deficit)		
Accumulated surplus at the beginning of the financial year	(169,656)	(10,256)
Net Result	37,414	(159,400)
Accumulated Surplus/(Deficit) at end of financial year	(132,242)	(169,656)
10C Total Equity		
Contributed Capital as at 30 June 2003	302,706	302,706
Accumulated Surplus/(Deficit) at end of financial year	(132,243)	(169,656)
Total Equity	170,463	133,050

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2004

Note 11

11A Leasehold Improvements, Plant and Equipment

	Cost \$	Accumulated Depreciation \$	Written down Value \$
2004			
Leasehold Improvements	116,811	(97,825)	18,986
Office Equipment	70,630	(61,624)	9,006
Office Furniture	123,779	(112,960)	10,819
EDP Equipment	113,032	(100,597)	12,435
Total	424,252	(373,006)	51,246
2003			
Leasehold Improvements	116,811	(74,411)	42,400
Office Equipment	70,630	(51,070)	19,560
Office Furniture	123,779	(95,510)	28,269
EDP Equipment	120,213	(102,423)	17,790
Total	431,433	(323,414)	108,019

11B Reconciliation of Leasehold Improvements, Plant and Equipment

Reconciliations of the carrying amounts of each class of leasehold, plant and equipment at the beginning and end of the current financial year is set out below:

2004	Leasehold Improvements	Office Equipment	Office Furniture	EDP Equipment	Total
Carrying amount at start of year	42,400	19,560	28,269	17,790	108,019
Additions	0	0	0	1,407	1,407
Depreciation	(23,414)	(10,554)	(17,450)	(6,762)	(58,180)
Carrying amount at end of year	18,986	9,006	10,819	12,435	51,246

11C Assets Written Off

The following Assets were written off during the year (2003: \$nil).

	Cost \$	Accumulated Depreciation \$	Written down Value \$
EDP Equipment	8,588	8,588	0
Total	8,588	8,588	0

	2004 \$	2003 \$
Note 12 Payables		
Accrued expenses	58,505	53,881
Total	58,505	53,881
Note 13 Employee Benefits		
13A Current		
Annual Leave	50,857	47,563
Long Service Leave	23,806	22,507
	74,663	70,070
13B Non current		
Long Service Leave	95,225	90,027
	95,225	90,027
Aggregate employee benefit liability	169,888	160,097
Employee Numbers		
	No.	No.
Average (FTE) number of employees during the financial year	13	13
As explained in note 1 C (ii) the amount for long service leave is measured at the present value. The following assumptions were adopted in measuring present values:		
	2004	2003
Weighted average rates of increase in annual employee entitlements to settlement of the liabilities	4.50%	4.75%
Weighted average discount rates	5.60%	4.73%
Weighted average terms to settlement of the liabilities	13 years	12 years

Note 14 Related Party Transactions

There were no related party transactions during the year. (2003:nil)

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2004

Note 15 Financial Instruments

15A Interest rate risk exposure

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

30.6.2004	Note	Floating Interest \$	Fixed interest maturing in:			Non Interest Bearing	Total \$
			1 Year or Less	Over 1 to 5years	More than 5 years		
Financial Assets							
Cash Assets	9	62,322				1,000	63,322
Total		62,322				1,000	63,322
Weighted Average Interest Rate		4.88%					
Financial Liabilities							
Payables	12					58,505	58,505
Total						58,505	58,505

30.6.2003	Note	Floating Interest \$	Fixed interest maturing in:			Non Interest Bearing	Total \$
			1 Year or Less	Over 1 to 5years	More than 5 years		
Financial Assets							
Cash Assets	9	206,101					206,101
Total		206,101					206,101
Weighted Average Interest Rate		4.18%					
Financial Liabilities							
Payables	12					53,881	53,881
Total						53,881	53,881

15B Net Fair Values

The carrying amounts and net fair values of financial assets and financial liabilities, as at reporting date, are as follows:

	Carrying Amount \$	Net Fair Value \$
30.6.2004		
Financial Assets		
Cash	62,322	62,322
Financial Liabilities		
Payables	58,505	58,505
30.6.2003		
Financial Assets		
Cash	206,101	206,101
Financial Liabilities		
Payables	53,881	53,881

Note 16 Capital Expenditure Commitments

There are no capital expenditure commitments as at 30 June 2004. (2003: \$nil)

Note 17 Contingent Assets and Liabilities

There are no contingent assets and liabilities as at 30 June 2004. (2003: \$nil)

	2004 \$	2003 \$
Note 18 Net Cash Inflow from Operating Activities		
Profits from net result for the reporting period	37,414	(159,400)
Depreciation	58,180	74,021
Changes in net assets and liabilities:		
■ (Increase)/decrease in GST Recoverable	(5,705)	(406)
■ (Increase)/decrease in accrued income	(249,246)	(120)
■ (Increase)/decrease in prepayments	2,570	(6,022)
■ Increase/(decrease) in sundry creditors	4,624	2,677
■ Increase/(decrease) in annual leave	3,294	4,515
■ Increase/(decrease) in long service leave	6,497	21,181
■ Increase/(decrease) in income in advance	0	0
Net Cash Inflow from Operating Activities	(142,372)	(63,554)

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2004

Note 19

Impact of Adopting AASB Equivalents to ISAB Standards

For reporting periods beginning on or after 1 January 2005, all Australian reporting entities are required to adopt the financial reporting requirements of the Australian equivalents to International Financial Reporting Standards (IFRS). The Legal Ombudsman has taken the following steps in managing the transition to Australian equivalents to IFRS:

- reviewed the Legal Ombudsman current accounting policies and the proposed new standards to identify key issues and the likely impacts resulting from the adoption of Australian equivalents to IFRS; and
- commenced an education and training process for all stakeholders to raise awareness of the changes in reporting requirements and the processes to be undertaken.

Certification of the Financial Statements

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

We further state that, in our opinion, the information set out in the statement of financial performance, statement of financial position, statement of cash flows and notes to and forming part of the financial statements, presents fairly the financial transactions during the year ended 30 June 2004 and financial position of the Legal Ombudsman as at 30 June 2004.

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

Melbourne



K. Hamond
Legal Ombudsman



J. Cohen
Deputy Legal Ombudsman

25/8/04
Date



AUDITOR GENERAL
VICTORIA

AUDITOR-GENERAL'S REPORT

To the Members of the Parliament of Victoria, responsible Ministers and Members of the Office of the Legal Ombudsman

Audit Scope

The accompanying financial report of the Office of the Legal Ombudsman for the financial year ended 30 June 2004, comprising statement of financial performance, statement of financial position, statement of cash flows and notes to the financial statements, has been audited. The Legal Ombudsman is responsible for the preparation and presentation of the financial report and the information it contains. An independent audit of the financial report has been carried out in order to express an opinion on it to the Members of the Parliament of Victoria, responsible Ministers and Members of Office as required by the *Audit Act 1994*.

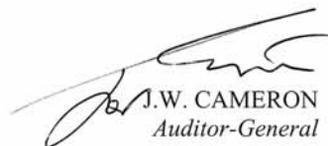
The audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance as to whether the financial report is free of material misstatement. The audit procedures included an examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial report is presented fairly in accordance with Accounting Standards and other mandatory professional reporting requirements in Australia, and the financial reporting requirements of the *Financial Management Act 1994*, so as to present a view which is consistent with my understanding of the Office's financial position, and its financial performance and cash flows.

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

Audit Opinion

In my opinion, the financial report presents fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia, and the financial reporting requirements of the *Financial Management Act 1994*, the financial position of the Office of the Legal Ombudsman as at 30 June 2004 and its financial performance and cash flows for the year then ended.

MELBOURNE
25 August 2004



J.W. CAMERON
Auditor-General

