



Agenda

Benchers

Date: Friday, March 1, 2013

Time: **7:30 am** Continental breakfast

8:30 am Call to order

12:00 pm Adjourn

Location: Bencher Room, 9th Floor, Law Society Building

Recording: *Benchers, staff and guests should be aware that a digital audio recording is made at each Benchers meeting to ensure an accurate record of the proceedings.*

CONSENT AGENDA:

Consent agenda matters are proposed to be dealt with by unanimous consent and without debate. Benchers may seek clarification or ask questions without removing a matter from the consent agenda. If any Bencher wishes to debate or have a separate vote on an item on the consent agenda, he or she may request that the item be moved to the regular agenda by notifying the President or the Manager, Executive Support (Bill McIntosh).



Agenda

| Item | Topic | Time (min) | Speaker | Materials | Action |
|------|---|------------|---------------------------------|--|----------|
| 1 | Consent Agenda • Minutes of January 25, 2013 meeting | 1 | President | pg.1000 | Decision |
| 2 | Governance Committee: Interim Report and Recommendations from the Benchers Election Working Group – Next Steps | 30 | Jan Lindsay, QC (Vice-Chair) | pg. 2000 | Decision |
| 3 | Audit Committee Review of the Law Society's Key Performance Measures (2012) and Enterprise Risk Management Plan (Updated February 2013) | 15 | Peter Lloyd, FCA (Chair) | pg. 3000 | Review |
| 4 | Report on Outstanding Hearing & Review Reports | 2 | President | Written report (circulated at the meeting) | Update |
| 5 | President's Report | 15 | President | Oral report (update on key issues) | Briefing |
| 6 | CEO's Report | 15 | CEO | pg. 6000 | Briefing |



Agenda

| Item | Topic | Time (min) | Speaker | Materials | Action |
|------|--|------------|--|--|---|
| 7 | Lawyers Insurance Fund: 2012 Year End Report | 30 | Director of Insurance | pg. 7000 | Review |
| 8 | Federation of Law Societies of Canada Council Update | 10 | Gavin Hume, QC (Council Representative) | Oral report | Briefing |
| 9 | For Information Only <ul style="list-style-type: none"> Unauthorized Practice Committee Review for 2012 Thank you letter from William R. Younie, QC at Ridgway & Company to Art Vertlieb, QC Letter from the Honourable Shirley Bond, Minister of Justice and Attorney General, to Bruce LeRose, QC | | | pg. 9100 pg. 9200 pg. 9300 | Information Information Information |



Agenda

| Item | Topic | Time (min) | Speaker | Materials | Action |
|------|--|------------|---------------|---|--|
| | <ul style="list-style-type: none"> Letter from the Honourable Shirley Bond, Minister of Justice and Attorney General, to Art Vertlieb, QC 2012 Lawyers Assistance Program Executive Director's Report Oregon State Bar Professional Liability Fund Bulletin | | | <p>pg. 9400</p> <p>pg. 9500</p> <p>pg. 9600</p> | <p>Information</p> <p>Information</p> <p>Information</p> |
| 10 | <p><i>In camera</i></p> <ul style="list-style-type: none"> Bencher concerns Other business | 15 | President/CEO | | Discussion/ Decision |



Minutes

Benchers

Date: Friday, January 25, 2013

Present:

| | |
|--|----------------------|
| Art Vertlieb, QC, President | Vincent Orchard, QC |
| Jan Lindsay, QC 1 st Vice-President | Greg Petrisor |
| Ken Walker, QC 2 nd Vice-President | David Renwick, QC |
| Rita Andreone, QC | Phil Riddell |
| Kathryn Berge, QC | Catherine Sas, QC |
| Lynal Doerksen | Richard Stewart, QC |
| Thomas Fellhauer | Herman Van Ommen, QC |
| Leon Getz, QC | Tony Wilson |
| Miriam Kresivo, QC | Barry Zacharias |
| Bill Maclagan | Haydn Acheson |
| Nancy Merrill | Satwinder Bains |
| Maria Morellato, QC | Peter Lloyd, FCA |
| David Mossop, QC | Ben Meisner |
| Thelma O'Grady | Claude Richmond |

Richard Fyfe, QC, Deputy Attorney
General of BC, Ministry of Justice,
representing the Attorney General

Excused:

David Crossin, QC
Stacy Kuiack
Lee Ongman

Staff Present:

| | |
|---------------------|-----------------|
| Tim McGee | Bill McIntosh |
| Deborah Armour | Jeanette McPhee |
| Robyn Crisanti | Doug Munro |
| Jeffrey Hoskins, QC | Alan Treleaven |
| Su Forbes, QC | Adam Whitcombe |
| Michael Lucas | |

Guests:

Chris Axworthy, QC, Dean, Faculty of Law, Thompson Rivers University
Dom Bautista, Executive Director, Law Courts Center
Mark Benton, QC, Executive Director, Legal Services Society
Johanne Blenkin, Chief Executive Officer, Courthouse Libraries BC
Mary Anne Bobinski, Dean, Faculty of Law, University of BC
Kari Boyle, Executive Director, Mediate BC Society
Anne Chopra, Equity Ombudsperson
Jonathan Vogt, Continuing Legal Education Society of BC
Dean Crawford, Vice-President, CBABC
The Honourable Lance Finch, Chief Justice of BC
Donna Greschner, Dean, Faculty of Law, University of Victoria
Jeremy Hainsworth, Reporter, Lawyers Weekly
Gavin Hume, QC, the Law Society's Representative on the Council of the Federation of Law Societies of Canada
Marc Kazimirski, President, Trial Lawyers Association of BC
Derek LeCroix, QC Executive Director, Lawyers Assistance Program
Caroline Nevin, Executive Director, Canadian Bar Association, BC Branch
Wayne Robertson, QC, Executive Director, Law Foundation of BC
Rose Singh, BC Paralegal Association
Ryan Williams, President of TWI Surveys Inc.
Bill Younie, President, Lawyers Assistance Program

1. Call to Order**a. Oaths of Office of 2013 Ladder and Lynal Doerksen, Bencher for County of Kootenay**

The Honourable Lance Finch, Chief Justice of British Columbia, administered the swearing / affirming of:

- the President's Oath of Office by the Law Society's President for 2013, Art Vertlieb, QC
- the Vice-President's Oath of Office by the Law Society's First and Second Vice-Presidents for 2013, Jan Lindsay, QC and Ken Walker, QC, respectively
- the Bencher's Oath of Office by the Law Society's Kootenay County Bencher for 2013, Lynal Doerksen

2. Consent Agenda

2.1 The minutes of the meeting held on December 7, 2012 were approved as circulated.

**2.2 Amendments to the Law Society Rules and the *Code of Professional Conduct*,
Implementing Family Law Task Force Recommendations Previously Adopted by
the Benchers:**

BE IT RESOLVED to amend the Law Society Rules effective March 18, 2013 as follows:

1. By adding the following Rule:

Definitions

3-18.6 In this division

“**course of study**” means an educational program consisting of activities approved by the Executive Director for the purpose of qualifying as a family law mediator, arbitrator or parenting coordinator;

“**professional development**” means activities approved by the Executive Director for credit as professional development for family law mediators, arbitrators or parenting coordinators.

2. By rescinding Rule 3-20 and substituting the following:

Family law mediators

3-20 (1) A lawyer may act as a family law mediator only if the lawyer

(a.1) possesses sufficient knowledge, skills and experience relevant to family law to carry out the function of a mediator in a fair and competent manner,

(b) has completed a course of study in family law mediation approved by the Credentials Committee, and

(c) is in compliance with Rule 3-20.3(3).

(3) A lawyer who has been accredited by the Society as a family law mediator may so state in any marketing activity.

(4) The Credentials Committee may allow a lawyer previously accredited by the Society as a family law mediator time in which to comply with any changes to the requirements under subrule (1)(b). Family law arbitrators

3-20.1 (1) A lawyer may act as a family law arbitrator only if the lawyer

- (a) possesses sufficient knowledge, skills and experience relevant to family law to carry out the function of an arbitrator in a fair and competent manner,
 - (b) has, for a total of at least 10 years, engaged in the full-time practice of law or the equivalent in part-time practice or sat as a judge or master,
 - (c) has completed a course of study in family law arbitration approved by the Credentials Committee, and
 - (d) is in compliance with Rule 3-20.3(3).
- (2) A lawyer who has been accredited by the Society as a family law arbitrator may so state in any marketing activity.
- (3) The Credentials Committee may allow a lawyer who has previously acted as a family law arbitrator time in which to comply with any changes to the requirements under subrule (1)(c).

Parenting coordinators

3-20.2 (1) A lawyer may act as a parenting coordinator only if the lawyer

- (a) possesses sufficient knowledge, skills and experience relevant to family law to carry out the function of a parenting coordinator in a fair and competent manner,
 - (b) has, for a total of at least 10 years, engaged in the full-time practice of law or the equivalent in part-time practice or sat as a judge or master, including considerable family law experience dealing with high conflict families with children,
 - (c) has completed a course of study in parenting coordination approved by the Credentials Committee, and
 - (d) is in compliance with Rule 3-20.3 (3).
- (2) A lawyer who has been accredited by the Society as a parenting coordinator may so state in any marketing activity.
- (3) The Credentials Committee may allow a lawyer who has previously acted as a parenting coordinator time in which to comply with any changes to the requirements under subrule (1)(c).

Professional development for family law mediators, arbitrators and parenting coordinators

3-20.3 (1) The Credentials Committee may determine the minimum number of hours of professional development that is required of a family law mediator, arbitrator or parenting coordinator in each calendar year.

- (2) The requirements under subrule (1) may be different for each of family law mediators, arbitrators or parenting coordinators.
- (3) In each calendar year, a family law mediator, arbitrator or parenting coordinator must
 - (a) complete the required professional development, and
 - (b) certify to the Executive Director in a form approved by the Executive Director that the lawyer has completed the required professional development.
- (4) Professional development completed under this rule may also be reported under Rule 3-18.3 if it meets the requirements of that rule.
- (5) Despite subrule (3), a family law mediator, arbitrator or parenting coordinator need not complete the required professional development in a calendar year in which the lawyer has successfully completed the course of study required under Rules 3-20 to 3-20.2.

BE IT RESOLVED to amend the Code of Professional Conduct effective March 18, 2013 by rescinding “Appendix B” and replacing it with a new “Appendix B” as follows:

Family Law Mediation, Arbitration and Parenting Coordination

Definitions

1. In this Appendix:

“dispute resolution process” means the process of family law mediation, family law arbitration or parenting coordination;

“family law arbitration” means a process by which participants submit issues relating to their marriage, cohabitation, separation or divorce to an impartial person (the family law arbitrator) for decision;

“family law mediation”

- (a) means a process by which participants attempt, with the assistance of an impartial person (the family law mediator), to reach a consensual settlement of issues relating to their marriage, cohabitation, separation, divorce, children or finances, including division of assets , and
- (b) includes, without limiting the generality of the foregoing, one or more of the following acts when performed by a lawyer acting as a family law mediator:

- (i) informing the participants of and otherwise advising them on the legal issues involved,
- (ii) advising the participants of a court's probable disposition of the issue,
- (iii) preparing any agreement between the participants other than a memorandum recording the results of the family law mediation;

“parenting coordination” means a process by which an impartial person (the parenting coordinator), by agreement of participants or by court order, mediates a dispute with respect to the implementation of an agreement or a court order respecting the allocation of parenting time or parenting responsibilities, or contact with a child or makes a determination respecting that dispute that is binding on the participants;

“participant” means a person with issues relating to marriage, cohabitation, separation or divorce who has agreed to the intervention of an impartial person as family law mediator or arbitrator or parenting coordinator or is subject to a court order appointing such a person to assist in the resolution of such issues.

Disqualifications

- 2. (a) If a lawyer, or a partner, associate or employee of that lawyer has previously acted or is currently acting for any of the participants to a dispute resolution process in a solicitor-client relationship with respect to any matter that may reasonably be expected to become an issue during the dispute resolution process, that lawyer may not act as a family law mediator or arbitrator or parenting coordinator for any of the participants;
- (b) If a lawyer has acted in a dispute resolution process for the participants, neither that lawyer nor any partner, associate or employee of that lawyer may act in a solicitor-client relationship for either participant against the other participant;
- (c) If a lawyer, or a partner, associate or employee of that lawyer has acted in a dispute resolution process for the participants, neither that lawyer nor a partner, associate or employee of that lawyer may act for or against any person if to do so might require the lawyer to disclose or make use of confidential information given in the course of the dispute resolution process.

Obligations of family law mediator or arbitrator or parenting coordinator when participants unrepresented

3. A lawyer who acts as a family law mediator or arbitrator or parenting coordinator for participants who are unrepresented must:
 - (a) urge each unrepresented adult participant to obtain independent legal advice or representation, both before the commencement of the dispute resolution process and at any stage before an agreement between the participants is executed;
 - (b) take care to see that the unrepresented participant is not proceeding under the impression that the lawyer will protect his or her interests;
 - (c) make it clear to the unrepresented participant that the lawyer is acting exclusively in a neutral capacity, and not as counsel for either participant; and
 - (d) explain the lawyer's role in the dispute resolution process, including the scope and duration of the lawyer's powers.

Obligations of family law mediator or parenting coordinator

4. Unless otherwise ordered by the court, a lawyer who acts as a family law mediator or parenting coordinator and the participants must, before family law mediation or parenting coordination begins, enter into a written agreement that includes at least the following provisions:
 - (a) an agreement that the lawyer, throughout the family law mediation or parenting coordination, is not acting as legal counsel for any participant;
 - (b) an agreement that the lawyer may disclose fully to each participant all information provided by the other participant that is relevant to the issues;
 - (c) an agreement that, subject to rule 3.3-3, the family law mediation or parenting coordination is part of an attempt to settle the differences between the participants and that all communications between participants or between any participant and the family law mediator or parenting coordinator will be "without prejudice" so that no participant will attempt:
 - (i) to introduce evidence of the communications in any legal proceedings, or
 - (ii) to call the family law mediator or parenting coordinator as a witness in any legal proceedings;

- (d) an acknowledgment that the lawyer must report to the Director of Family and Child Services any instance arising from the family law mediation or parenting coordination in which the lawyer has reasonable grounds to believe that a child is in need of protection;
- (e) an agreement as to the lawyer's rate of remuneration and terms of payment;
- (f) an agreement as to the circumstances in which family law mediation or parenting coordination will terminate.

Obligations of family law arbitrator

- 5. A lawyer who acts as a family law arbitrator and the participants must, before the lawyer begins his or her duties as family law arbitrator, enter into a written agreement that includes at least the following provisions:
 - (a) an agreement that the lawyer, throughout the family law arbitration, is not acting as legal counsel for any participant;
 - (b) an acknowledgment that the lawyer must report to the Director of Family and Child Services any instance arising from the family law arbitration in which the lawyer has reasonable grounds to believe that a child is in need of protection;
 - (c) an agreement as to the lawyer's rate of remuneration and terms of payment,

Lawyer with dual role

- 6. A lawyer who is empowered to act as both family law mediator and family law arbitrator in a dispute resolution process must explain the dual role to the participants in writing and must advise the participants in writing when the lawyer's role changes from one to the other.
- 7. A parenting coordinator who may act as a family law mediator as well as determine issues in a dispute resolution process must explain the dual role to the participants in writing and must advise the participants in writing when the lawyer's role changes from one to the other.

2.3 Non-practising and retired members as designated paralegals

BE IT RESOLVED to amend the Law Society Rules by rescinding Rule 2-4.2 and substituting the following:

Legal services by non-practising and retired members

- 2-4.2** Despite an undertaking given under Rule 2-3(1)(a) [*Non-practising members*] or 2-4(2)(a) [*Retired members*], a non-practising or retired member may
- (a) provide pro bono legal services, or
 - (b) act as a designated paralegal under Rule 2-9.2.

2.4 Tariff costs for credentials hearings

BE IT RESOLVED to amend the Law Society Rules as follows:

1. In Rule 5-9

(a) by rescinding subrules (1.1) and (1.2) and substituting the following:

5-9 (1.1) Subject to subrule (1.2), the panel or review board must have regard to the tariff of costs in Schedule 4 to these Rules in calculating the costs payable by an applicant, a respondent or the Society in respect of a hearing on an application or a citation or a review of a decision in a hearing on an application or a citation.

(1.2) If, in the judgment of the panel or review board, it is reasonable and appropriate for the Society, an applicant or a respondent to recover no costs or costs in an amount other than that permitted by the tariff in Schedule 4, the panel or review board may so order.; ***and***

(b) in subrule (1.4)(b), by striking “one-half the number of units applies.” and substituting “one-half the number of units or amount payable applies.”.

2. In Schedule 4,

(a) by striking the title of the Schedule and substituting the following:

SCHEDULE 4 – TARIFF FOR HEARING AND REVIEW COSTS;

(b) by striking the heading of column 3 of the table and substituting “Number of units or amount payable”; and

(c) *by adding the following rows to the table:*

| | | |
|-----|-----------------------------|---------|
| | Credentials hearings | |
| 24. | Each day of hearing | \$2,000 |

3. Lawyers Assistance Program – Update

Mr. Vertlieb introduced Derek LaCroix, QC Executive Director of the Lawyers Assistance Program (LAP) since 1996. Mr. LaCroix reviewed LAP’s history, pointing out that the peer-based support program relies on a province-wide network of about 400 volunteers, on the support of the Law Society and its membership. Mr. LaCroix noted that individual Benchers can facilitate LAP’s work in two ways:

- Confidential outreach
 - advising LAP confidentially when becoming aware that a Law Society member is experiencing personal difficulty
- Changing the culture of the profession (replacing shame with pride)
 - encouraging lawyers to speak out openly about their difficult experiences
 - leading by example

Mr. LaCroix introduced Mr. Bill Younie, President of the Lawyers Assistance Program for 2013. Mr. Younie commented on the importance of the commitment and support to LAP shown by the Law Society and the legal profession over the years. Mr. Younie described LAP as Canada’s “gold standard” for lawyers assistance programs, noting that Mr. LaCroix is frequently looked to for advice and guidance by other programs throughout Canada and the United States.

Mr. Younie introduced two LAP volunteers, who spoke movingly about their own challenging experiences and the importance of LAP’s support to them.

4. Approval of the Federation National Competency Profile – Report of the Credentials Committee and the Lawyer Education Advisory Committee

Mr. Petrisor briefed the Benchers as Chair of the Credentials Committee on the background of the proposed National Entry-Level Practice Competency Profile (the Competency Profile, pages 4008-4013 of the meeting materials and Appendix 1 to these minutes). Mr. Petrisor noted the alignment of the proposed profile and resolution with the current Strategic Plan.

Mr. Petrisor advised that the proposed Competency Profile was reviewed and approved by the Credentials Committee and the Lawyer Education Advisory Committee on December 6, 2012, with both Committees recommending that the Benchers approve the following resolution:

***RESOLVED:** to approve the Competency Profile on the understanding that implementation will be based on a nationally accepted implementation plan, and to support the development of that plan.*

Mr. Petrisor moved (seconded by Mr. Walker) that Benchers resolve to approve the Competency Profile on the understanding that implementation will be based on a nationally accepted implementation plan, and to support the development of that plan.

Mr. Petrisor confirmed that the recommendation that the Benchers approve the resolution is on the express understanding that adoption is subject to the development and law societies approval of a consistent national plan for implementation.

The motion was carried unanimously.

5. CBA Access to Justice Project: *Envisioning Equal Justice*

Mr. MacLagan reported as Chair of the Access to Legal Services Advisory Committee, briefing the Benchers on the CBA Access to Justice Project: *Envisioning Equal Justice*. He referenced the consultation paper published by the CBA's Standing Committee on Access to Justice (page 5003 of the meeting materials), particularly the list of discussion questions at page 5023. Mr. MacLagan noted that the Law Society has been requested to provide written responses to the questions. He referred the Benchers to draft responses prepared by Mr. Lucas and Mr. Munro (pages 5029-5032).

Mr. MacLagan advised that the Access to Legal Services Advisory Committee would like to respond in a positive spirit on the themes set out in the questions: reviewing what the Advisory Committee and the Law Society have already done in the areas of enhancing access to legal services (including pro bono); noting the Law Society's enthusiasm to participate in the *Envisioning Equal Justice Summit: Building Justice for Everyone* (April 25-27, 2013, in

Vancouver); but not providing a detailed policy response at this stage. He asked for the Benchers' direction to the Advisory Committee.

The Benchers reached consensus as follows:

- affirming the approach proposed by Mr. MacLagan on behalf of the Access to Legal Services Advisory Committee
- confirming that the Law Society's participation in the *Envisioning Equal Justice Summit* should be coordinated by the Access to Legal Services Advisory Committee
 - returning to the Benchers for further direction should the Law Society's involvement become major

6. Nominations to 2013 Finance Committee

Mr. Vertlieb reported that the Rules require two elected Benchers and one appointed Bencher to be nominated to the current year's Finance Committee. If more than two elected Benchers and one appointed Bencher are nominated, the Benchers are to make the selections by secret ballot at their first meeting of the year. Mr. Vertlieb confirmed that Mr. MacLagan and Mr. Renwick have been nominated as elected Benchers, and Mr. Acheson has been nominated as an appointed Bencher.

Upon asking the Benchers whether there were any further nominations and hearing none, Mr. Vertlieb confirmed the nomination of Bill MacLagan, David Renwick, QC and Haydn Acheson to the 2013 Finance Committee, effective immediately.

7. 2012 – 2014 Strategic Plan Implementation Update

Mr. McGee briefed the Benchers, noting that an update on progress toward implementation of the 2012 – 2014 Strategic Plan will be a standing item on the Bencher meeting agendas for the balance of the year. He described the three over-arching goals that provide the foundation for the plan's various strategies and initiatives:

- *The Law Society will be a more innovative and effective professional regulatory body*
- *The public will have better access to legal services*

- *The public will have greater confidence in the administration of justice and the rule of law*

Mr. McGee outlined the initiatives currently underway (see Appendix 2 to these minutes for an annotated version of the Strategic Plan, summarizing the status of those initiatives as at December 2012).

Deputy Attorney General Richard Fyfe, QC commented on the alignment of the Ministry of Attorney General's current objectives and the Law Society's three strategic goals.

8. President's Report ("The Road Ahead")

Mr. Vertlieb provided the Benchers with an outline of the priorities and topics upon which he intends to focus as the Law Society's President for 2013:

a. President's Three Priorities for 2013

- supporting the Family Law Paralegal Pilot Projects
- supporting the Legal Services Provider Task Force in its efforts to report to the Benchers with recommendations by the end of 2013
- supporting the Law Society's development of a program to regulate law firms

b. Law Society Committees

- Chairs of the 2012 Committees were thanked for their dedication and leadership over the past years
- Chairs of the 2013 Committees were thanked for their readiness to share the heavy responsibilities they have undertaken
- Importance of providing opportunities to newer Benchers to better engage their diverse skills and experience
- Briefing sessions for the Chairs and Vice-Chairs of the 2013 Committees were conducted in January

c. Bencher and Committee Meeting Governance

- Value of consensus was noted
- Value of publication of target end times for meetings in agendas was noted
- Chairs were encouraged
 - to approve meeting agendas
 - to assume that all attendees have read the meeting materials in advance
 - to elicit full participation by attendees in committee meetings

Mr. Vertlieb recognized First Vice-President Jan Lindsay, QC, for being honoured with the 2013 Women's Law Forum Award of Excellence.

9. CEO's Report

Mr. McGee provided highlights of his monthly written report to the Benchers (Appendix 3 to these minutes), including the following matters:

- Operational Priorities for 2013
 1. Review and Renewal of Management Structure
 2. Lawyer Advice and Support Project
 3. Support for Legal Service Provider Task Force
 4. Regulation of Law Firms – Policy and Operational Assessment
 5. Implementation of Governance Review Task Force Report
- New Recognition and Rewards Program (RRex)
- Justice Summit Steering Committee Update
- Continuing Professional Development (CPD) Program Update
- 2012 Employee Survey
- CLE – TV Code of Conduct Course

9(a) 2012 Employee Survey Report

Mr. McGee invited Ryan Williams, President of TWI Surveys Inc., to review the results of the 2012 Law Society Employee Survey with the Benchers. Mr. Williams outlined the survey's seven-year history and methodology, noting that the 2012 response rate of almost 85 per cent is an all-time for the Law Society, and that any response rate over 80 per cent is excellent participation in an employee survey. Mr. Williams analyzed the 2012 results, identified areas of strength and opportunity for improvement, and answered questions from the Benchers.

10. 2011 Regulatory Plan: Implementation Update

Ms. Armour reported as Chief Legal Officer, providing an update on progress made in implementing the Law Society Regulatory Plan approved by the Executive and Finance Committees in March 2011. Ms. Armour briefed the Benchers on the successes and challenges to date including offering solutions for those challenges.

Ms. Armour highlighted the significance of the increased effectiveness of the Intake and Early Resolution Department in ensuring appropriate outcomes on cases that are not going to discipline; the valuable contributions of the Discipline Guidelines Task Force; and the relationship between increased focus on face-to-face interviewing and improved evidentiary quality of investigations.

Ms. Armour also noted that while much progress has been made, there is still room for improvement.

11. Council of the Federation of Law Societies of Canada: Report by the Law Society's Council Representative

This matter was deferred to the *in camera* session.

12. Reports on Outstanding Hearing & Review Reports

The Benchers received and reviewed a report on outstanding hearing decisions.

The Benchers discussed other matters *in camera*.

National Admission Standards Project



National Entry to Practice Competency Profile for Lawyers and Quebec Notaries

September, 2012



NATIONAL ENTRY TO PRACTICE COMPETENCY PROFILE FOR LAWYERS AND QUEBEC NOTARIES

1. SUBSTANTIVE LEGAL KNOWLEDGE

All applicants are required to demonstrate a general understanding of the core legal concepts applicable to the practice of law in Canada in the following areas:

1.1. Canadian Legal System

- (a) The constitutional law of Canada, including federalism and the distribution of legislative powers
- (b) The Charter of Rights and Freedoms
- (c) Human rights principles and the rights of Aboriginal peoples of Canada and in addition for candidates in Quebec, the Quebec Charter of Human Rights and Freedoms
- (d) For candidates in Canadian common law jurisdictions, key principles of common law and equity. For candidates in Quebec, key principles of civil law
- (e) Administration of the law in Canada, including the organization of the courts, tribunals, appeal processes and non-court dispute resolution systems
- (f) Legislative and regulatory system
- (g) Statutory construction and interpretation

1.2 Canadian Substantive Law

- (a) Contracts and in addition for candidates in Quebec: obligations and sureties
- (b) Property
- (c) Torts
- (d) Family, and in addition for lawyers and notaries in Quebec, the law of persons
- (e) Corporate and commercial
- (f) Wills and estates
- (g) Criminal, except for Quebec notary candidates
- (h) Administrative
- (i) Evidence (for Quebec notaries, only as applicable to uncontested proceedings)
- (j) Rules of procedure
 - i. Civil
 - ii. Criminal, except for Quebec notary candidates
 - iii. Administrative
 - iv. Alternative dispute resolution processes

- (k) Procedures applicable to the following types of transactions:
 - i. Commercial
 - ii. Real Estate
 - iii. Wills and estates

1.3 Ethics and Professionalism

- (a) Principles of ethics and professionalism applying to the practice of law in Canada

1.4 Practice Management

- (a) Client development
- (b) Time management
- (c) Task management

2. SKILLS

All applicants are required to demonstrate that they possess the following skills:

2.1 Ethics and Professionalism Skills

- (a) Identifying ethical issues and problems
- (b) Engaging in critical thinking about ethical issues
- (c) Making informed and reasoned decisions about ethical issues

2.2 Oral and Written Communication Skills

- (a) Communicating clearly in the English or French language, and in addition for candidates in Quebec, the ability to communicate in French as prescribed by law
- (b) Identifying the purpose of the proposed communication
- (c) Using correct grammar and spelling
- (d) Using language suitable to the purpose of the communication and the intended audience
- (e) Eliciting information from clients and others
- (f) Explaining the law in language appropriate to audience
- (g) Obtaining instructions
- (h) Effectively formulating and presenting well-reasoned and accurate legal argument, analysis, advice or submissions
- (i) Advocating in a manner appropriate to the legal and factual context. This item does not apply to applicants to the Chambre des notaires du Québec
- (j) Negotiating in a manner appropriate to the legal and factual context

2.3 Analytical Skills

- (a) Identifying client's goals and objectives
- (b) Identifying relevant facts, and legal, ethical, and practical issues
- (c) Analyzing the results of research
- (d) Identifying due diligence required
- (e) Applying the law to the legal and factual context
- (f) Assessing possible courses of action and range of likely outcomes
- (g) Identifying and evaluating the appropriateness of alternatives for resolution of the issue or dispute

2.4 Research Skills

- (a) Conducting factual research
- (b) Conducting legal research including:
 - i. Identifying legal issues
 - ii. Selecting relevant sources and methods
 - iii. Using techniques of legal reasoning and argument, such as case analysis and statutory interpretation, to analyze legal issues
 - iv. Identifying, interpreting and applying results of research
 - v. Effectively communicating the results of research
- (c) Conducting research on procedural issues

2.5 Client Relationship Management Skills

- (a) Managing client relationships (including establishing and maintaining client confidence and managing client expectations throughout the retainer)
- (b) Developing legal strategy and advising client in light of client's circumstances (for example, diversity, age, language, disability, socioeconomic, and cultural context)
- (c) Advising client in light of client's circumstances (for example, diversity, age, language, disability, socioeconomic, and cultural context)
- (d) Maintaining client communications
- (e) Documenting advice given to and instructions received from client

2.6 Practice Management Skills

- (a) Managing time (including prioritizing and managing tasks, tracking deadlines)
- (b) Delegating tasks and providing appropriate supervision
- (c) Managing files (including opening/closing files, checklist development, file storage/destruction)
- (d) Managing finances (including trust accounting)
- (e) Managing professional responsibilities (including ethical, licensing, and other professional responsibilities)

3. TASKS

All applicants are required to demonstrate that they can perform the following tasks:

3.1 GENERAL TASKS

3.1.1 Ethics, professionalism and practice management

- (a) Identify and resolve ethical issues
- (b) Use client conflict management systems
- (c) Identify need for independent legal advice
- (d) Use time tracking, limitation reminder, and bring forward systems
- (e) Use systems for trust accounting
- (f) Use systems for general accounting
- (g) Use systems for client records and files
- (h) Use practice checklists
- (i) Use billing and collection systems

3.1.2 Establishing client relationship

- (a) Interview potential client
- (b) Confirm who is being represented
- (c) Confirm client's identity pursuant to applicable standards/rules
- (d) Assess client's capacity and fitness
- (e) Confirm who will be providing instructions
- (f) Draft retainer/engagement letter
- (g) Document client consent/instructions
- (h) Discuss and set fees and retainer

3.1.3 Conducting matter

- (a) Gather facts through interviews, searches and other methods
- (b) Identify applicable areas of law
- (c) Seek additional expertise when necessary
- (d) Conduct legal research and analysis
- (e) Develop case strategy
- (f) Identify mode of dispute resolution
- (g) Conduct due diligence (including ensuring all relevant information has been obtained and reviewed)
- (h) Draft opinion letter
- (i) Draft demand letter
- (j) Draft affidavit/statutory declaration
- (k) Draft written submission
- (l) Draft simple contract/agreement
- (m) Draft legal accounting (for example, statement of adjustment, marital financial statement, estate division, bill of costs)
- (n) Impose, accept, or refuse trust condition or undertaking
- (o) Negotiate resolution of dispute or legal problem
- (p) Draft release
- (q) Review financial statements and income tax returns

3.1.4 Concluding Retainer

- (a) Address outstanding client concerns
- (b) Draft exit/reporting letter

3.2 ADJUDICATION/ALTERNATIVE DISPUTE RESOLUTION

3.2.1. All applicants, except for applicants for admission to the Chambre des notaires du Québec, are required to demonstrate that they can perform the following tasks:

- (a) Draft pleading
- (b) Draft court order
- (c) Prepare or respond to motion or application (civil or criminal)
- (d) Interview and brief witness
- (e) Conduct simple hearing or trial before an adjudicative body

3.2.2 All applicants are required to demonstrate that they can perform the following tasks:

- (a) Prepare list of documents or an affidavit of documents
- (b) Request and produce/disclose documents
- (c) Draft brief

The Law *of British Columbia*

2012 – 2014 Strategic Plan

Status Update as at December 2012

For: The Benchers
Date: December 7, 2012

Purpose of Report: Discussion
Prepared on behalf of the Executive Committee

INTRODUCTION

Section 3 of the *Legal Profession Act* states that the mandate of the Law Society is to uphold and protect the public interest in the administration of justice by:

- (i) preserving and protecting the rights and freedoms of all persons;
- (ii) ensuring the independence, integrity and honour of its members; and
- (iii) establishing standards for the education, professional responsibility and competence of its members and applicants for membership.

To carry out its mandate effectively, the Law Society must keep in mind the interests and concerns of all parties that engage the justice system. This includes the public generally, users of the legal systems (both individual and corporate), courts, governments, and lawyers.

The Benchers have created a process to plan for and prioritize strategic policy development to properly meet the mandate of the Society and to optimize staff resources.

Through this process, the Benchers identified three principal goals and related strategies that the Law Society should pursue over the next three years. In identifying these goals, strategies and initiatives, the Benchers have been mindful not only of what the role of the Law Society is in relation to its mandate, but also of what may be achievable within that mandate.

The goals, strategies and initiatives set out in this strategic plan are in addition to the overall operations of the Law Society's core regulatory programs, such as discipline, credentials, and practice standards. These programs are fundamental to fulfilling the Law Society's mandate and will always be priorities for the Law Society.

The plan will be reviewed on an annual basis during its three year term to ensure that the strategies and initiatives remain appropriate and to address any additional strategies or initiatives that may be necessary in light of changing circumstances.

Law Society Goals

1. The Law Society will be a more innovative and effective professional regulatory body.
2. The public will have better access to legal services.
3. The public will have greater confidence in the administration of justice and the rule of law.

GOAL 1: The Law Society will be a more innovative and effective professional regulatory body.

The Law Society recognizes that it is important to encourage innovation in all of its practices and processes in order to continue to be an effective professional regulatory body. The following strategies and initiatives will ensure that the Law Society continues to improve in delivering on its regulatory responsibilities.

Strategy 1 – 1

Regulate the provision of legal services effectively and in the public interest.

Initiative 1-1(a)

Consider ways to improve regulatory tools and examine whether the Law Society should regulate law firms.

Status – December 2012

It was anticipated that work on this Initiative would begin in 2013. In the meantime, the Legal Profession Act has been amended to permit the regulation of law firms. It is now anticipated that staff will begin some initial examination of this topic in the Fall of 2012 in anticipation of more detailed policy consideration by the Benchers in 2013.

Initiative 1-1(b)

Examine the relationship between the Law Society as the regulator of lawyers and the Law Society as the insurer of lawyers.

Status – December 2012

The Rule of Law and Lawyer Independence Advisory Committee has been meeting regularly and this topic has been the focus its agenda. The committee is nearing the end of its examination of this topic, and it is anticipated that it will present its report, with a description of options, in early 2013.

Initiative 1–1(c)

Examine whether the Law Society should regulate just lawyers or whether it should regulate all legal service providers.

Status – December 2012

Each of the Rule of Law and Lawyer Independence and the Access to Legal Services Advisory Committees began deliberations on different aspects of this initiative in early 2012. However, in order to better co-ordinate the policy development and analysis, the benchers resolved at their July meeting to create a separate Task Force to address this initiative. Appointments have been made to the Task Force and it held its first meeting on December 4, 2012.

Strategy 1 - 2

Identify and develop processes to ensure continued good governance.

Initiative 1–2(a)

Examine issues of governance of the Law Society generally including:

- identifying ways to enhance Bencher diversity;
- developing a model for independent evaluation of Law Society processes;
- creating a mechanism for effective evaluation of Bencher performance and feedback.

Status – December 2012

This initiative has been divided into separate tasks:

- *the Governance Task Force has taken the lead on a review of governance processes generally within the Law Society, and its report is being represented at the December Benchers meeting;*
- *the issue of Bencher diversity was actively considered at the Bencher governance retreat and will be considered further by the Governance Committee as it works through the recommendations and implementation of the governance review;*
- *work on the development of a model for the independent evaluation of Law Society processes has been undertaken by the Chief Executive Officer in consultation with the President and last year's President, following debate and recommendations on this topic by the Executive Committee in connection with the 2009 – 2011 Strategic Plan. Further*

work was put in abeyance pending the report of the Governance Review Task Force in December 2012.

Strategy 1–3

Ensure that programs are available to assist lawyers with regulatory and workplace changes.

Initiative 1-3(a)

Work with continuing professional development providers to develop programs about the new Code of Conduct.

Status – December 2012

The Law Society and the Continuing Legal Education Society of BC have agreed to a joint endeavour to plan and deliver education on the new BC Code of Conduct, which will be available to all BC lawyers free of charge using a variety of delivery methods. The Law Society will reimburse the CLE Society for its direct out of pocket expenses. The Law Society website will also feature an Annotated BC Code of Conduct as well as a guide to the BC Code of Conduct that will compare key features of the current Handbook to the new Code.

Initiative 1-3(b)

Improve uptake of Lawyer Wellness Programs.

Status – December 2012

Development of this initiative has been undertaken in the Practice Standards Department . The Committee has created a Working Group under Catherine Sas' leadership, and recommendations will be presented to the Committee at a later date. A report from the Committee to the Benchers will follow.

Strategy 1– 4

Ensure that admission processes are appropriate and relevant.

Initiative 1–4(a)

Work on national admission standards while considering the rationale and purpose of the overall admission program.

Status – December 2012

The Lawyer Education Advisory Committee is keeping abreast of national developments on examining admission national standards and related procedures, which is underway under the auspices of the Federation of Law Societies of Canada. That work has result in a national competencies profile which is now being reviewed by a working group made up of members of the Credentials and the Lawyer Education Advisory Committees. The Federation is also developing national standards for character and fitness, and proposals for implementation, which will be presented to and considered by the law societies at a later date.

The Advisory Committee will begin an active review of the Law Society admission program following the consideration by the Benchers of the national competencies profile.

Initiative 1–4(b)

Consider qualification standards or requirements necessary for the effective and competent provision of differing types of legal services.

Status – December 2012

Work on this initiative is not expected to commence until 2013.

GOAL 2: The public will have better access to legal services.

The Law Society recognizes that one of the most significant challenges in any civil society is ensuring that the public has adequate access to legal advice and services. The Law Society has identified a number of strategies to respond to this challenge over the next three years and will continue to gather demographic data about lawyers to inform these strategies.

Strategy 2–1

Increase the availability of legal service providers.

Initiative 2–1(a)

Consider ways to improve the affordability of legal services:

- continue work on initiatives raised by recommendations by the Delivery of Legal Services Task Force;
- identify and consider new initiatives for improved access to legal services.

Status – December 2012

Implementation of the recommendations of the Delivery of Legal Services Task Force continues. The Supreme and Provincial Courts of British Columbia have agreed to the pilot project in Family Law proposed to them (to commence January 1, 2013), and an evaluation process has been developed. The Benchers approved the necessary changes to the Professional Conduct Handbook.

The Access to Legal Services Advisory Committee continues to examine the issues concerning access to justice and legal services that require action by the Law Society, with a particular focus on Justice Access Centres and Pro Bono Delivery Clinics.

Initiative 2–1(b)

Support the retention of women lawyers by implementing the *Justicia* Project.

Status – December 2012

Work on Phase 1 on implementation of the Justicia project has begun, with a Managing Partners Summit national firms with offices in British Columbia and larger regional firms having been held at the Vancouver offices of Gowlings on November 20.

Initiative 2–1(c)

Support the retention of Aboriginal lawyers by developing and implementing the Indigenous Lawyer Mentoring Program.

Status – December 2012

Phase 1 of the Indigenous Lawyer Mentoring Program was completed, and a report was presented to the Benchers on July 13 detailing best practice guidelines for mentoring Aboriginal lawyers. The report proposed a model on which a Mentoring Program can be developed that outlines a vision, goals and guiding principles. Phase 2 has been delayed due to staffing issues, but is to begin as soon as staffing is in place.

Strategy 2–2

Improve access to justice in rural communities.

Initiative 2–2(a)

Develop ways to address changing demographics of the legal profession and its effects, particularly in rural communities.

Status – December 2012

Work on this initiative is planned to commence in 2013.

Initiative 2–2(b)

Develop ways to improve articling opportunities in rural communities.

Status – December 2012

Work on this initiative is planned to commence in 2014 and will analyse the results from the REAL program.

Strategy 2–3

Understand the economics of the market for legal services in British Columbia.

Initiative 2–3(a)

Work collaboratively with other stakeholders in the legal community to identify questions that need to be answered and engage, with others, in focused research.

Status – December 2012

In the implementation plan for this initiative, the initial work was assigned to staff to determine what work on this subject other stakeholders in the legal community were developing. After discussions with the Law Foundation, which is undertaking an examination relating to economic analysis of certain aspects of the justice system in conjunction with the Legal Services Society, it has been determined that the focus of their research is not focused on the market for legal services.

A staff group has therefore met to discuss what sort of research and issues could be examined in order to gather information to create a better understanding of the economics of operating a law practice and the market for legal services. A report will be presented at a later date to determine the feasibility of continuing with this initiative as drafted. It is also anticipated that market analysis will be part of the research that the Legal Services Provider Task Force will be looking for when addressing the mandate it has been given by the Benchers.

GOAL 3: The public has greater confidence in the administration of justice and the rule of law.

The rule of law, supported by an effective justice system, is essential to a civil society. This requires public confidence in both the rule of law and the administration of justice. The Law Society recognizes the importance of working with others to educate the public about the rule of law, the role of the Law Society in the justice system and the fundamental importance of the administration of justice.

Strategy 3–1

Develop broader and more meaningful relationships with stakeholders.

Initiative 3–1(a)

Identify, establish and build on relationships with the Ministry of Attorney General and other government ministries, the Courts, and non-governmental stakeholders.

Status – December 2012

Work has been undertaken at the Benchers and staff level and has resulted in meetings with the Minister of Justice and Attorney General and her senior staff on a number of occasions. A meeting in Victoria with policy staff in various government ministries together with the Chief Executive Officer and Law Society policy and communication staff has also taken place. Future meetings are being arranged to keep the lines of communication relevant and open.

Strategy 3–2

Educate the public about the importance of the rule of law, the role of the Law Society and the role of lawyers.

Initiative 3–2(a)

Identify methods to communicate through media about the role of the Law Society, including its role in protecting the rule of law.

Status – December 2012

To increase awareness of the Law Society and the Rule of Law, a number of initiatives have been completed. A dedicated webpage has been created and is updated regularly. During Law Week, the Law Society's "Day-in-the-Life" Twitter campaign was run and promoted. Other proactive media relations efforts, such as a news conference in Prince George and appearances on the

CBC's Early Edition to discuss events or Law Society initiatives have also resulted in coverage of the Law Society and the opportunity to profile the work of the organization to hundreds of thousands of British Columbians. Staff are currently working with Courthouse Libraries to add content and links from the Law Society to Clicklaw and additional exposure is expected with the January rollout of the paralegals initiative. The infrastructure to support the new Speakers' Bureau is almost complete with the next step being to incorporate willing Benchers into the roster of available speakers.



CEO's Report to the Benchers

January 25, 2013

Prepared for: Benchers
Prepared by: Timothy E. McGee

Introduction

This is my first CEO's report to the Benchers for 2013 and I would like to wish you all the very best for the New Year. I would also like to extend a warm welcome on behalf of all the staff to our new President Art Vertlieb, QC and to both our new and returning Benchers. We look forward to working with all of you in the coming year.

In my first report each year I present management's top five operational priorities for the ensuing year. These priorities, which for 2013 are set out below, have been developed in consultation with the Management Board and have been reviewed and discussed with President Vertlieb. I have also met with Art to review his Presidential priorities for 2013, which he will speak to at the Bencher meeting.

Operational Priorities for 2013

At the start of each year I outline management's top five operational priorities for the next twelve months. I always emphasize that these do not derogate from our day-to-day responsibility to perform all of our core regulatory functions to the highest standards. However, in each year there are items that require extra attention and focus to ensure success. The top five operational priorities (in no particular order) for management in 2013 are as follows:

1. Review and Renewal of Management Structure

The recent report of the Governance Review Task Force set out a comprehensive set of recommendations for improved governance of the Law Society. Some of those recommendations deal with the important relationship between Benchers and staff but the report did not focus on management structure, organization and decision making processes.

The way management is organized, operates and makes decisions today is based upon a structure that I introduced with the support of my senior managers in 2007. Over the past five years it has served us well, but management is undertaking a review to consider how it can be improved upon to better meets our need in the future. For example, we are looking to provide staff with greater opportunities to demonstrate leadership skills and to participate in decision making at more senior levels. This will not only help to bring new and useful perspectives to management deliberations but will also assist in our goal to have more extensive succession planning at all levels of the organization. Another area that we will focus on is our increasing use of and need for project management capabilities. The recent success of the Core Process Review, the Leo project, RREx Program, and the Privacy Review, indicate that we accomplish much when we organize into project teams based upon staff interest and skills and supported by clear mandates. Our review will consider and assess the benefits of institutionalizing this

approach rather than leaving it as the ad hoc process it is today. I look forward to updating you on progress on this priority in the weeks ahead.

2. Lawyer Advice and Support Project

Excellent work was done at the staff level in 2012 in assessing the strengths and opportunities of our current model for delivering member advice and support services. This work followed a recommendation of the Core Process Review Report, which was based on the conclusion that as a regulator, it is very much in our interests to assist and support members to be aware of, understand, and comply with our regulatory standards. This is also very much in the interests of our members.

Today we provide a wide variety of assistance and support to members including online courses for the small firm practitioner, email alerts to the profession about frauds and scams, telephone practice advice about questions of professional responsibility, and in-house trust compliance seminars, to name a few. A priority for 2013 is to complete the staff task force recommendations addressing the following questions: what services are most useful, who can best deliver them and how are they best delivered. The recommendations will be presented to the Executive Committee by mid-year for review and determination of next steps.

3. Support for Legal Service Provider Task Force

The Legal Service Provider Task Force chaired by Bruce LeRose, QC has set an ambitious schedule to complete its work and to make recommendations to the Benchers by the end of this year. Beyond the normal staff support for the work of this Task Force (which is ably led by Michael Lucas and Doug Munro), we will also be starting the important work of assessing the scope of the operational impacts and considerations that a new model of unified regulation for all legal service providers may present for the Law Society. Our goal is to ensure that the operational perspective and the policy options are developed as much as possible in tandem rather than sequentially. In this way, when the Task Force Report is presented to the Benchers for their consideration, there will also be a basic operational impact assessment to assist in deliberations and decision making. We will work with the Chair throughout the year to best coordinate these efforts.

4. Regulation of Law Firms – Policy and Operational Assessment

With the passage into law of the recent amendments to the *Legal Profession Act* the Law Society now has the statutory authority to regulate law firms as well as lawyers. The Benchers will most likely be addressing this topic in 2013 as part of the Strategic Plan implementation. While the exact nature and scope of this work has yet to be determined it is certain that operational

considerations will play an important part in assessing options and formulating recommendations. As a management team, we are committed to ensuring that we provide the best possible support for this work in 2013 on a priority basis.

5. Implementation of Governance Review Task Force Report

The list of recommendations that has been passed to the newly constituted Governance Committee for implementation is impressive but also daunting. The work of the Committee for 2013 is already underway and I have assured President Vertlieb as Chair of the Committee that all aspects of implementation touching on operations will be a priority for management in 2013.

While the foregoing are our top operational priorities for 2013 I would be remiss if I did not mention that we will also be very focused on ensuring that we have the capability to assist the Benchers in properly assessing the recommendations regarding new national admissions standards, which are expected within the year from the Federation Task Force.

New Recognition and Rewards Program (RRex)

RRex is the acronym for our newly redesigned program for recognizing and rewarding employee excellence. It will be officially launched at the all staff Town Hall meeting next Tuesday, January 29, as the new basis for recognizing and rewarding excellence in job performance and employee contributions. RRex is a remarkable program for at least two reasons. First, it has been built from the ground up; that is, we have surveyed and consulted extensively with staff over the past year to ensure that the program is responsive to the types of incentives and recognition that will motivate performance, innovation and teamwork. Second, because of the extensive external research we have done on this topic, we have also been able to design the program based upon the best features of successful programs elsewhere, while also ensuring it is appropriate for our needs.

I am attaching as Appendix "A" a presentation which was reviewed with the Executive Committee at its last meeting for your information. I would be pleased to answer any questions you may have regarding the new RRex program at the meeting.

Justice Summit Steering Committee Update

I have been appointed to a Steering Committee that has been established under the auspices of the Ministry of Justice and Attorney General to consider how best to pursue the recommendation in the recent *White Paper on Justice Reform - Part one: A Modern, Transparent Justice System* for an annual Justice Summit among justice

system stakeholders. There have been two meetings of the Steering Committee to date and discussions have been largely exploratory in nature. I expect that there will be several additional meetings before a consensus is reached on the best structure for this new initiative.

Continuing Professional Development (CPD) Program – Update

Here is a brief update on the statistics for our CPD program.

Of the 10,687 lawyers who had CPD requirements to report in 2012, 371 did not report year end completion (a 36% decrease from 2011) and as at January 21, 2013, 192 had still not recorded completion and are overdue (down 37% from 2011). Overall, 2012 continues a very strong trend of increasing compliance by the members with the CPD requirements since inception.

2012 Employee Survey

Our seventh consecutive employee survey was conducted in November of 2012.

We had a record high response rate for the survey and I think you will find the results both interesting and encouraging on several fronts. Ryan Williams, President of TWI Surveys Inc., the survey administrators, will be at the meeting to provide an overview of the results and to respond to any questions.

CLE -TV Code of Conduct Course

Thank you to everyone who participated in the December 2012 *Code of Conduct* training session led by Gavin Hume, QC. Those of you who weren't able to attend that session may want to take part in the three part CLE-TV *Code of Conduct* webcast course, which is jointly offered (free of charge) by the Continuing Legal Education Society and the Law Society to all members of the legal profession. Part I of the webcast series is scheduled for January 29, 2013.

A special thanks goes to the Continuing Legal Education Society, Gavin Hume QC and Practice Advisors Lenore Rowntree and Barbara Buchanan for developing and leading these webcasts, which have received overwhelmingly positive feedback.

Timothy E. McGee
Chief Executive Officer

The Law Society

of British Columbia



A Thriving Workplace

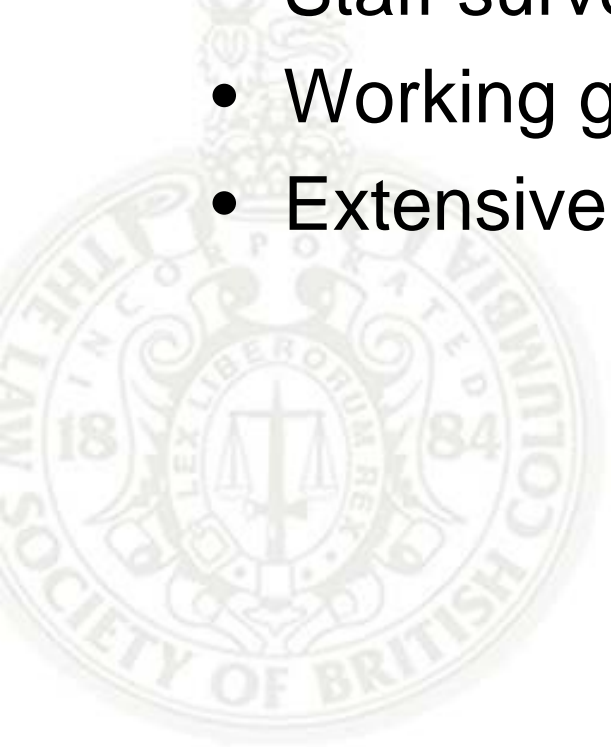
A New Approach to Recognition and Rewards

Presentation – Executive Committee
January 10, 2013



Development

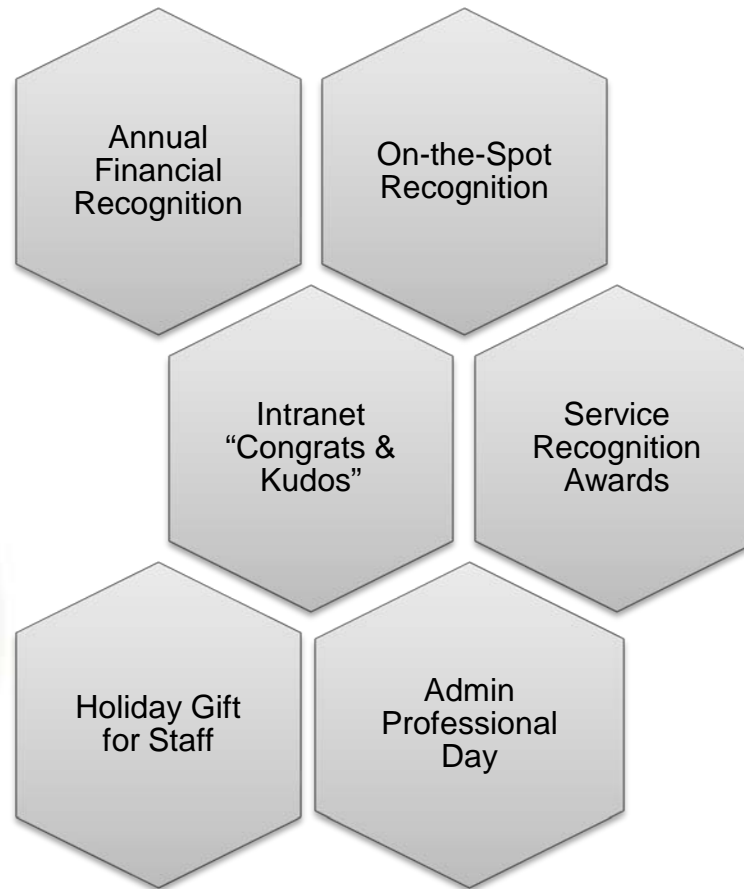
- Management group retreat in 2012
- Staff survey
- Working group
- Extensive consultation with managers



Program Goals

- To provide appropriate recognition of achievement at all levels of the organization.
- To incorporate feedback from managers and staff.
- To build a culture of recognition and appreciation at the Law Society.

Previous Program



Suggested Changes

- Expand on-the-spot recognition opportunities
- Clarify annual cash awards
- Incorporate peer-to-peer opportunities
- Expand award options
- Improve clarity and transparency of program
- Incorporate “Thriving Professional” concept
- Ensure focus on Law Society mandate
- Consider best practices
- Introduce a high-profile award for “corporate citizenship”
- Reward innovation

Program Name



R²EX

(Recognizing and Rewarding Excellence)

Building a Culture of Recognition

Annual Performance Awards

Top Performers

Above and Beyond

Strong Performers

Annual Thriving Awards

Thriving Professional

Rex-on-the-Spot
(Management)

Rex-on-the-Spot
(Peer-to-Peer)

Golden Lion Award
(Peer-to-Peer)

Innovation Lottery

Society Awards

Service Recognition Awards

Admin Professionals Recognition

Holiday Gift

Rex Day

Everyday Recognition Activities

(reinforced by management training, new hire on-boarding, intranet kudos, and employee handbook, etc.)

Annual Performance Awards



Purpose

Recognize and reward those who have performed at a consistently top level during the year, or made a significant contribution beyond the normal job expectations.

Criteria

Management and staff will be eligible for reward as Top Performers, Above and Beyond, Strong Performers and Annual Thriving Awards.

Annual Performance Awards

Top Performers

- Employee that significantly exceeds their expected performance standards for their position and meets all their individual goals.
- This very high level of performance occurs consistently throughout the year.
- Their top performance has a significant impact on the team, department or organization.
- Employee projects a positive attitude, shows initiative and demonstrates the qualities and attributes of a leader.



Annual Performance Awards

Above and Beyond

- Undertakes significant work outside of their normal duties and the expectations of the position.
- This significant work requires extraordinary effort.
- The results have a lasting impact on the team, department or organization and its long term mission.
- Employees must meet or exceed the expected performance standards for their position.

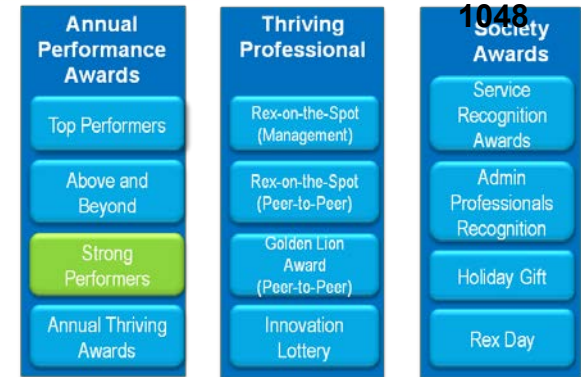


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Annual Performance Awards

Strong Performers

- Employee that exceeds their expected performance standards for their position.
- Annual individual performance goals are consistently exceeded.
- Employee that has a strong work ethic, a positive attitude, and a strong focus on what needs to be done to advance the contribution of the role.
- The strong performance has a significant impact on their team and its function.



Annual Performance Awards

Annual Thriving Awards

- Employee fully meets requirements and expectations and occasionally may exceed them.
- Employee contributes to the success of the team, work unit, and office.
- Individuals must exemplify the Thriving Professional attributes.
- Given to employees whose work and behaviour has a significant positive impact.
- Award: cash award with a value of \$500.



Thriving Professional

Purpose

Recognize and reward those who show the attributes of a Thriving Professional.

Attributes

- Positive attitude.
- Good teamwork and collaboration.
- Good “corporate” citizen.
- Always willing to get the job done.
- Constantly learning.
- Communicate their view diplomatically; open-minded.
- Demonstrate initiative, innovation and creativity.
- Promote interdepartmental cooperation.



Thriving Professional Awards



- **Rex-on-the-Spot (by manager):** Spontaneous recognition of demonstrated attributes (Gifts/gift cards: \$25-\$100).
- **Rex-on-the-Spot (peer-to-peer):** Recognition and thanks by peers (thank you cards/\$10 gift cards).
- **Golden Lion Award (peer-to-peer):** Recognition of an individual or team for outstanding achievement.
- **Innovation Lottery:** Ideas generated earn entry to lottery for year-end award.

Society Awards

Society Award Components:

- Service Recognition Awards
- Administrative Professionals' Day
- Holiday Gift for Staff
- Rex Day - Inspired Lion Award (Innovation) and Rex Award (Exemplary Contribution)



Service Recognition Awards

Purpose

Acknowledge and reward staff upon reaching milestone service dates.

Criteria

Awards are automatically granted at the following years of service: 1, 3, 5, 10, 15, 20, 25, and in 5-year increments afterwards.



Service Recognition Awards

Awards

- Additional day(s) off as per the schedule, only in the year when they hit each milestone.
- Employees with six+ years of service, who are not reaching a milestone service year in the first year of implementation, will receive a one-time award of the number of additional days off as per the schedule from the last milestone year that they have passed.

Schedule:

| | |
|-----------|--------|
| 5 years: | 1 day |
| 10 years: | 2 days |
| 15 years: | 3 days |
| 20 years: | 4 days |
| 25 years: | 5 days |
| 30 years: | 5 days |



Administrative Professionals' Day

Purpose

Recognize the contribution of all administrative staff.

Awards

Card and \$25 gift certificate.



Holiday Gift for Staff

Purpose

Seasonal celebration to recognize the contributions of all staff.

Awards

Card signed by manager and director, and a cash gift.

| Annual Performance Awards | Thriving Professional | 1056 Society Awards |
|---------------------------|----------------------------------|---------------------------------|
| Top Performers | Rex-on-the-Spot (Management) | Service Recognition Awards |
| Above and Beyond | Rex-on-the-Spot (Peer-to-Peer) | Admin Professionals Recognition |
| Strong Performers | Golden Lion Award (Peer-to-Peer) | Holiday Gift |
| Annual Thriving Awards | Innovation Lottery | Rex Day |

Rex Day

Purpose

Reinforce the Law Society's culture of recognition.
Includes: breakfast for all staff, Town Hall, barbecue, and awards presentation.

Awards

Inspired Lion Award (Innovation) and Rex Award (Exemplary Contribution) presented by CEO.

Customized non-monetary award (dinner, weekend away etc).



Inspired Lion Award



This category recognizes individuals/teams who have improved the efficiency of our operations or services that resulted in savings (internally and externally).

The successful individual/team must meet the following criteria:

- Develop a new tool, process, or design that significantly improved the organization either operationally or financially.

Rex Award (Non Management)



This category recognizes teams or individuals who have demonstrated a commitment to excellence in their work.

The following are examples of what the selection committee will be looking for:

- A high level of commitment to excellence in their work.
- Delivers consistent and concrete results.
- Supports the Law Society's ethics.
- Acts as an role model to other employees.
- Understands and fosters workplace wellbeing.

Process

Complete the Nomination Form

- Attach a one page description of how the nominee(s) meet the criteria for the category.
- Forward the Confidential Nomination forms to the attention of the HR Manager.

Completing the Nomination Form for a Team

- A team must consists of 2 or more people who work together for a common purpose or goal. Teams may be from the same department or can come from different departments.

Nomination Form for a team:

- Complete the Nomination Form.
- Complete the Team Member Information Sheet.
- Ensure you identify the team lead.

Selection Committee

- Chief Executive Officer will establish a Selection Committee.
- Committee Size: three managers and three non management employees.
- Four committee members will rotate off the team every two years.
- Two Committee members (one manager and one non manager) will stay on for an additional year.

The Law Society *of British Columbia*



Report to Benchers March 1, 2013

Governance Committee

Committee Members

Art Vertlieb, QC (Chair)
Jan Lindsay, QC (Vice-Chair)
Hayden Acheson
Rita Andreone, QC
Miriam Kresivo, QC
Stacy Kuiack
Ken Walker, QC

Purpose of Report: Decision and Information

Prepared by Executive Support

COMMITTEE PROCESS

1. The Executive Committee asked the Governance Committee to consider the Interim Report prepared by the Bencher Election Working Group and report to the Benchers regarding the recommendations contained in that report. At a special meeting of the Governance Committee on January 24th, the Committee reviewed and considered the recommendations contained in the Interim Report. The Committee agreed to report to the Benchers at the March 1, 2013 meeting regarding its recommendations.

FOR DECISION

Motion

2. That the Benchers refer to the members for discussion and decision at the next Annual General Meeting amendments to Law Society Rules to provide for:
 - a. Staggered Bencher election dates
 - b. A three year term for elected Benchers

Background

3. In April, 2011 the Executive Committee asked the Benchers to consider a number of governance issues. These issues ranged from the appointment of non-lawyers to Law Society committees to the system for electing Benchers and the term of office for which they are elected. They were divided into issues that the Executive Committee considered to be high and low priority and into issues that the Legal Profession Act requires the approval of the membership, and those that do not.
4. The Benchers approved the priorities assigned by the Executive Committee and referred most of the issues back to the Executive Committee for further action in accordance with the priority assigned. However, three issues were considered sufficiently complex that they should be referred to a separate group specially constituted to study the issues and report on them.
5. Gavin Hume, QC, President at that time, appointed a Bencher Election Working Group comprised of Brian J. Wallace, QC, as Chair, Patricia Schmit, QC and Patrick Kelly. All three were Life Benchers and not eligible for future election as a Bencher and were therefore expected to be impartial in consideration of the issues presented to the working group.
6. The three issues referred to the working group were:
 - a. Can or should Bencher turnover be addressed by staggering elections. A sub-issue was added by the Executive Committee as to how best to make the transition to staggered elections.
 - b. Should the length of the Bencher term of office be extended from two years to three or more.
 - c. Should Bencher electoral districts be revised for either or both of more equitable numerical representation, and better grouping of like communities in the same district?
7. Resolution of each of these issues would ultimately require that the membership approve any changes to the Rules. Section 12 of the *Legal Profession Act* requires that the members approve certain proposed changes to the Rules at a general meeting or in a referendum ballot before the Benchers could give them effect by amending the Law Society Rules.
8. At the Bencher Governance Retreat on October, 2012, the Benchers considered a number of recommendations by the Bencher Governance Task Force and there was a general consensus that a number of the recommendations should be referred to a Governance Committee for further development and consideration. The Benchers also agreed not to adopt some of the recommendations, including a recommendation that a certain number of Benchers be elected “at large” and that in the long term the Benchers should consider implementing structural change that would create a smaller and more effective governing body.

9. The Benchers Election Working Group prepared an Interim Report on the first two issues for consideration by the Benchers. A copy of the Interim Report was provided to the Benchers for information at their January 2013 meeting and is attached as Appendix A.
10. The Executive Committee at its January 2013 meeting agreed to ask the Governance Committee to consider the Interim Report in light of the mandate of the Governance Committee and the work with which it has been charged. At a special meeting of the Governance Committee on January 24th, the Committee reviewed and considered the recommendations contained in the Interim Report.

DISCUSSION OF THE ISSUE

11. The first recommendation from the Working Group is that the Law Society should conduct annual elections with the number of Benchers to be elected approximately equal to the total number of Benchers divided by the number of years in the term of office.
12. The Interim Report noted that every two years, there is a general election of Benchers and the terms of Appointed Benchers come to an end. In alternate years, an election is required to replace the out-going President and sometimes to replace other Benchers who have ceased to hold office. The Bencher Election Working Group noted that result is a disproportionate number of inexperienced Benchers every two years.
13. While noting that the Interim Report presented evidence of the disparity in numbers of new Benchers elected each year since 2002 and pointed out some of the disadvantages of the current election cycle, the Governance Committee questioned whether the consequences for the governance of the Law Society were necessarily as serious as presented. However, after considerable discussion, the Governance Committee reached a consensus that there was enough benefit to a more even electoral process to warrant recommending that the Benchers consider putting the matter to the members.
14. The second recommendation of the Working Group is that the term of office for all elected and appointed Benchers should be increased to three years and the term limit should be increased to allow three full terms in office.
15. The Interim Report noted that with the current two-year election term, Benchers have said that they barely learn all that they need to know as Benchers before it is necessary to seek re-election. Two year terms appear to be at the low end of term of office among law societies in Canada and other professions in British Columbia. The Working Group also noted that very few Benchers serve only one term in office.
16. The Governance Committee also discussed this recommendation at some length. It was noted that increasing the term limits for Benchers from the current four terms or eight years to five terms or ten years had been previously rejected by the members. There was also some concern expressed that a longer term might deter some members from seeking election, given the extended commitment. The Committee also noted the observation in the Interim Report that the transition to staggered elections would be complicated but manageable and that hardest part of making the transition would be deciding which positions would be filled for which term. However, the consensus was that the Benchers should also consider putting this recommendation to the members at the next Annual General Meeting.

17. Overall, the Governance Committee was mindful that a process had been established to look at the three issues referred to the Working Group and that, in particular, the Working Group had been selected so as to ensure that the members had no personal interest in resolution of the issues and that the process should be given some weight in determining how to proceed with the first two recommendations. Ultimately, the consensus was that the Benchers should consider giving the members the opportunity to decide on the merits of the recommendations.

Memo

To: Benchers
From: Jeffrey G. Hoskins, QC
Date: January 15, 2013
Subject: **Interim report of the Bencher Election Working Group**

1. Attached is the first of two reports to be made by the Bencher Election Working Group. The group was formed by the Benchers in 2011 and staffed by President Gavin Hume, QC with Life Benchers who were not seen to have a personal interest in the outcome of their deliberations.
2. The Benchers referred three issues to the working group. They can be briefly stated as follows:
 - (1) Bencher turnover and whether it can or should be addressed by staggering elections. A sub-issue was added by the Executive Committee as to how best to make the transition to staggered elections.
 - (2) The length of the Bencher term of office. Whether it should be extended from two years to three or more.
 - (3) Bencher electoral districts. Should they be revised for either or both of
 - more equitable numerical representation, and
 - better grouping of like communities in the same district?
3. In this interim report, the Working Group addresses only issues (1) and (2), leaving issue (3) to a later time for fuller discussion and consultation throughout the province. A full report on that issue will be delivered to the Benchers at a later date in 2013.
4. As you will see from the report, the Working Group has specific recommendations with respect to issues (1) and (2). Both recommendations would require amendments to the Law Society Rules that require membership approval under section 12 of the *Legal Profession Act*. In order for that to be accomplished in 2013, the Working Group recommends that the

Benchers authorize a referendum of members in the late spring of 2013. Otherwise, the effect of the proposed reforms would not be felt until 2016.

5. The Executive Committee has referred the report to the Governance Committee for consideration and approved it for inclusion in the Benchers agenda for information only at this time.

JGH

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Attachments: Interim report of Bencher Election Working Group

The Law Society
of British Columbia



Interim Report

Bencher Election Working Group

January 25, 2013

Prepared for: Benchers
Prepared by: Bencher Election Working Group
Brian J. Wallace, QC
Patricia Schmit, QC
Patrick Kelly
Jeffrey Hoskins, QC, staff support

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INTERIM REPORT OF THE WORKING GROUP ON BENCHER ELECTIONS

I. EXECUTIVE SUMMARY

1. The Bencher Election Working Group was asked to review three issues involving the election and term of office for Benchers of the Law Society of British Columbia: the uneven turnover of new Benchers from year to year, the term of office that Benchers ought to serve after election or appointment, and the districts in which Benchers are elected. Although issues such as these have been raised and discussed in the past, there has been little change in this area since election of Benchers by district was introduced in 1955.
2. Two of these issues can be addressed with relatively simple and unobtrusive changes that we recommend be implemented at the first opportunity:
 - There is a problem with a large cohort of new Benchers being introduced every two years, with only one or two new Benchers in alternate years. This problem can be solved by electing an equal portion of Benchers every year. The portion depends on the term of office for Benchers.
 - The working group is of the view that a term of office of three years is appropriate for Benchers of the Law Society.
3. The third issue is more complicated, and we perceive that any solution to the problem is going to be difficult for some to accept. Resolution of the issue also ought to be considered in conjunction with the ongoing examination of Law Society governance issues. Governance issues were the subject of interim and final reports in 2012, and work will continue in 2013 with the appointment of a Governance Committee. The Working Group recommends that discussion toward resolution of the Bencher district issue begin in the near future.

II. BACKGROUND

A. EXECUTIVE/BENCHER RESOLUTIONS 2011

4. In April, 2011 the Executive Committee asked the Benchers to consider a number of governance issues. These issues ranged from the appointment of non-lawyers to Law Society committees to the system for electing Benchers and the term of office for which they are elected. They were divided into issues that the Executive Committee considered to be high and low priority and into issues that the *Legal Profession Act* requires the approval of the membership, and those that do not.

5. The Benchers approved the priorities assigned by the Executive Committee and referred most of the issues back to the Executive Committee for further action in accordance with the priority assigned. Three issues were considered sufficiently complex that they should be referred to a Task Force specially constituted to study the issues and report back to the Benchers with recommendations.
6. These are the three issues that were referred to a Task Force:
 - (1) Bencher turnover and whether it can or should be addressed by staggering elections. A sub-issue was added by the Executive Committee as to how best to make the transition to staggered elections.
 - (2) The length of the Bencher term of office. Whether it should be extended from two years to three or more.
 - (3) Bencher electoral districts. Should they be revised for either or both of
 - more equitable numerical representation, and
 - better grouping of like communities in the same district?
7. It was suggested that, since each of these issues could be seen to involve the interests of the current Benchers in the Bencher electoral process, the working group to which the issues were to be referred should comprise individuals who, while experienced in Law Society matters, are not currently elected as Benchers. In consideration of that suggestion, the President at the time, Gavin Hume, QC, appointed a working group consisting entirely of Life Benchers, who are neither currently sitting Benchers nor, for that matter, eligible ever to be a candidate for election or appointment as a Bencher. The Bencher Elections Working Group is chaired by Brian J. Wallace, QC, a former President of the Law Society (then known as the “Treasurer”). The other members of the Task Force are Patricia Schmit, QC and Patrick Kelly. Staff support was provided by Jeff Hoskins, QC, Tribunal and Legislative Counsel, with the assistance of Ingrid Reynolds.

B. HISTORY

8. In 2003 the Benchers considered a number of Law Society governance issues that then required a referendum vote of all the members in order to adopt Rule amendments. It was agreed to ask the members of the Law Society to approve a series of questions in a referendum, including extending the term limits for Benchers, but the Benchers decided not to advance questions having to do with Bencher electoral districts, staggered elections or increasing the term of office.

9. In 2011 the Benchers again considered a number of governance issues. Three issues were referred to this working group. They are subject to section 12 of the *Legal Profession Act*, which requires that the membership endorse rule changes at a general meeting or in a referendum ballot before the Benchers can give them effect by amending the Law Society Rules. This requirement was included in the *Legal Profession Act* because the nature of these provisions gives the appearance that the self-interest of the Benchers is involved.
10. In order to dispel that appearance and give any proposals for reform more credibility with the membership voting in a subsequent referendum, the Benchers referred the three issues to a working group of individuals who are knowledgeable in Law Society matters and have been in a position of trust as Benchers in the past, but are not currently Benchers and therefore do not have a current personal interest in the outcome.

III. MANDATE

A. BENCHER TURNOVER

11. The first issue referred by the Benchers is the question of the uneven turnover of Benchers. The Working Group was charged with examining and evaluating the problem and making recommendations as to changes that may provide a solution, if required.

B. TERM OF OFFICE

12. The second issue for the Working Group's consideration is the term of office of Benchers. Under the current rules, all Benchers serve a two-year term, with a maximum of four and one-half terms, which means in most cases eight years in office as a Bencher. The Working Group is to consider whether two years continues to be the appropriate term of office in today's Law Society. If a change is to be made, that may involve an adjustment to the term limit, although the Benchers did not ask for a recommendation concerning the term limit other than to accommodate a change in the term of office.

C. BENCHER REPRESENTATION

13. The third issue relates to the number of lawyers in each of the nine Bencher electoral districts. The Working Group was asked to consider the vastly different numbers of lawyers per Bencher representing the various districts, whether the differences are a concern, and whether there may be other electoral districts, or alterations to the current ones, that would provide fairer representation. The Working Group's consideration of that issue will be the subject of its final report in 2013.

IV. BENCHER TURNOVER

14. Every two years, there is a general election of Benchers, the terms of Appointed Benchers come to an end, and several are replaced at the same time. In alternate years, an election is required to replace the out-going President and sometimes others who have left for one reason or another. The result is a very large number of inexperienced Benchers in alternate years and a very low number in other years.

15. These are the figures for the past decade:

| YEAR | NEW BENCHERS |
|------|--------------|
| 2002 | 13 |
| 2003 | 2 |
| 2004 | 8 |
| 2005 | 1 |
| 2006 | 11 |
| 2007 | 1 |
| 2008 | 5 |
| 2009 | 2 |
| 2010 | 10 |
| 2011 | 1 |
| 2012 | 7 |
| 2013 | 1 |

16. Operationally, this situation is inefficient in that the Law Society is required to dedicate a large number of staff hours per Bencher to the orientation and education of one individual in some years and, in other years, the logistics of orienting and training a large number of people is often a problem. There is also a risk to the quality of decision-making in having up to 42 per cent of the Board without experience for a period of time.
17. If the number of new Benchers could be averaged out, one would expect about four or five new Benchers annually.
18. One common way of mitigating the effects of high turnover of elected officials is to elect only a partial slate of candidates at each election, for overlapping terms, so that there is a carry-over when new members arrive. With two-year terms, the Rules could be amended to

call for the election of half of the elected Benchers each year. The provincial government could also be asked to appoint half of the Appointed Benchers each year. This is commonly referred to a “staggered” terms of office and “staggered” elections.

19. If the term of office for Benchers is changed to three years, then as close as possible to one-third could be elected and appointed each year.
20. An additional disadvantage of electing all Benchers at once is the large number of candidates that are involved and the large number of votes each member is required to make to fully exercise the franchise. This is especially so in the very large district of the County of Vancouver, where a minimum of 10 and a maximum of 13 Benchers must be elected in a full election. There have been up to 37 candidates in elections, with mean and median of 24.
21. The transition from full elections to partial staggered elections would have some manageable complexities. In the long run, though, this would have little effect on the Law Society administration of elections, in that the current Rules require at least one election on November 15 every year, to replace the outgoing President in off years.
22. The working group considered the effect that staggering elections may have on the collegiality of Benchers while in office. The cohort of new Benchers with whom a Bencher joins the group is important throughout the Benchers’ terms in office. There was some concern that making the cohorts smaller and more frequent might affect the dynamic at the Bencher table. However, it was considered in the end that the change would not be sufficiently negative to outweigh the advantages of stability and continuity to be had from staggering elections. At the same time, it was recognized that the present system often provides a cohort of only one new Bencher in years when only the outgoing President is replaced. There is a value in providing a larger cohort for the otherwise single new Bencher.

V. TERM OF OFFICE

23. The current term of office for Benchers in British Columbia is two years. Several other Canadian law societies elect Benchers for longer terms. The Bencher term of office is three years in Alberta and Saskatchewan and four years in Ontario and Newfoundland and Labrador. See Appendix A for further details.
24. Frequency of election has its rewards in terms of involvement of the electorate, but it is also a distraction to elected officials to be perpetually, or at least frequently, up for re-election.

Staggered elections, if adopted would provide the desired level of involvement of the electorate without necessarily requiring Benchers to seek re-election frequently.

25. The working group considered what the optimum term of office would be. As it is currently, Benchers have said that they barely learn all that they need to know for the job before it is necessary to seek re-election. The working group noted that two years appears to be the low end of term of office among law societies in Canada and other professions in British Columbia. They also noted that elected officials in government generally serve for longer terms, with municipal government in British Columbia serving for three years and federal and provincial governments normally lasting about four years.
26. The working group observed that very few Benchers serve only one term in office. See Appendix C. Even fewer are rejected by the voters when attempting to return for a subsequent term. Outside of the Lower Mainland, in fact, incumbent Benchers are rarely opposed for re-election. There does not seem to be a high value in the opportunity to remove a Bencher at an early date that needs to be preserved with a short term of office.
27. The group considered four years to be too long, but two years to be too short for many purposes. They chose to recommend the middle solution of three-year terms. This would make the term for elected and appointed Benchers the same as that for Benchers elected to the presidential “ladder”, who serve one year each at President and First and Second Vice-President.
28. If the term of office was increased to three years, this would require an amendment to the term limit, which is currently eight years for most Benchers, with an adjustment for fairness to those Benchers who are elected or appointed to complete a term of office begun by another Bencher who is unable to finish the term. Presumably the term of office would have to be increased to nine years, with a similar adjustment to deal with partial terms.

VI. IMPLEMENTATION AND TRANSITION

Process for considering reforms

29. The working group recommends that the Benchers put forward the reforms increasing the term of office for Benchers and staggering elections for consideration by the membership of the Law Society at the earliest opportunity.

30. These two proposed reforms will require the approval of the membership of the Law Society under section 12 of the *Legal Profession Act*. Under that section, approval can be given either in a referendum of all members or in a general meeting.
31. It is our view that the reforms ought to be implemented in time for the general election scheduled for November 2013. The next opportunity would not take effect for a further two years, which means it would not affect the election and appointment of Benchers until the end of 2015. Since the Annual General meeting is generally held in the fall of the year, which would be too late in the year to implement the proposed changes, we recommend that the Benchers authorize a referendum of all members to be held in the late spring of 2013.
32. Following a positive decision of the members on either or both of the recommendations, the Benchers would then have to adopt amendments to the Law Society Rules to give effect to the decisions. That would require time for staff, working with the Act and Rules Subcommittee and in consultation with this working group, to develop the appropriate changes. Generally, a call for nominations for the November election is mailed by the Law Society in mid-September. In order for that notice to include notice of changes to the method of election, the Benchers would have to ratify rule changes before that time.

Transition issues

33. Transition should not be a major problem. All the terms of office of current Benchers not on the ladder will expire at the end of 2013. Those who are elected to carry on beginning January 1, 2014 can be elected for a term of office different from the existing two years without difficulty.
34. A transition to staggered elections would be manageable but more complicated. To start that system, there would have to be an election at which some Benchers are elected for terms that differ from other Benchers. For example, if the two-year term of office were retained, in order to establish a system where roughly half of the Benchers were elected each year, the initial election would require half of the Benchers elected to one-year terms, while the other half were elected to two-year terms. A year later, the one-year term seats could be filled for two years, and the system would continue from there.
35. Similarly, if the term of office were increased to three years, the initial election would require one-third elected for one year, one-third for two years and one-third for three years.

A year later, the one-year seats would be filled for three-year terms, and another year after that, the two-year seats would be filled for three-year terms, and the system would continue.

36. The hardest part of making the transition would be deciding which positions would be filled for which term. In multiple member districts, the voters could decide. The higher the vote, the longer the term. For example, if the County of Vancouver were electing 12 Benchers to start a staggered three-year term system, the top four candidates would be elected for three years. Numbers 5 to 8 would be elected for two-years, and numbers 9 to 12 would be elected for one year.
37. There will be some districts in which the Benchers to be elected cannot be evenly divided either in two for a two-year term election or in three for a three-year term election. Choices would have to be made as to which districts would elect for which term of office. One fair way of doing that would be to decide that by drawing lots, so that there was no chance it would appear that any favoritism was applied. Alternatively, the lower term of office could be assigned to districts where no incumbent Bencher qualified to run again, and the rest could be determined by lot.
38. The next two sections provide brief examples of how the transition to staggered elections could be done.

Staggering elections - two-year term:

39. This is an example of how it could be done in 2013:

| | |
|-------------------------|-----------------------------|
| County of Vancouver | 7 for 2 years; 6 for 1 year |
| County of Victoria | 1 for 2 years; 1 for 1 year |
| County of Westminster | 1 for 2 years; 2 for 1 year |
| County of Nanaimo | 1 for 2 years |
| County of Cariboo | 1 for 2 years; 1 for 1 year |
| County of Kootenay | 1 for 1 year |
| District of Kamloops | 1 for 2 years |
| District of Okanagan | 1 for 2 years |
| County of Prince Rupert | 1 for 1 year |
40. Benchers on the “ladder” would be assigned a term of office ending with the end of the year in which the Bencher is to be President. Multiple Bencher districts would be divided as evenly as possible. Candidates with higher votes would be assigned the longer term of

office. In which districts Benchers would have one-year or two-year terms would be determined by lot. That way there would be 13 Benchers elected for two years and 12 for one year. After 2013, half slates would be elected each November.

Staggering elections - three-year term

41. This is an example of how it could be done in 2013:

| | |
|-------------------------|--|
| County of Vancouver | 5 for 3 years; 4 for 2 years; 4 for 1 year |
| County of Victoria | 1 for 3 years; 1 for 2 years |
| County of Westminster | 1 for 3 years; 1 for 2 years; 1 for 1 year |
| County of Nanaimo | 1 for 1 year |
| County of Cariboo | 1 for 2 years; 1 for 1 year |
| County of Kootenay | 1 for 3 years |
| District of Kamloops | 1 for 2 year |
| District of Okanagan | 1 for 1 years |
| County of Prince Rupert | 1 for 3 years |

42. Benchers on the “ladder” would be assigned a term of office ending with the end of the year in which the Bencher is to be President. Multiple Bencher districts would be divided as evenly as possible. Candidates with higher votes would be assigned the longer term of office. In which districts Benchers would have one-year, two-year or three-year terms would be determined by lot. That way there would be eight Benchers elected for three years, seven Benchers elected for two years and seven for one year. After 2013, slates of one-third of the Benchers would be elected each November.

VI. SUMMARY OF RECOMMENDATIONS

Staggered elections

43. The Law Society should conduct annual elections with the number of Benchers to be elected approximately equal to the total number of Benchers divided by the number of years in the term of office. Therefore, if the term of office remains at two years, half of the Benchers would be elected each year. If the term of office increases to three years, one-third of Benchers would be elected each year.

Term of office increased to three years

44. The term of office for all elected and appointed Benchers should be increased to three years and the term limit should be increased to allow three full terms in office. In the case of partial terms, the principle of not counting half or less of a term against the term limit should continue. That means that a Bencher or former Bencher would not be allowed to seek election or accept appointment to a term that would take the total time served as a Bencher beyond 10½ years.

APPENDIX A — OTHER MODELS

OTHER CANADIAN LAW SOCIETIES

Alberta

All members of the Law Society of Alberta are entitled to vote for all 20 Benchers positions from across the province. The top vote-getter in each of three regions outside of the two major metropolitan centres is elected, along with the 16 other top voters province-wide. The President-elect is also deemed elected under the governing legislation. Benchers are elected in a single (not staggered) election for a three-year term.

Manitoba

Lawyers in Manitoba elect 16 Benchers from seven districts in a single election for a two-year term.

New Brunswick

Lawyers in New Brunswick elect 20 Benchers from 11 districts in a single election for a two-year term.

Newfoundland and Labrador

The Law Society in Newfoundland and Labrador holds annual elections at which four Benchers are elected. There are six districts for Bencher elections, but all members of the Law Society across the province are entitled to vote for all candidates.

Northwest Territories

In the Northwest Territories, two of the four elected Benchers are elected each year in staggered elections for two-year terms. The public members of the Benchers are appointed for three-year terms.

Nova Scotia

Members of the Barristers' Society of Nova Scotia elect their 13 elected Benchers in a single election for a two-year term. There are four districts, but three Benchers are elected at-large across the province.

Nunavut

Nunavut follows the same rules as the Northwest Territories. Two of the four elected Benchers are elected each year in staggered elections for two-year terms. The public members of the Benchers are appointed for three-year terms.

Ontario

Ontario lawyers elect 40 Benchers, 20 from inside Toronto and 20 from outside Toronto. Eight of the 40 benchers are Regional Benchers - the candidates who received the highest

number of votes from voters in their own electoral region. The remaining 32 Benchers are the 13 candidates from outside Toronto who received the most votes from all voters and the 19 candidates from inside Toronto who received the most votes from all voters. The regions are Northwest, Northeast, East, Central East, Central West, Central South, Southwest and Toronto. The term of office is four years, and elections of the complete complement of elected Benchers takes place every four years.

Prince Edward Island

The eight Benchers of the Law Society of Prince Edward Island are elected each year at the Annual General Meeting.

Québec

Local Barreau councils elect delegates to the Barreau du Québec annually. There are 31 members of the council elected by 15 local Barreaux.

Saskatchewan

Members of the Law Society of Saskatchewan elect 18 Benchers in 10 divisions, including one province-wide division for new lawyers. Benchers are elected in a single election for three-year terms.

Yukon

The four Benchers in Yukon are elected for a one-year term on the day before the Annual General Meeting each year.

BENCHER TERM OF OFFICE

A. CANADIAN LAW SOCIETIES

| Organization | No. | Districts | Term | Staggered | Notes |
|------------------------------|-----|-----------|-------|-----------|--|
| LS Alberta | 20 | 3+ | 3 yrs | No | All members vote for all 20. Top vote-getter in each district is elected plus 17 more. Districts include only rural areas. |
| LS Saskatchewan | 18 | 10 | 3 yrs | No | New division for new lawyers. |
| LS Manitoba | 16 | 7 | 2 yrs | No | |
| LS Upper Canada | 40 | 8 | 4 yrs | No | Ontario lawyers elect 40 benchers, 20 from inside Toronto and 20 from outside Toronto. Eight of the 40 benchers are regional benchers - the candidates who received the highest number of votes from voters in their own electoral region. The remaining 32 benchers are the 13 candidates from outside Toronto who received the most votes from all voters and the 19 candidates from inside Toronto who received the most votes from all voters. The regions are Northwest, Northeast, East, Central East, Central West, Central South, Southwest and Toronto. |
| Barreau du Quebec | 31 | 15 | 1 yr | No | General Council delegate elected by local Barreau councils. |
| LS New Brunswick | 20 | 11 | 2 yrs | No | |
| BS Nova Scotia | 13 | 4 | 2 yrs | No | 3 elected at-large. |
| LS Prince Edward Island | 8 | 1 | 1 yr | No | Elected at AGM |
| LS Newfoundland and Labrador | 15 | 6 | 4 yrs | Yes | 4 elected each year (when only 3 Benchers' terms expire, they choose a fourth by lot). All members can vote in each district. |
| LS Yukon | 4 | 1 | 1 yr | No | Elected day before AGM |
| LS Northwest Territories | 4 | 1 | 2 yrs | Yes | 2 elected each year public members appointed for 3 year terms. |
| LS Nunavut | 4 | 1 | 2 yrs | Yes | 2 elected each year public members appointed for 3 year terms. |

B. SELECTED PROFESSIONAL BODIES IN BRITISH COLUMBIA

| Organization | No. | Districts | Term | Staggered | Notes |
|-----------------------------|-----|-----------|-------|-----------|--|
| Engineers and Geoscientists | 7 | 1 | 2 yrs | Yes | 1/2 of council elected each year. |
| Dentists | 12 | 5 | 2 yrs | Yes | 1 council member elected by specialists, 1 by UBC Faculty of Dentistry |
| Pharmacists | 8 | 8 | 2 yrs | Yes | Districts include 2 “hospital” districts |
| Physicians and Surgeons | 10 | 7 | 2 yrs | No | |
| Registered Nurses | 9 | 2 | 3 yrs | Yes | 3 rural, 3 urban, 3 at-large. |
| Social Workers | 12 | 1 | 2 yrs | Yes | |
| Teachers | 12 | 12 | 3 yrs | Yes | College now replaced |
| Chartered Accountants | 15 | 4 | 2 yrs | Yes | Minimum of 5 elected at-large. |
| Real Estate Council | 13 | 9 | 2 yrs | Yes | 1 broker per County, 3 representatives, 1 manager |

LAW SOCIETY OF BRITISH COLUMBIA

BENCHERS ELECTED SINCE 1992

| BENCHER/Life Benchers | DISTRICT | DATES/ <i>Treasurer or President</i> | YEARS IN OFFICE |
|--------------------------|-----------------------|--------------------------------------|-----------------|
| Shona A. Moore, QC | County of Vancouver | 1990-1991; 1993-1995 | 5.0 |
| Trudi L. Brown, QC | County of Victoria | 1992-1998/1998 | 6.5 |
| Ann Howard | Appointed Benchers | 1992-2002 | 10.5 |
| Marjorie Martin | Appointed Benchers | 1992-2002 | 10.5 |
| Gerald J. Lecovin, QC | County of Vancouver | 1994-2001 | 8.0 |
| Emily M. Reid, QC | County of Vancouver | 1994-2001 | 8.0 |
| Jane Shackell, QC | County of Vancouver | 1994-2001 | 8.0 |
| Karl F. Warner, QC | County of Westminster | 1994-2000/2000 | 7.0 |
| T. Mark McEwan | County of Kootenay | 1994-1996 | 2.6 |
| Alexander P. Watt | Kamloops | 1994-1995 | 2.0 |
| Richard S. Margetts, QC | County of Victoria | 1995-2001/2001 | 7.0 |
| Robert D. Diebolt, QC | County of Vancouver | 1996-2003 | 8.0 |
| Bruce Woolley, QC | County of Vancouver | 1996-2000 | 4.8 |
| Linda Loo, QC | County of Vancouver | 1996 | 0.7 |
| David W. Gibbons, QC | County of Vancouver | 1996-2003 | 8.0 |
| Peter J. Keighley, QC | County of Westminster | 1996-2004 | 9.2 |
| Richard C. Gibbs, QC | County of Cariboo | 1996-2002/2002 | 7.0 |
| G. Ronald Toews, QC | County of Pr. Rupert | 1996-2003 | 8.0 |
| Kristian P. Jensen | Kamloops | 1996-1997 | 2.0 |
| Reeva Joshee | Appointed Benchers | 1996-1997 | 1.3 |
| Robert W. Gourlay, QC | County of Vancouver | 1996-2003 | 8.0 |
| Gerald J. Kambeitz, QC | County of Kootenay | 1996-2003 | 8.0 |
| William J. Sullivan, QC | County of Vancouver | 1997-2003 | 7.0 |
| Anna K. Fung, QC | County of Vancouver | 1998-2007/2007 | 10.0 |
| JoAnn Carmichael, QC | County of Vancouver | 1998-2001 | 4.0 |
| William M. Everett, QC | County of Vancouver | 1998-2004/2003-2004 | 7.0 |
| D. Peter Ramsay, QC | County of Nanaimo | 1998-2001 | 4.0 |
| Patricia L. Schmit, QC | County of Cariboo | 1998-2005 | 8.0 |
| Robert W. McDiarmid, QC | Kamloops | 1998-2006/2006 | 9.0 |
| Ross D. Tunnicliffe | County of Vancouver | 1998-1999; 2000-2005 | 6.8 |
| Ralston S. Alexander, QC | County of Victoria | 1999-2005/2005 | 7.0 |
| Nao Fernando | Appointed Benchers | 1999-2000 | 1.3 |
| Wendy John | Appointed Benchers | 1999-2001 | 1.5 |
| Anita Olsen | Appointed Benchers | 1999-2002 | 3.1 |
| Ian Donaldson, QC | County of Vancouver | 2000-2007 | 8.0 |
| Terence L. LaLiberté, QC | County of Vancouver | 2000-2001; 2004-2009 | 8.0 |
| Jaynie Clark | Appointed Benchers | 2000-2002 | 1.7 |
| Dr. V. Setty Pendakur | Appointed Benchers | 2000-2001 | 1.2 |
| Robert Crawford, QC | County of Westminster | 2001 | 0.8 |
| June Preston | Appointed Benchers | 2001-2008 | 7.0 |
| John J.L. Hunter, QC | County of Vancouver | 2002-2008/2008 | 7.0 |

| BENCHER/Life Bencher | DISTRICT | DATES/<i>Treasurer or</i> President | YEARS IN OFFICE |
|-----------------------------|-------------------------|--|----------------------------|
| Margaret Ostrowski, QC | County of Vancouver | 2002-2005 | 4.0 |
| James Vilvang, QC | County of Vancouver | 2002-2009 | 8.0 |
| Gordon Turriff, QC | County of Vancouver | 2002-2009/2009 | 8.0 |
| David Zacks, QC | County of Vancouver | 2002-2009 | 8.0 |
| Anne Wallace, QC | County of Victoria | 2002-2005 | 3.6 |
| Glen Ridgway, QC | County of Nanaimo | 2002-2010/2010 | 9.0 |
| Grant Taylor, QC | County of Westminster | 2002-2005 | 3.6 |
| Michael J. Falkins | Appointed Bencher | 2002-2007 | 4.6 |
| Patrick Kelly | Appointed Bencher | 2002-2010 | 7.9 |
| Valerie J. MacLean | Appointed Bencher | 2002-2003 | 0.5 |
| Patrick Nagle | Appointed Bencher | 2002-2006 | 3.8 |
| Dr. Maelor Vallance | Appointed Bencher | 2002-2010 | 7.5 |
| William Jackson, QC | County of Cariboo | 2003-2009 | 7.0 |
| Lillian To | Appointed Bencher | 2003-2005 | 2.1 |
| Joost Blom, QC | County of Vancouver | 2004-2011 | 8.0 |
| Gavin Hume, QC | County of Vancouver | 2004-2011/2011 | 8.0 |
| Carol Hickman, QC | County of Westminster | 2004-2011 | 8.0 |
| Darrell O'Byrne, QC | County of Pr. Rupert | 2004-2005 | 1.7 |
| Dirk Sigalet, QC | Okanagan | 2004-2007 | 3.9 |
| Gregory Rideout, QC | County of Westminster | 2004-2005 | 1.6 |
| Robert C. Brun, QC | County of Vancouver | 2005; 2008-2011 | 5.0 |
| Ronald Tindale | County of Cariboo | 2006-2010 | 4.1 |
| Robert Punnett, QC | County of Pr. Rupert | 2006-2009 | 3.5 |
| Ken Dobell | Appointed Bencher | 2006-2008 | 2.1 |
| Barbara Levesque | Appointed Bencher | 2006-2010 | 4.1 |
| Marguerite (Meg) Shaw, QC | Okanagan | 2008-2009 | 1.9 |
| Suzette Narbonne | County of Pr. Rupert | 2009-2011 | 2.3 |
| Patricia Bond | County of Vancouver | 2010-2012 | 2.2 |
| | | | |
| TOTAL | BRITISH COLUMBIA | 69 BENCHERS | 5.5 |

To Benchers

From Audit Committee

Date February 6th, 2013

Subject **2012 Key Performance Measures Report and Enterprise Risk Management Plan**

The Audit Committee met in February 2013 to review both the 2012 Key Performance Measures Report, as well as the 2012 Enterprise Risk Management Plan. Both reports are now presented to the Benchers as information.

2012 Key Performance Measures Report (KPM)

The 2012 KPM Report (Appendix A), along with a memo with further explanation of the Professional Conduct & Discipline results (Appendix B), is attached as information.

2012 Enterprise Risk Management Plan (ERM)

An ERM plan provides a method to keep track of risks that may have an impact on the achievement of the Law Society's strategic goals and mandate. The ERM plan has been updated for changes in the year. A copy of the red-lined version of the 2012 ERM plan is attached in Appendix C; Appendix D is the final version.

Appendix A

The Law Society *of British Columbia*



Key Performance Measures

Report on 2012 Performance

Presented to Benchers March 1, 2013

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Background

This is the sixth time that the organization has reported on the key performance measures.

The key performance measures are intended to provide the Benchers and the public with evidence of the effectiveness of the Law Society in fulfilling its mandate to protect the public interest in the administration of justice by setting standards for its members, enforcing those standards and regulating the practice of law.

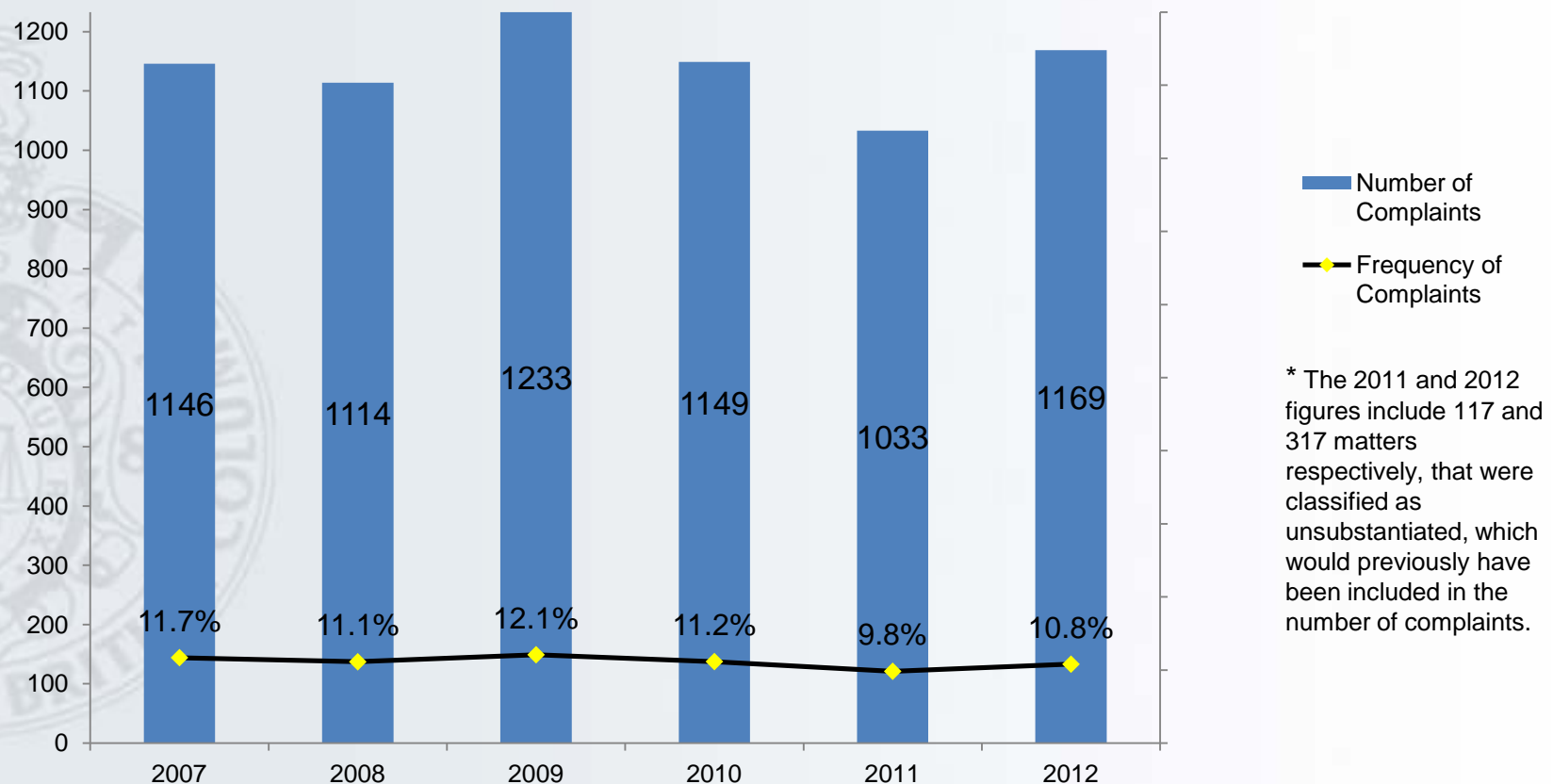
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Bellwether Measures

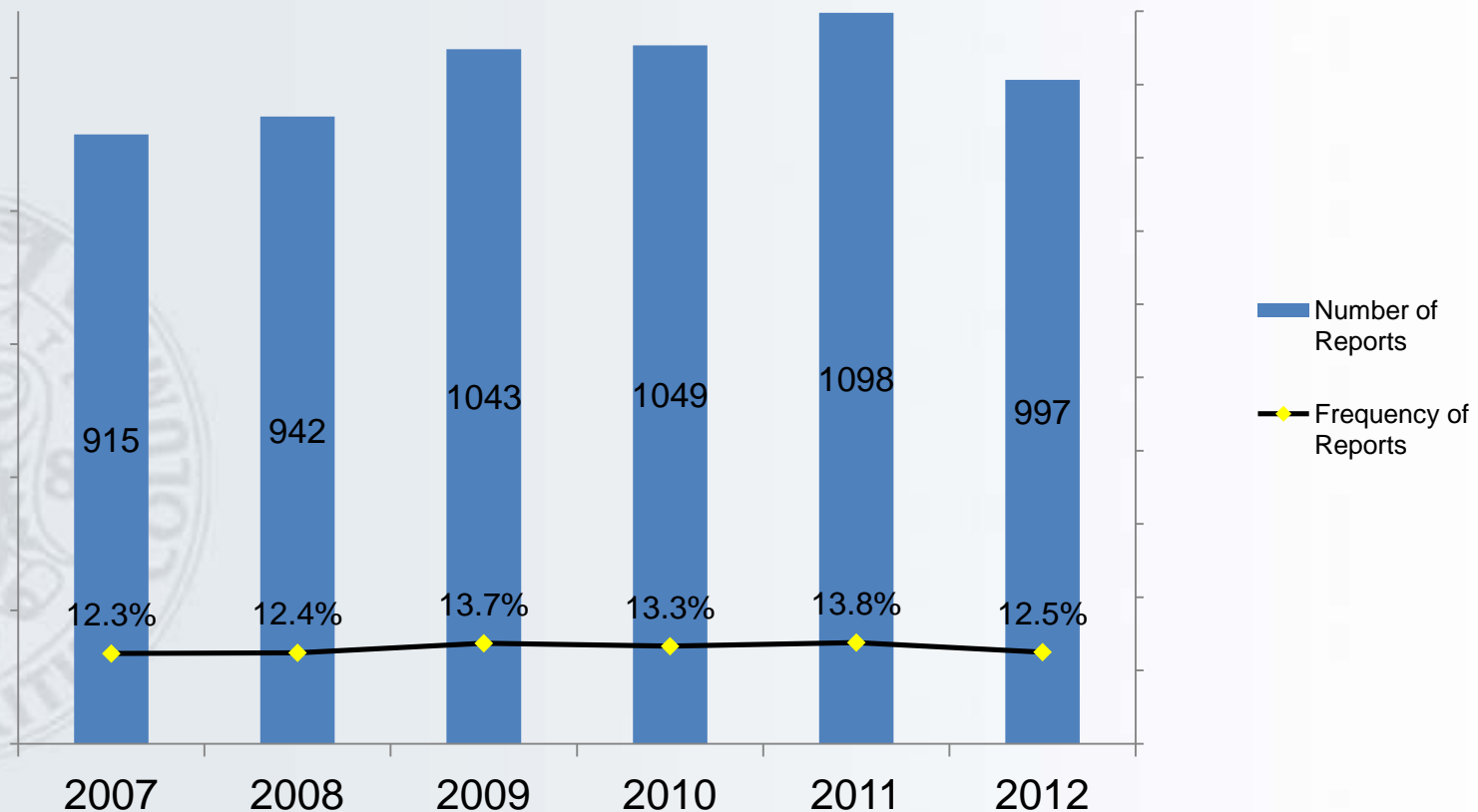
Frequency of Complaints

The number of complaints divided by the median number of practising lawyers



Frequency of Insurance Reports

The number of reports divided by the median number of insured lawyers



The Law Society *of British Columbia*

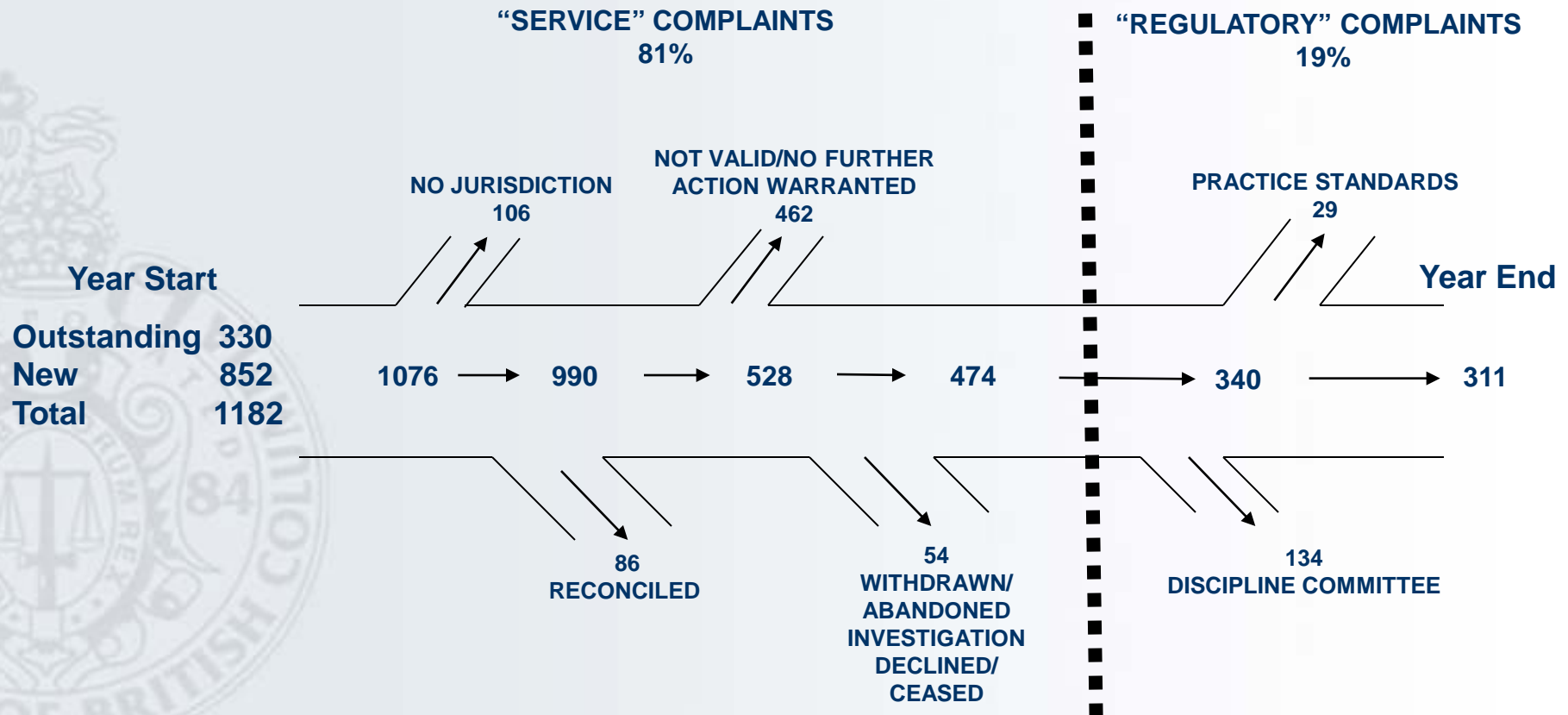


Professional Conduct and Discipline

Department Highlights

- In 2012, the Professional Conduct Department received 852 complaints, and closed 871, leaving 19 fewer open files at the end of the year than the beginning. The number of open files at the end of the year was the lowest it has been in 11 years.
- While we exceeded the target for timelines, we were significantly below the targets for fairness, courtesy and thoroughness. See the separate memo on this topic.
- The Department has made significant improvements to our timelines. In 2012, 92% of all files were closed within 1 year, the highest percentage in the last 9 years. This surpasses the Federation of Law Societies of Canada National Discipline Standard of 90%.
- Both the CRC and the Ombudsperson continue to be satisfied with our complaints handling process and procedure.

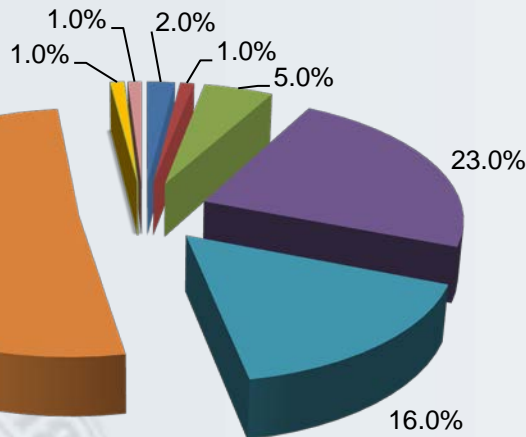
2012 Complaints Results



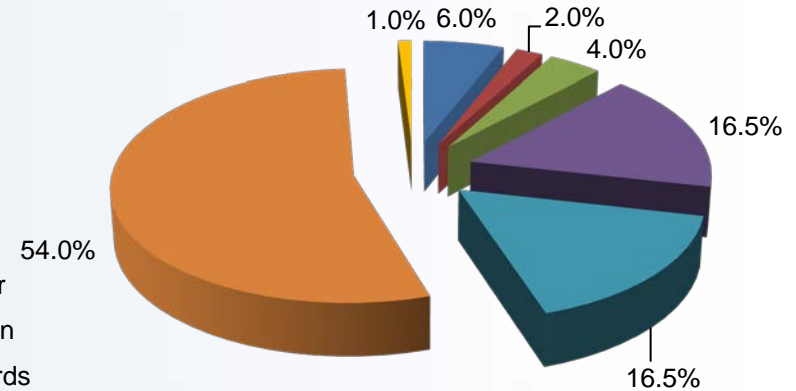
2012 Discipline Committee Dispositions

3010

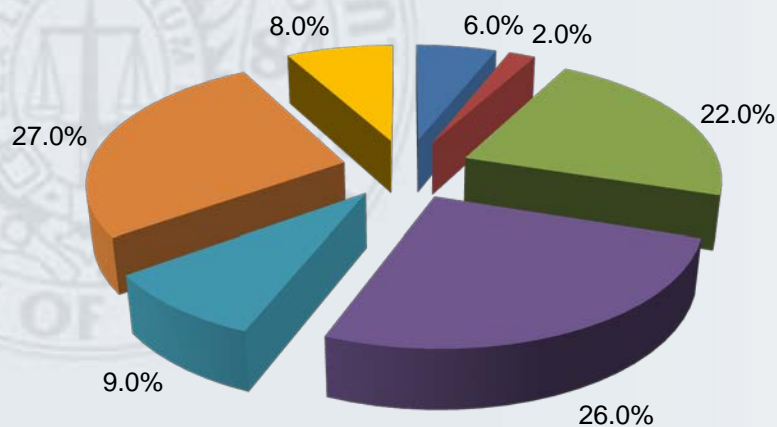
2012



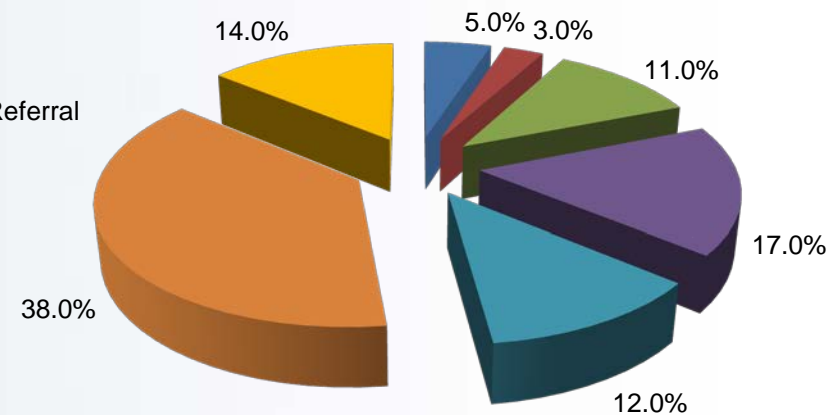
2011



2010



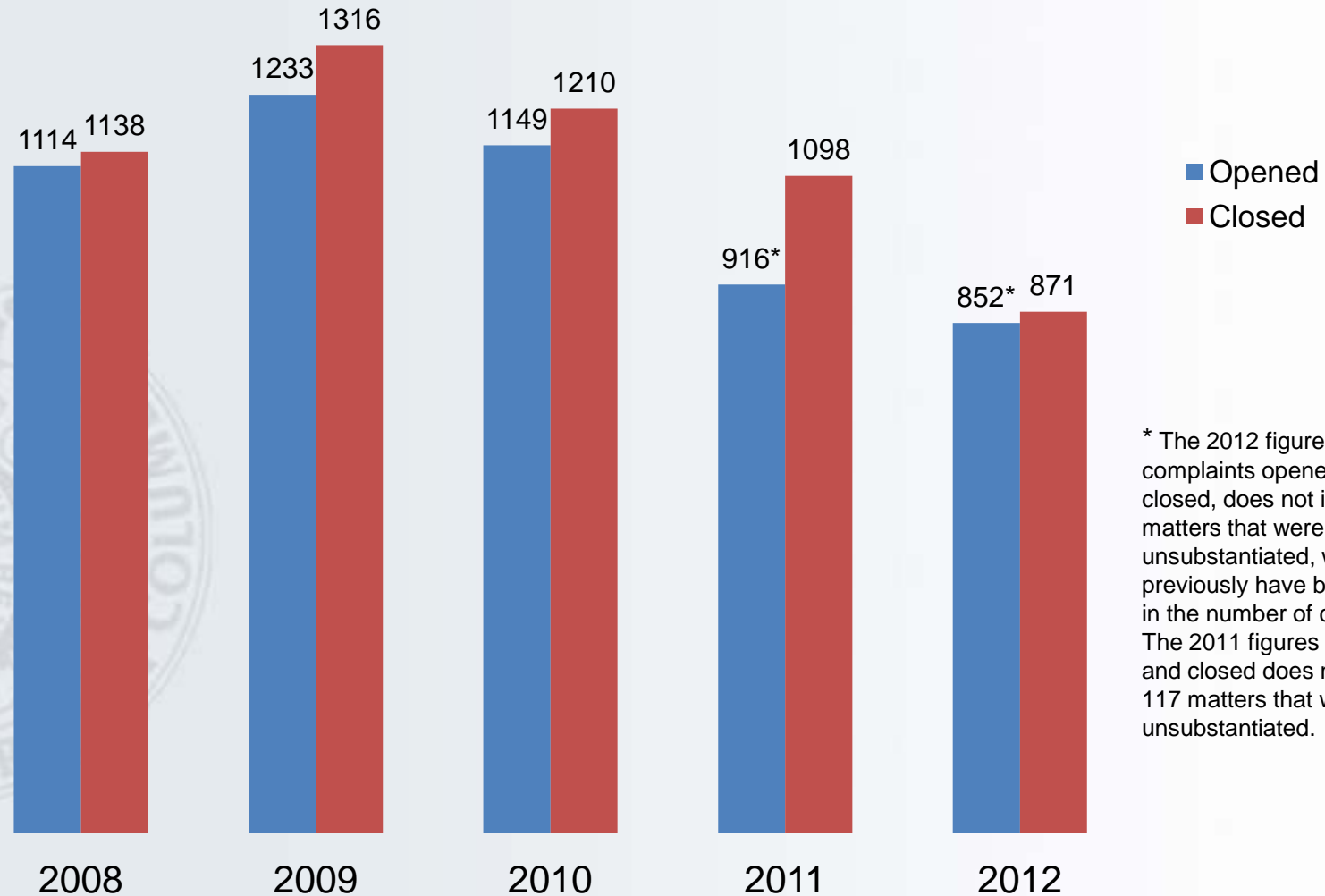
2009



10

Key Activities

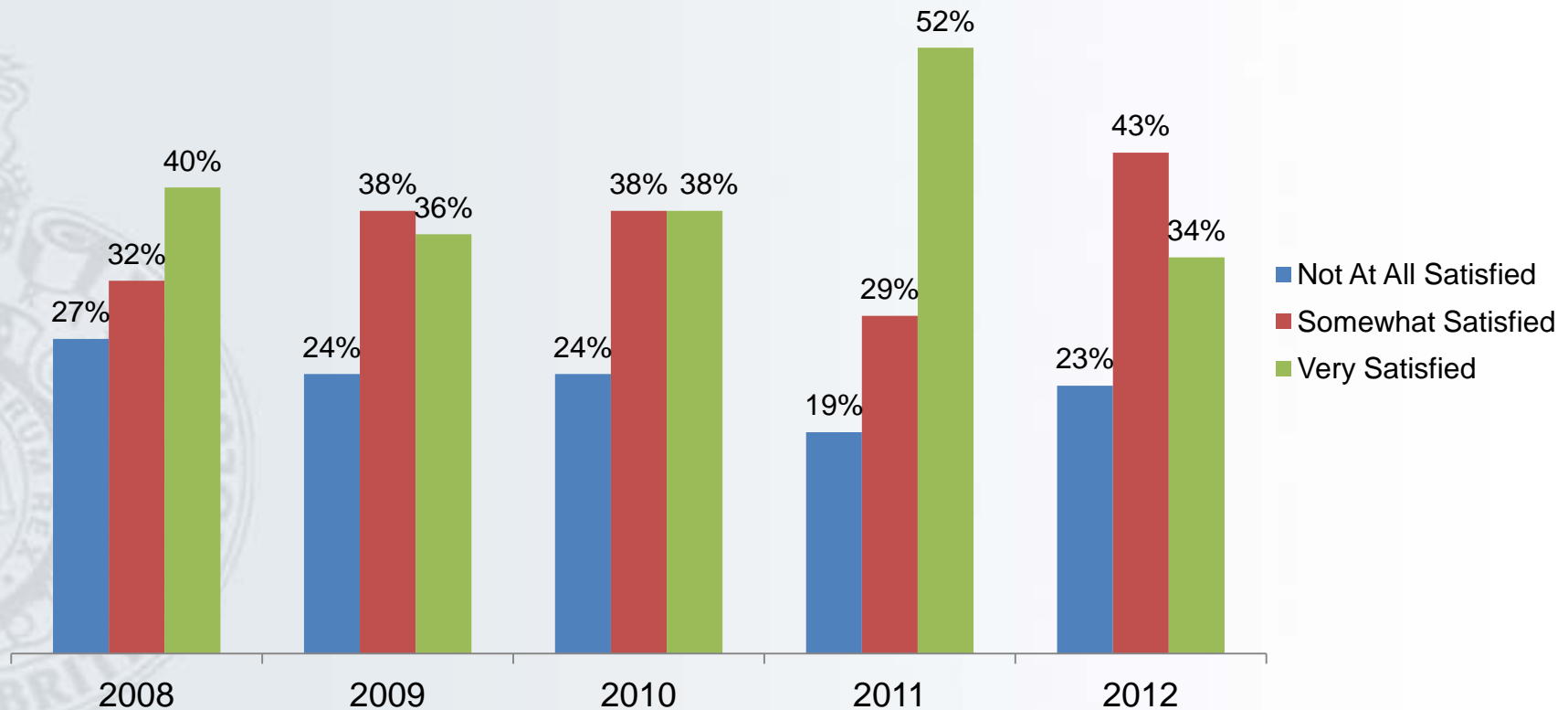
Number of Member Complaints Opened and Closed Each Year



Key Performance Measures

At least 75% of Complainants express satisfaction with timeliness

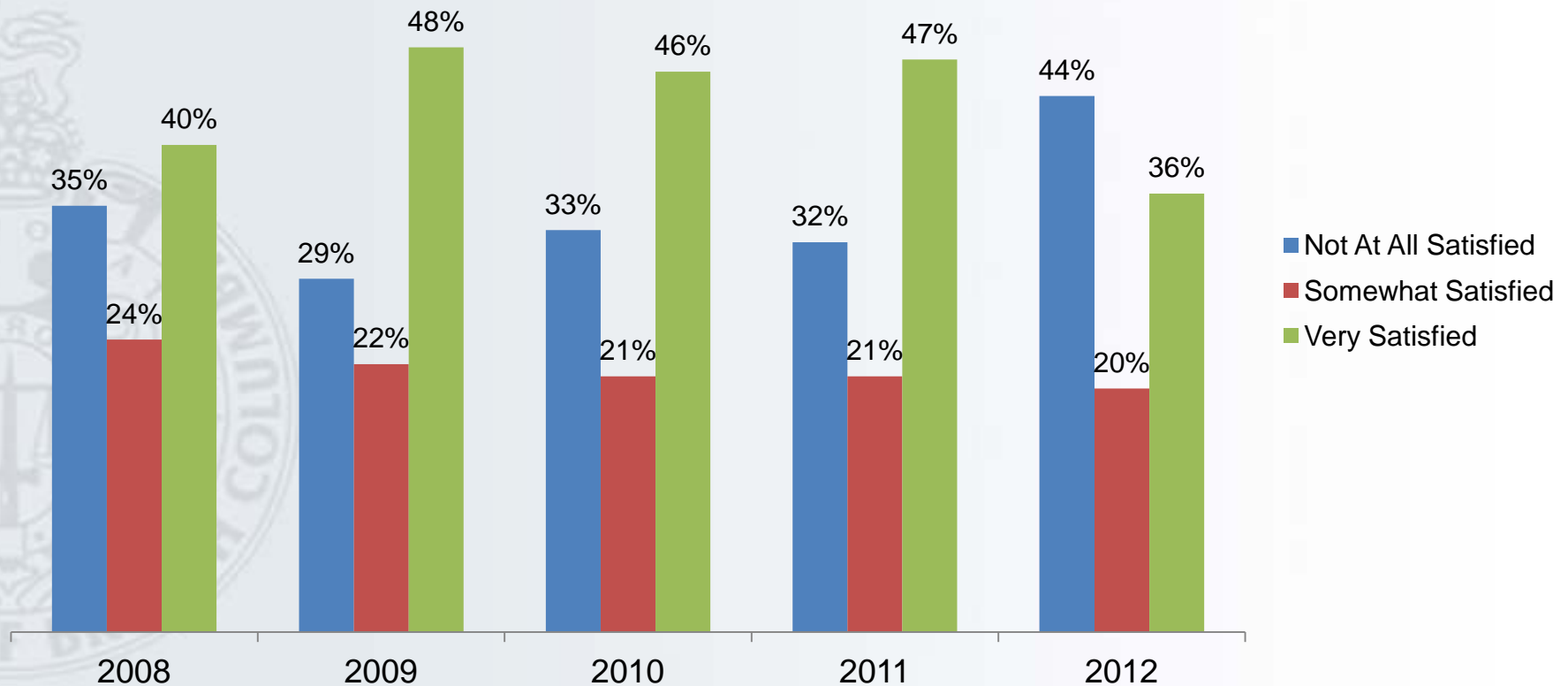
| | |
|------|-----|
| 2012 | 77% |
| 2011 | 81% |
| 2010 | 76% |



Key Performance Measures

At least 65% of Complainants express satisfaction with fairness

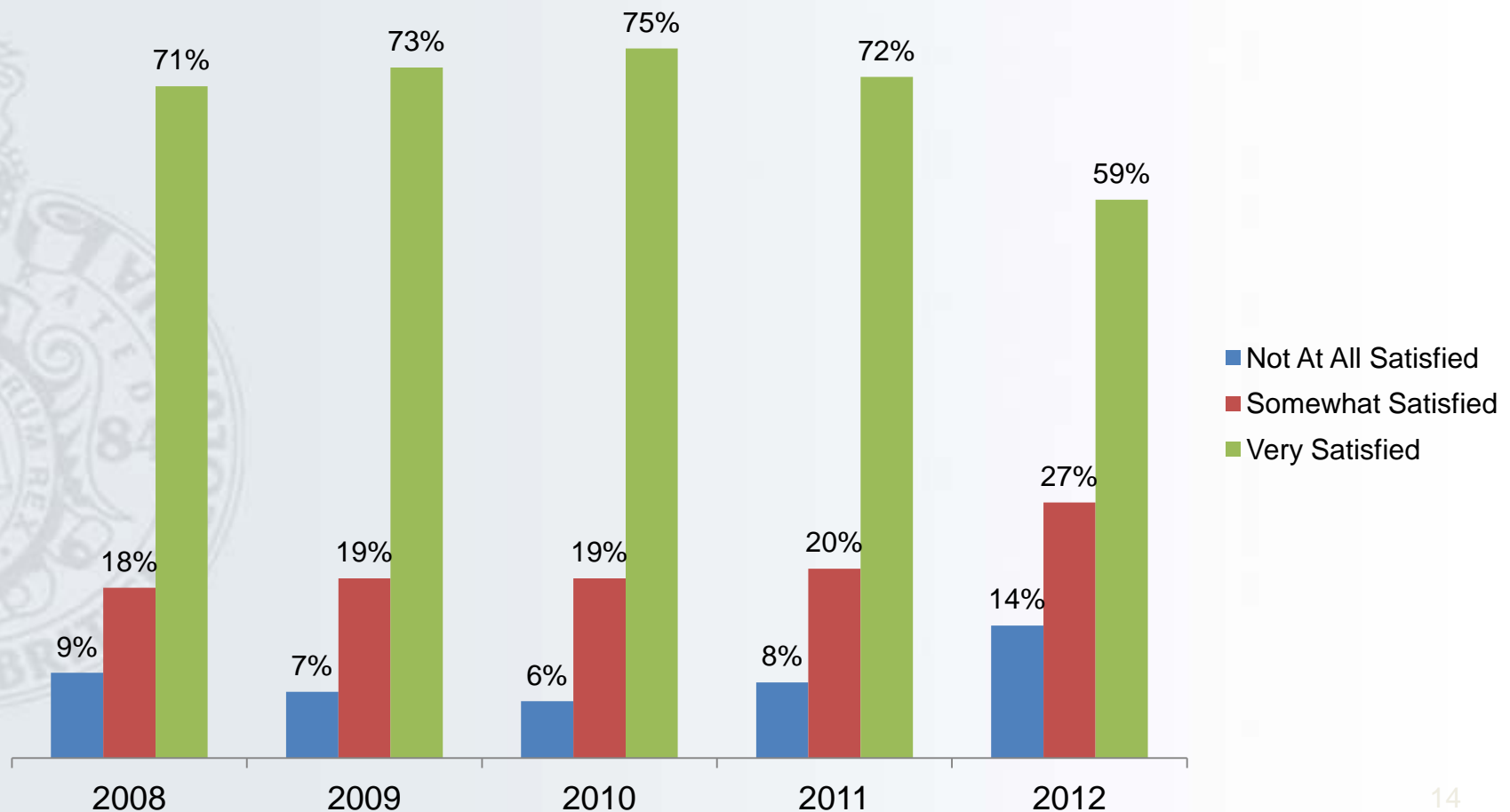
2012 56%
2011 68%
2010 67%



Key Performance Measures

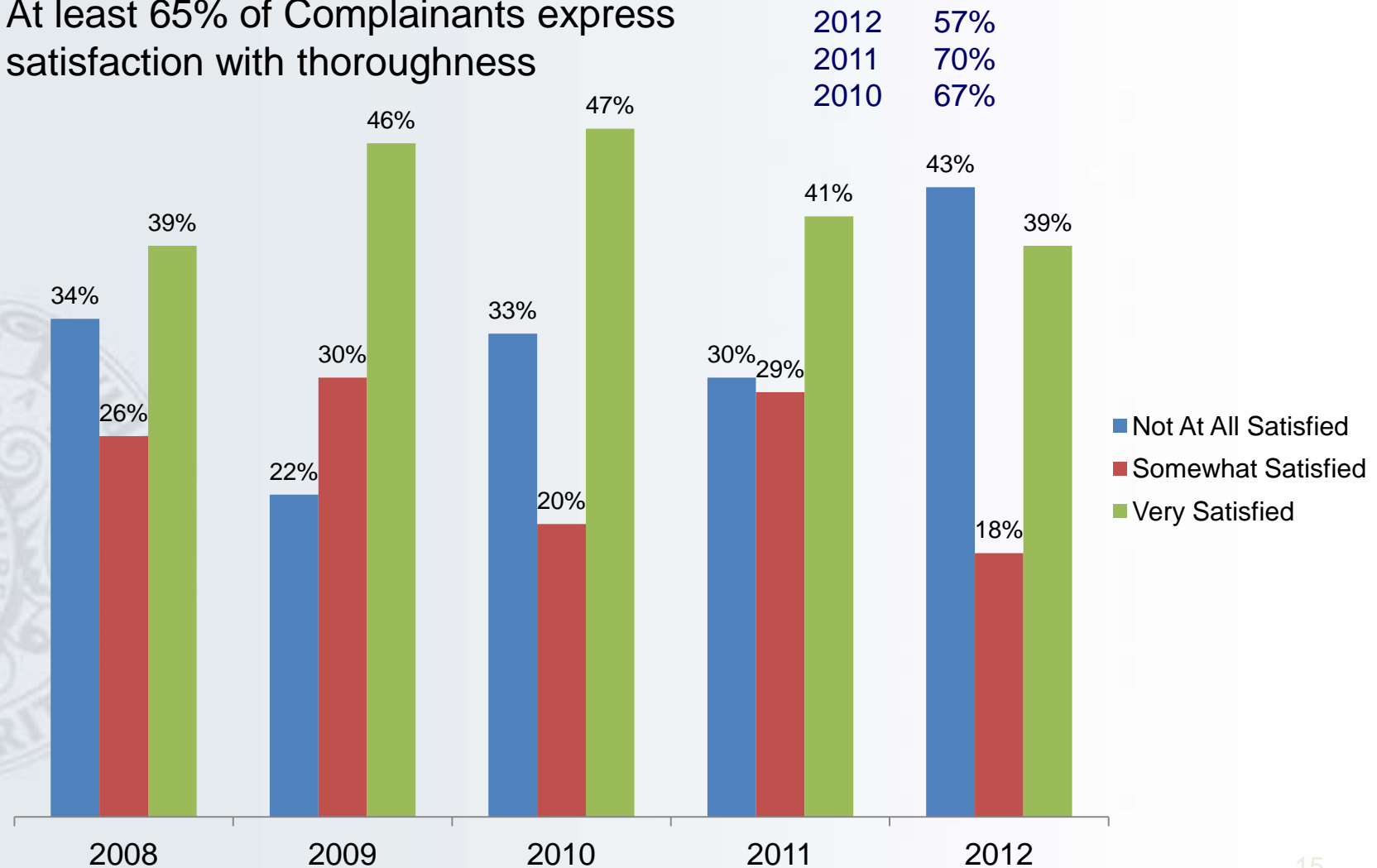
At least 90% of Complainants express satisfaction with courtesy

| | |
|------|-----|
| 2012 | 86% |
| 2011 | 92% |
| 2010 | 94% |



Key Performance Measures

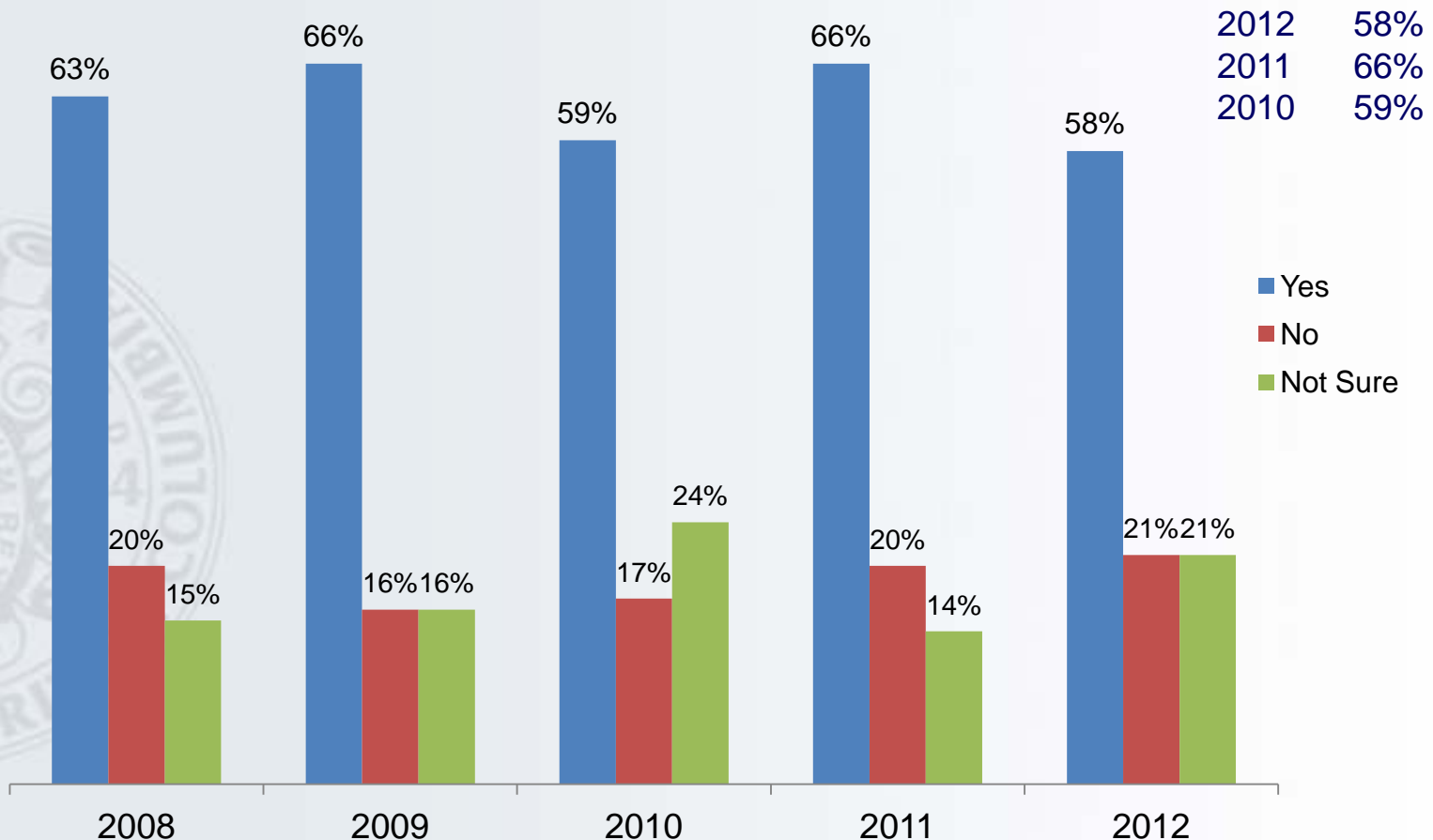
At least 65% of Complainants express satisfaction with thoroughness



Key Performance Measures

At least 60% of Complainants would recommend someone make a complaint

If someone you knew had a concern about a lawyer, would you recommend that he or she make a complaint about that lawyer to the Law Society?



Key Performance Measures

The Ombudsperson, the Courts and the CRC do not find our process and procedures as lacking from the point of view of fairness and due process.

In 2012, 7 enquiries were received from the Office of the Ombudsperson concerning our complaint investigation process, compared with 14 enquiries received in 2011. Out of those 7 files, 4 were closed, and 3 remain open at the office of the Ombudsperson, at the end of 2012. The ombudsperson has not taken issue with any of our processes.

In 2012, the Complainants' Review Committee considered 71 complaints as compared to 107 in 2011. The Committee resolved to take no further action on 66 of those on the basis that the staff assessments were appropriate in the circumstances. On 3 files, CRC requested more information of the member. Two referrals were made by the CRC to the Discipline Committee and one to the Practice Standards Committee. Out of those 3 files, one was resolved to take no further action and 2 remain outstanding.

The CRC closed the year with 11 files carried over into 2013 as opposed to 6 files the previous year.

The Law Society *of British Columbia*



Custodianships

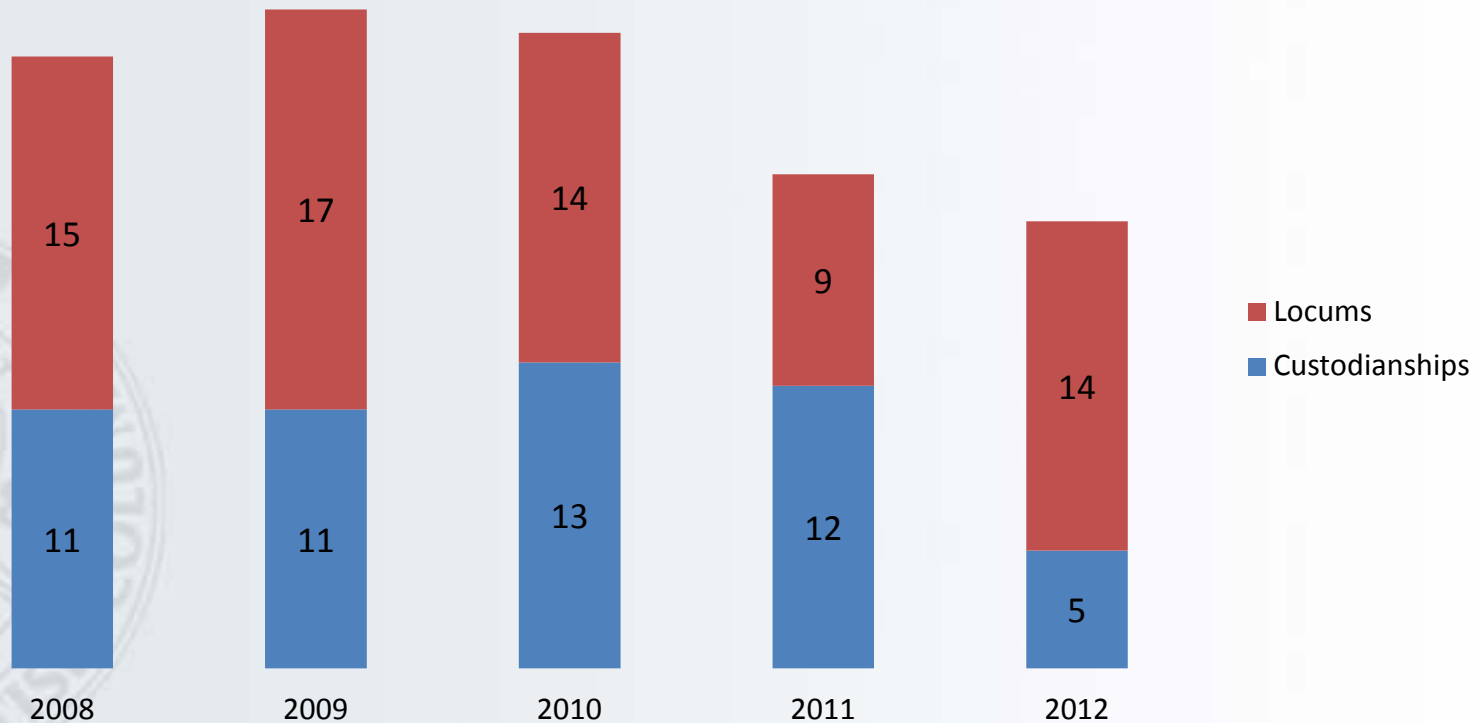


Department Highlights

- In 2012, the Law Society was appointed as a custodian over 5 practices and staff coordinated 14 locum placements, eliminating the need for the appointment of the Law Society as a custodian in those cases.
- Overall, the total number of practices requiring the appointment of a custodian or placement of a locum has declined slightly this year.
- Discharges were granted on 21 custodianships during the year. There were 25 custodianships under administration at year end compared with 41 at the end of 2011.
- The average time under the new program to complete a custodianship is lower compared with the historical average.
- 87% of clients surveyed are satisfied with the way in which we have dealt with their matter.

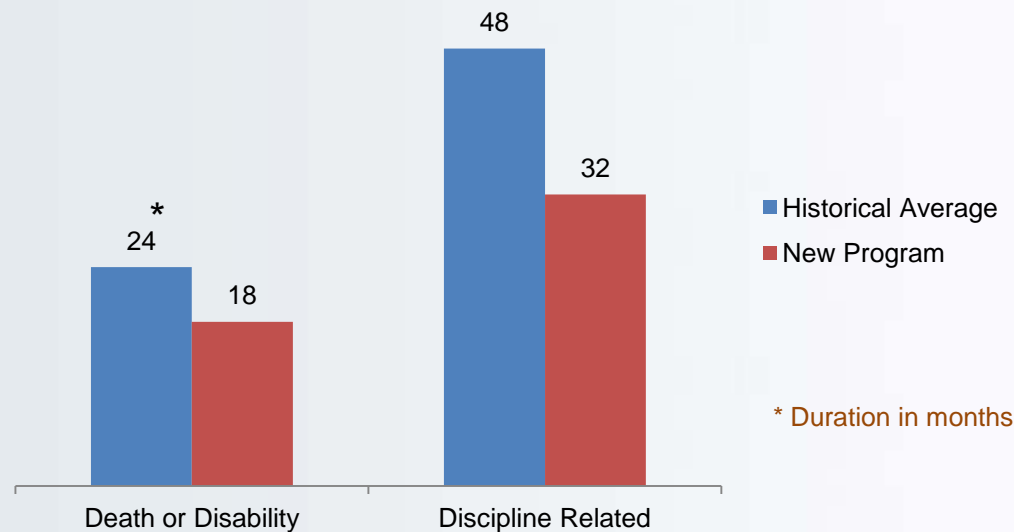
Key Activities

New Custodianships and Locums By Year



Key Performance Measures

The length of time required to complete a custodianship will decrease under the new program based on comparable historic averages*



Key Performance Measures

90% of clients surveyed are satisfied with the way in which the designated custodian dealt with their client matter.

Degree of satisfaction with the way in which the designated custodian dealt with your client matter*

* Sample size of 45 clients



The Law Society *of British Columbia*



Trust Assurance



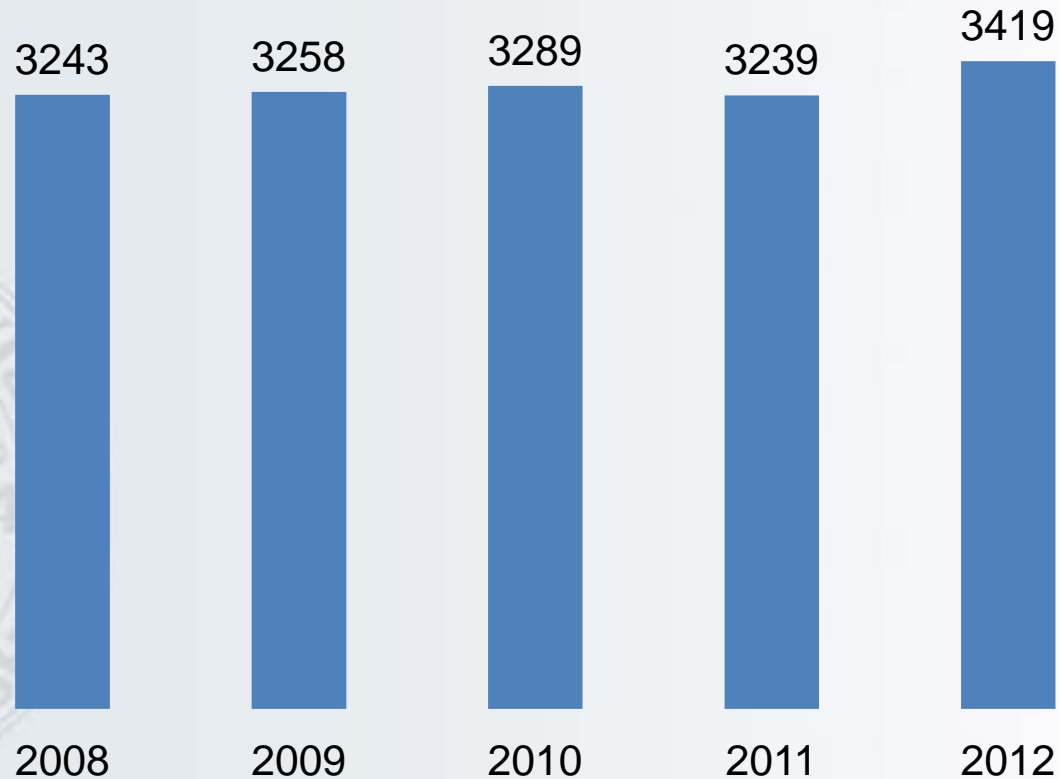
Department Highlights

- In addition to conducting trust compliance audits and reviewing annual law firm trust reports, the Trust Assurance Department also performs file monitors when necessary, to ensure deficiencies noted during the audits are corrected.
- The department also conducts new firm site visits upon request and continues to provide guidance on trust related matters through direct correspondence with the membership, formal presentations to various groups, and through the development of information resources such as the Trust Accounting Handbook and Checklists, which are available on the Law Society website.
- Reviewed approximately 3,400 trust reports in 2012, similar to past years.
- Performed 473 compliance audits in 2012, have completed approximately 2,500 since the inception of the trust assurance program.
- Successfully completed the first six year cycle of compliance audits in 2012.

Department Highlights

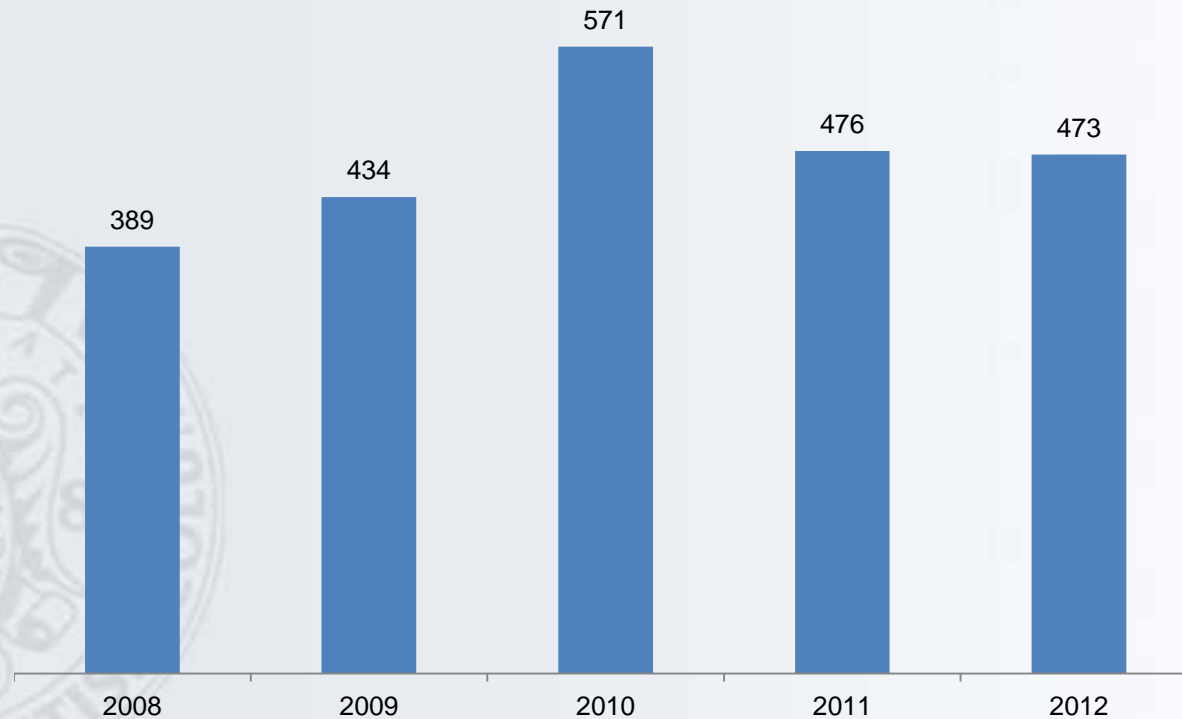
- Continued positive member survey results.
- The number of financial suspensions remains low and stable.
- Slight decrease in referrals in 2012 compared to 2011, but consistent results compared to recent years.
- Performance on key compliance questions stable in 2011 (the last complete year for trust reports) as measured by the percentage of self-reports allowed compared with those who were required to provide an accountant's report.

Number of Trust Reports



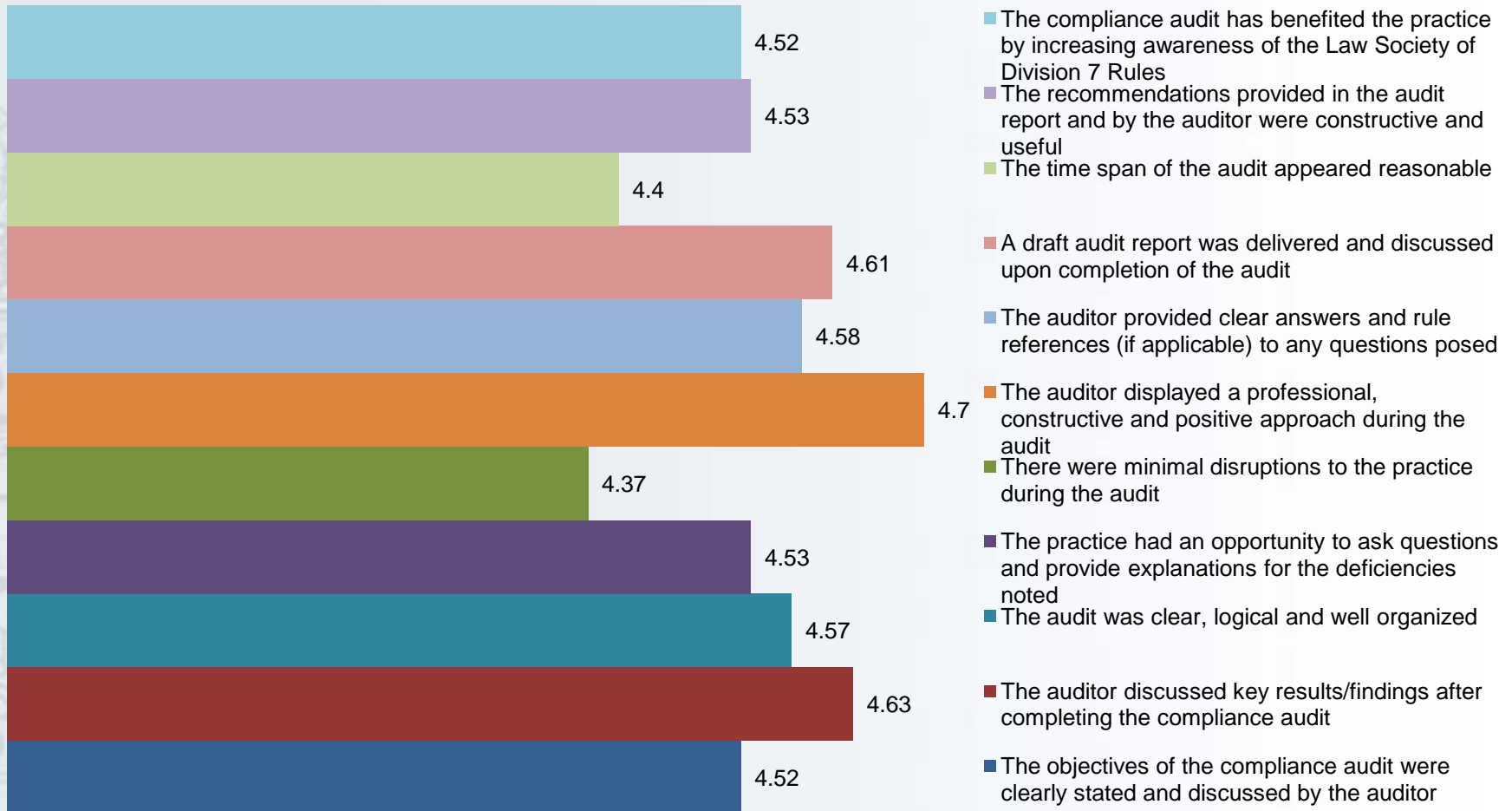
Compliance Audits

In 2012, we performed approximately 473 compliance audits



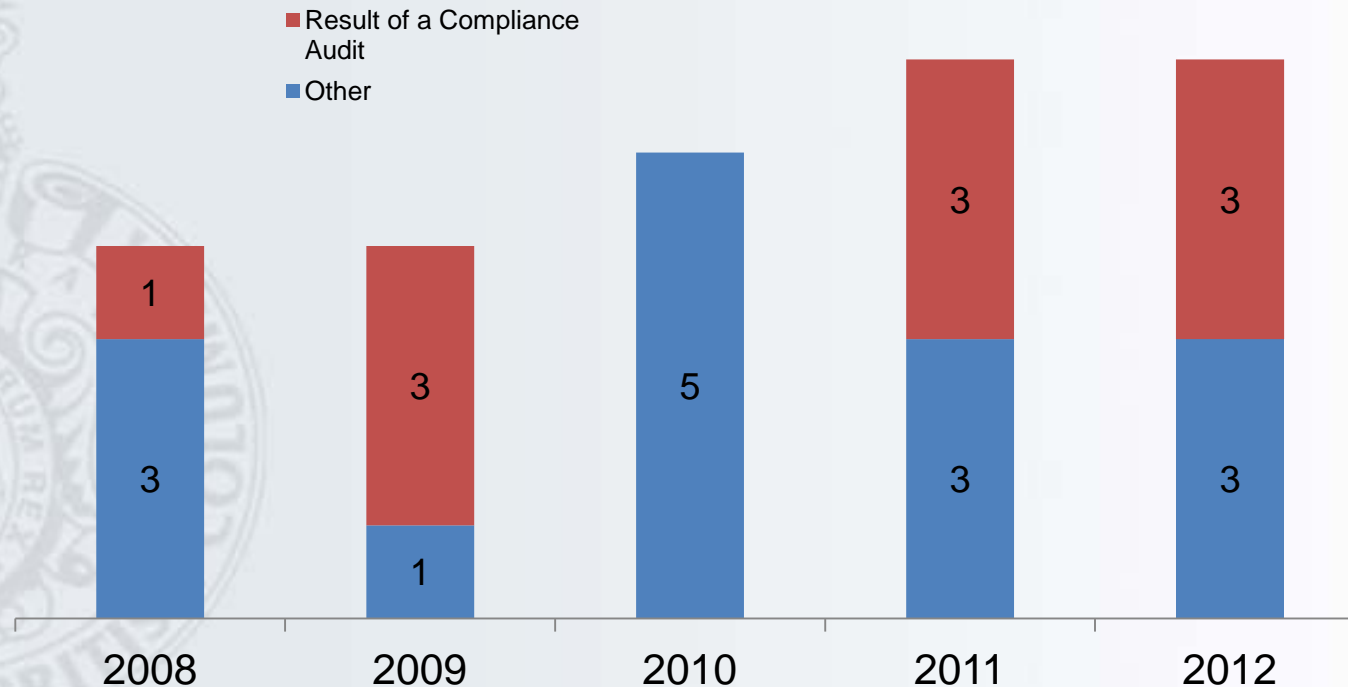
Key Activities

Compliance Audit Survey Results (Average rating based on 5 point scale)



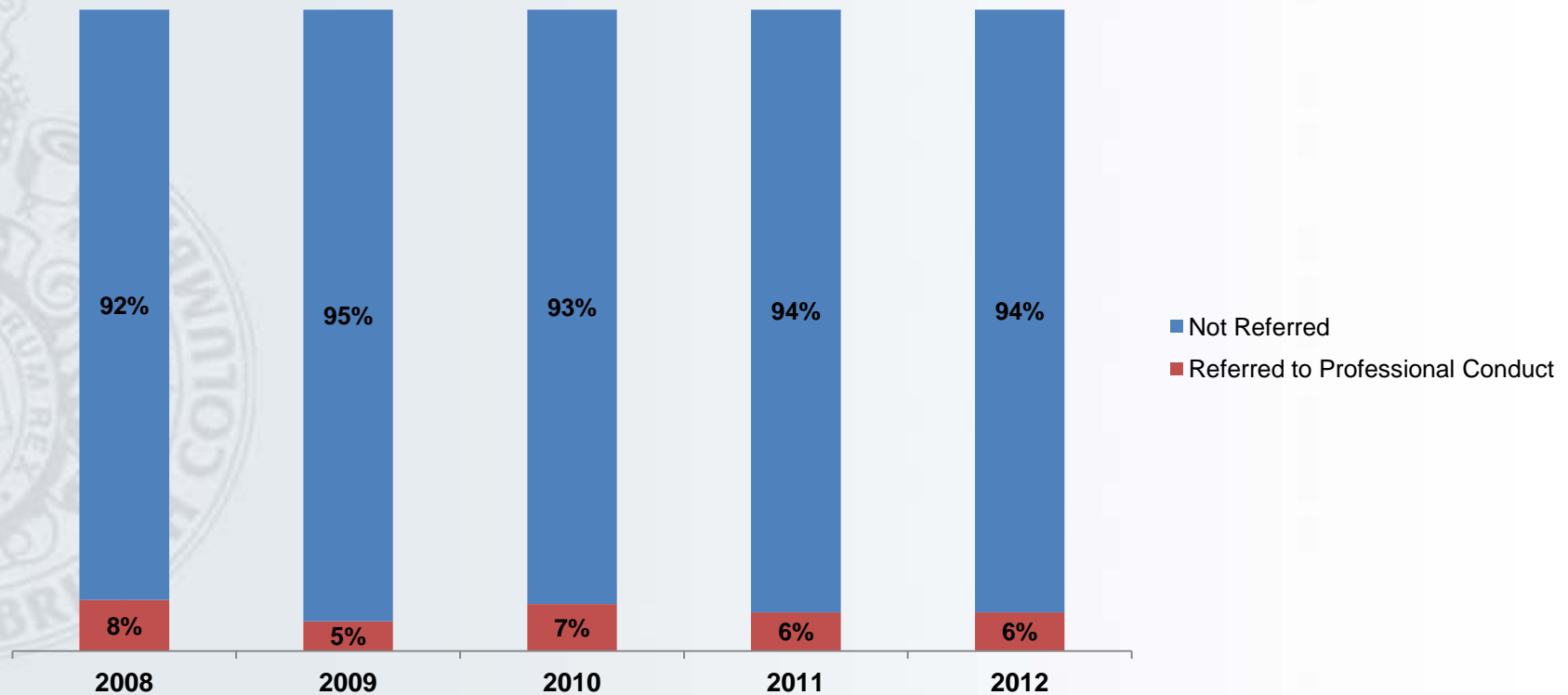
Key Performance Measure

Long term reduction in the number of financial suspensions issued by trust assurance program



Key Performance Measure

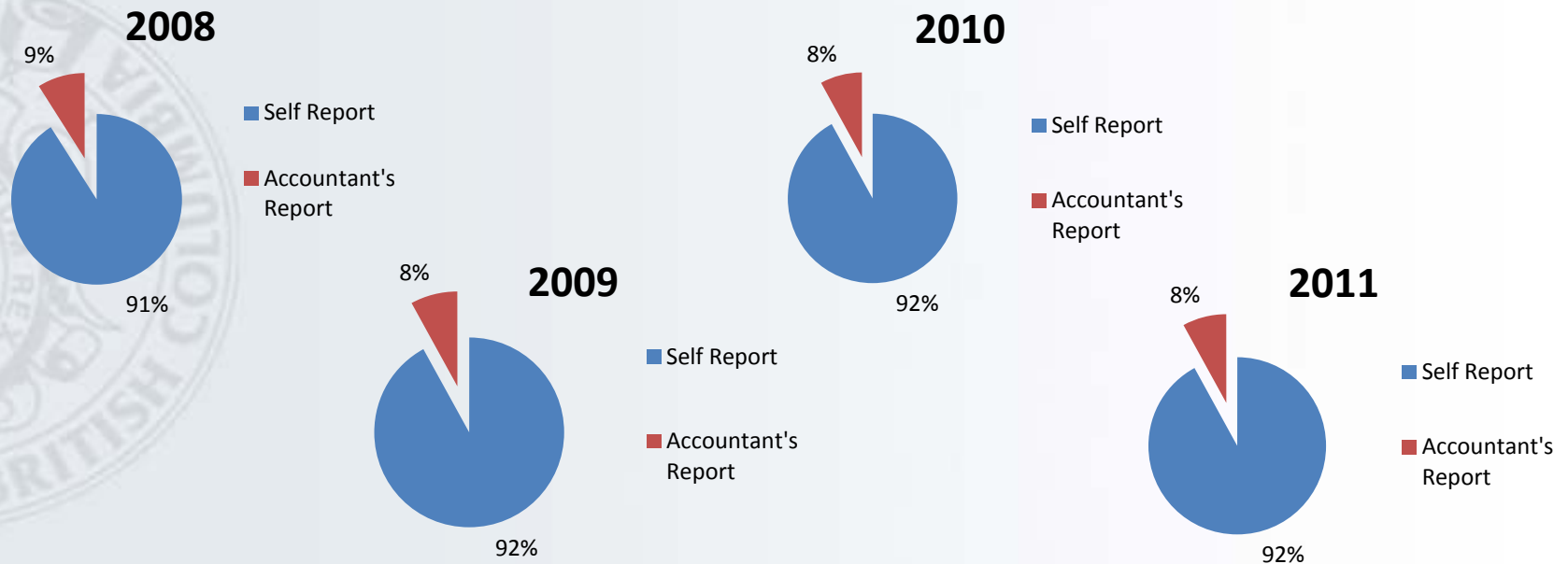
Long term reduction in the percentage of referrals to Professional Conduct department as a result of a compliance audit.



Key Performance Measure

Improved performance on key compliance questions from lawyer trust report filings

Stability in Self Reported Trust Report filings allowed



The Law Society *of British Columbia*



Credentials, Articling and PLTC

Department Highlights

- PLTC, Canada's first skill-based bar admission training program, celebrated its 28th anniversary in 2012. Students numbers increased from 401 in 2011 to 420 in 2012.
- Students and articling principals, continue to demonstrate strong support for PLTC's quality, as reflected in the KPMs.
- Articling placement availability, unlike in Ontario, is continuing to meet growth in student demand. The number of Canadians who choose to study law abroad and then seek articles in BC continues to grow. Thompson Rivers University graduates its first law school class in 2014. It will therefore be important to keep an eye on any trends in availability of articling positions.

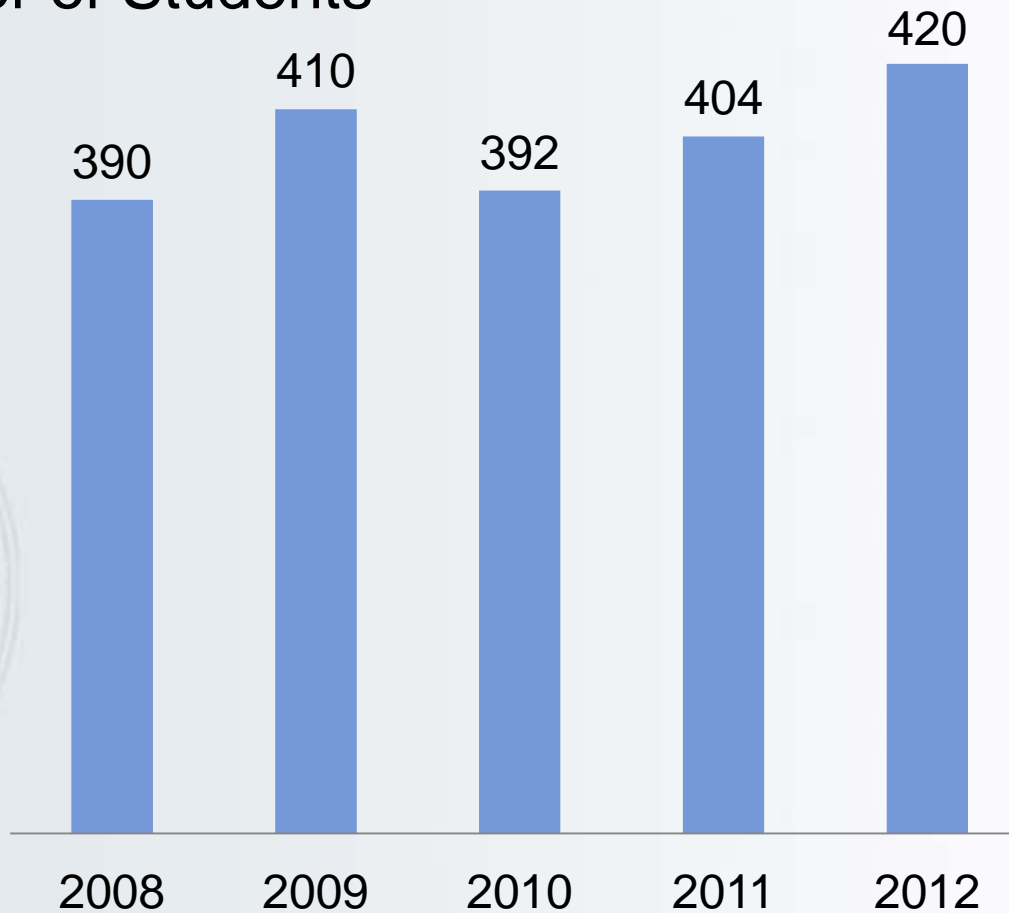
Department Highlights

- The Credentials Department deals principally with
 - articling,
 - re-instatement of former lawyers,
 - transfer of lawyers from other Canadian jurisdictions,
 - return to practice of non-practicing lawyers,
 - CPD compliance, and
 - beginning in 2013, accreditation of Family Law mediators and arbitrators, and parenting coordinators under the new Family Law Act.



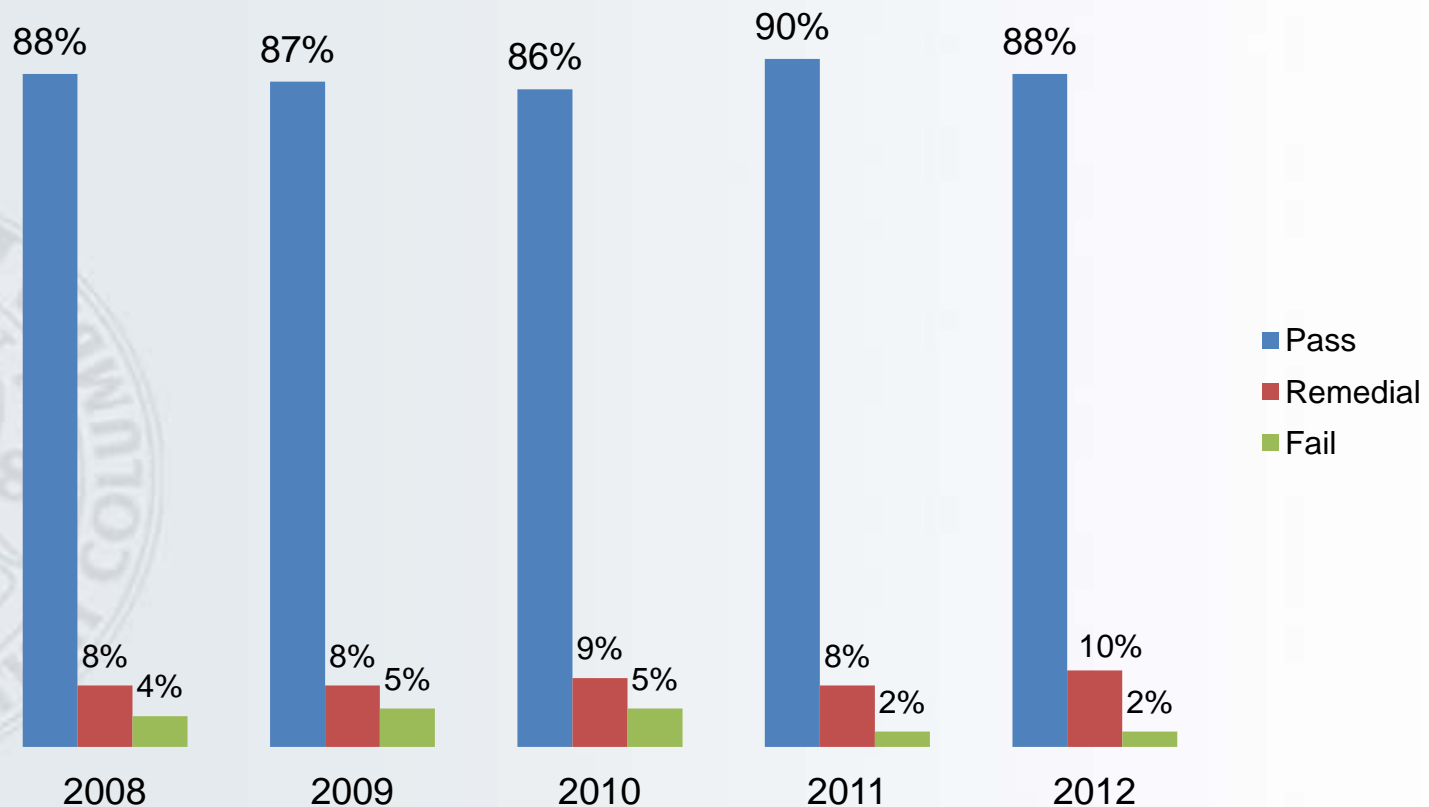
Key Activities

Number of Students



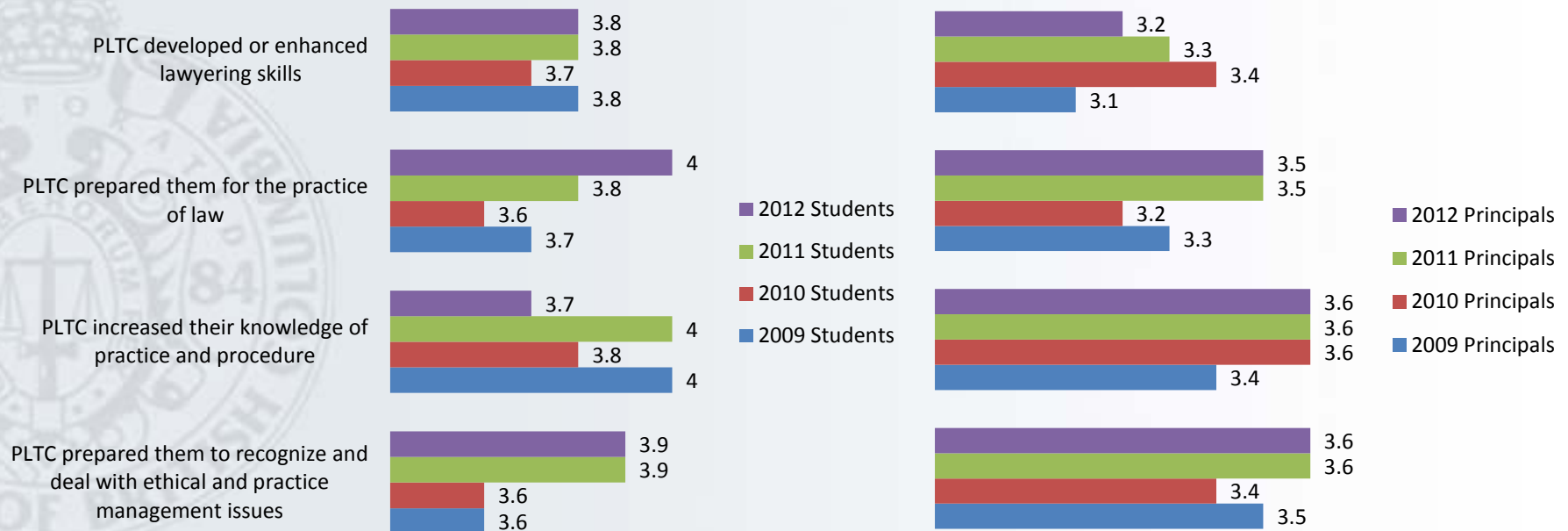
Key Performance Measures

At least 85% of the students attending PLTC achieve a pass on the PLTC results



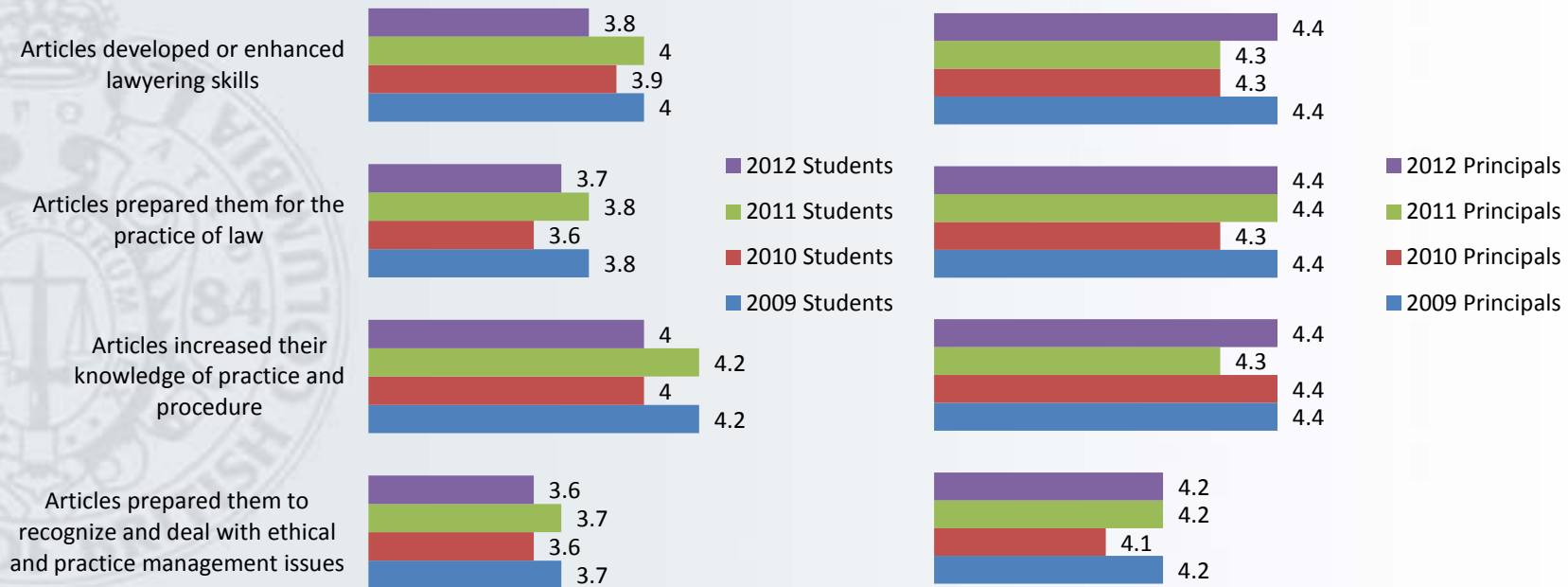
Key Performance Measures

Students and Principals rate PLTC's value at an average of 3.5 or higher on a 5 point scale (1 = lowest and 5 = highest)



Key Performance Measures

Students and Principals rate the value of articles at an average of 3.5 or higher on a 5 point scale (1 = lowest and 5 = highest)



The Law Society *of British Columbia*



Practice Advice



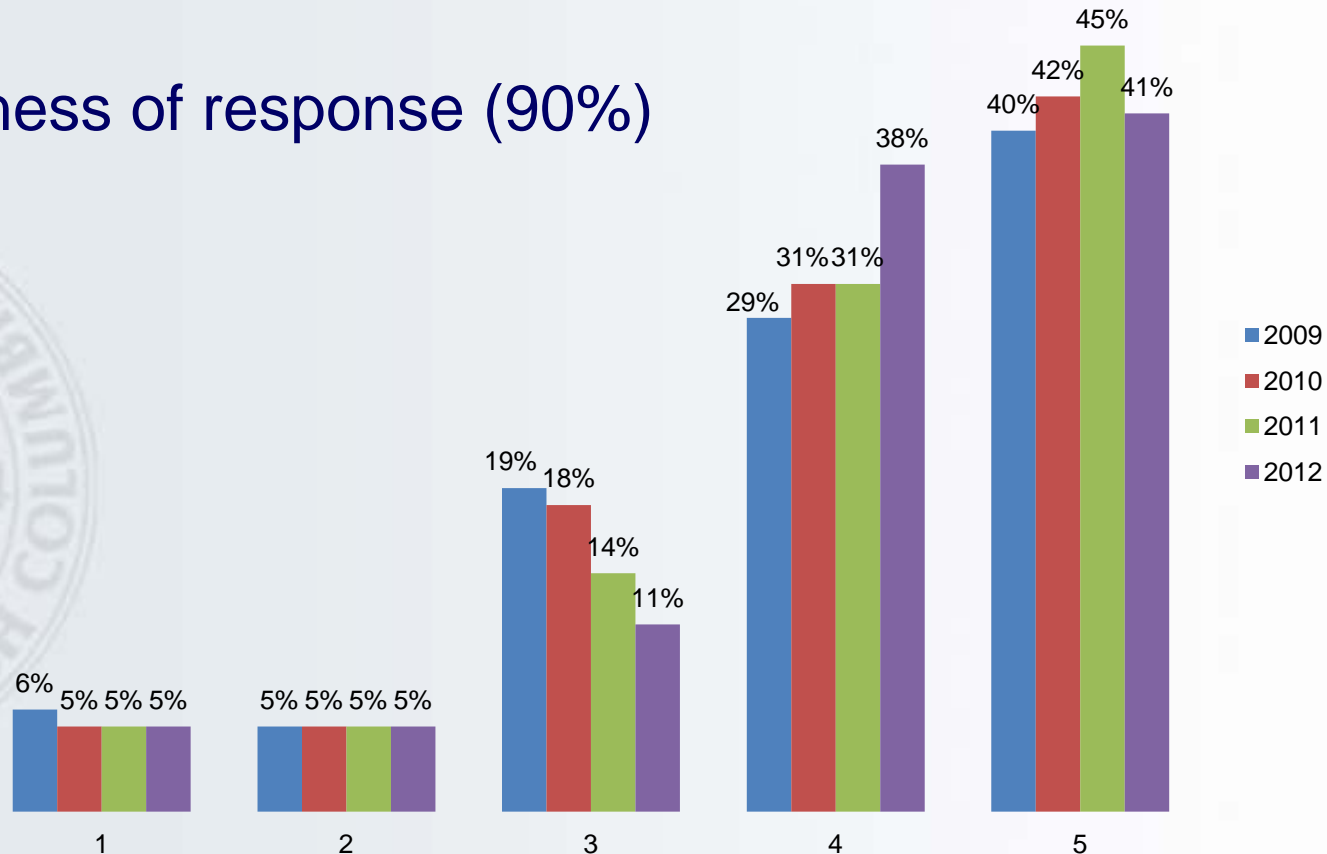
Department Highlights

- The four Practice Advisors (two are half-time) handled a total of 6,898 telephone and email inquiries in 2012, a volume similar to 6,723 calls in 2011.
- 90% of the lawyers who responded to a survey rated timeliness of response at 3 or better.
- 92% of the lawyers who responded rated quality of advice at 3 or higher.
- In rating satisfaction with the resources to which they were referred, 90% of the lawyers provided ratings of 3 or higher.
- In rating their overall satisfaction, 91% of the lawyers provided ratings of 3 or higher.

Key Performance Measures

At least 90% of the lawyers responding to a survey rate their satisfaction level at 3 or higher on a 5 point scale

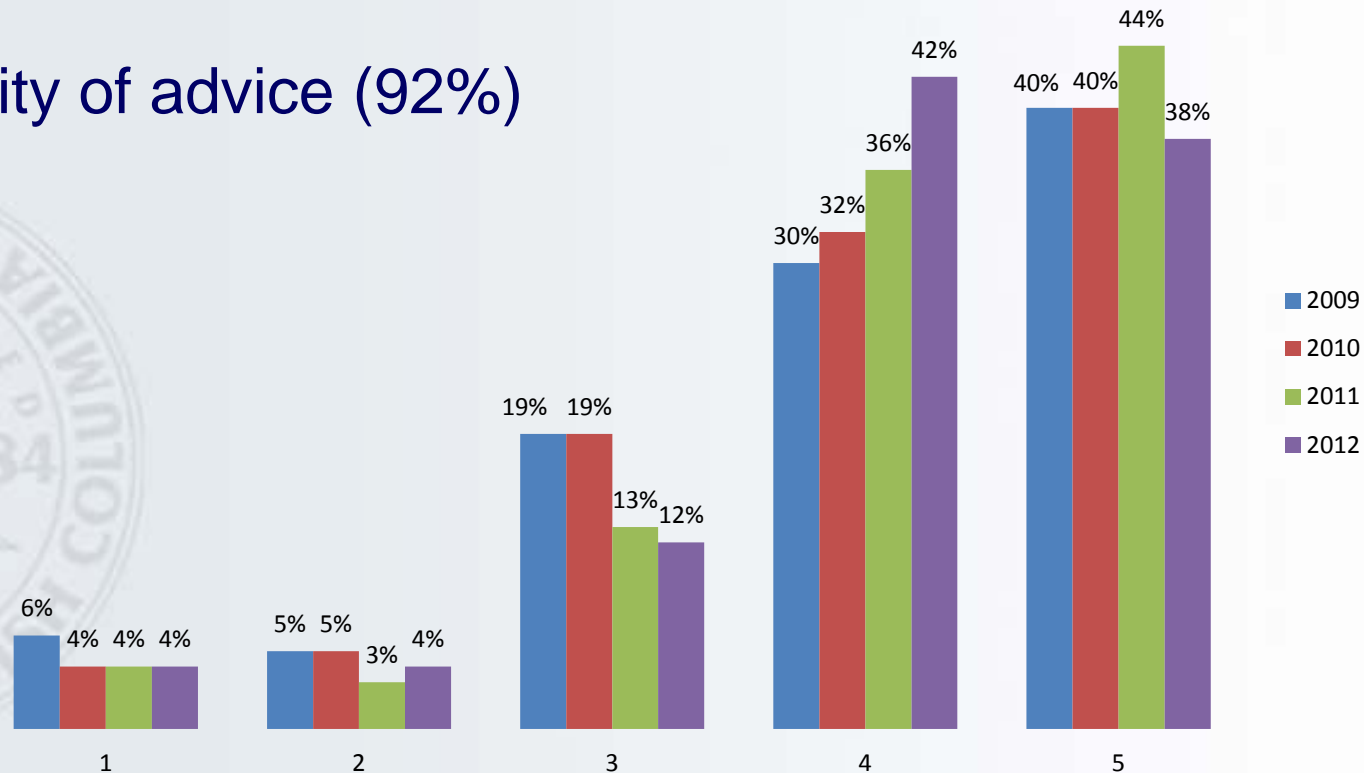
Timeliness of response (90%)



Key Performance Measures

At least 90% of the lawyers responding to a survey rate their satisfaction level at 3 or higher on a 5 point scale

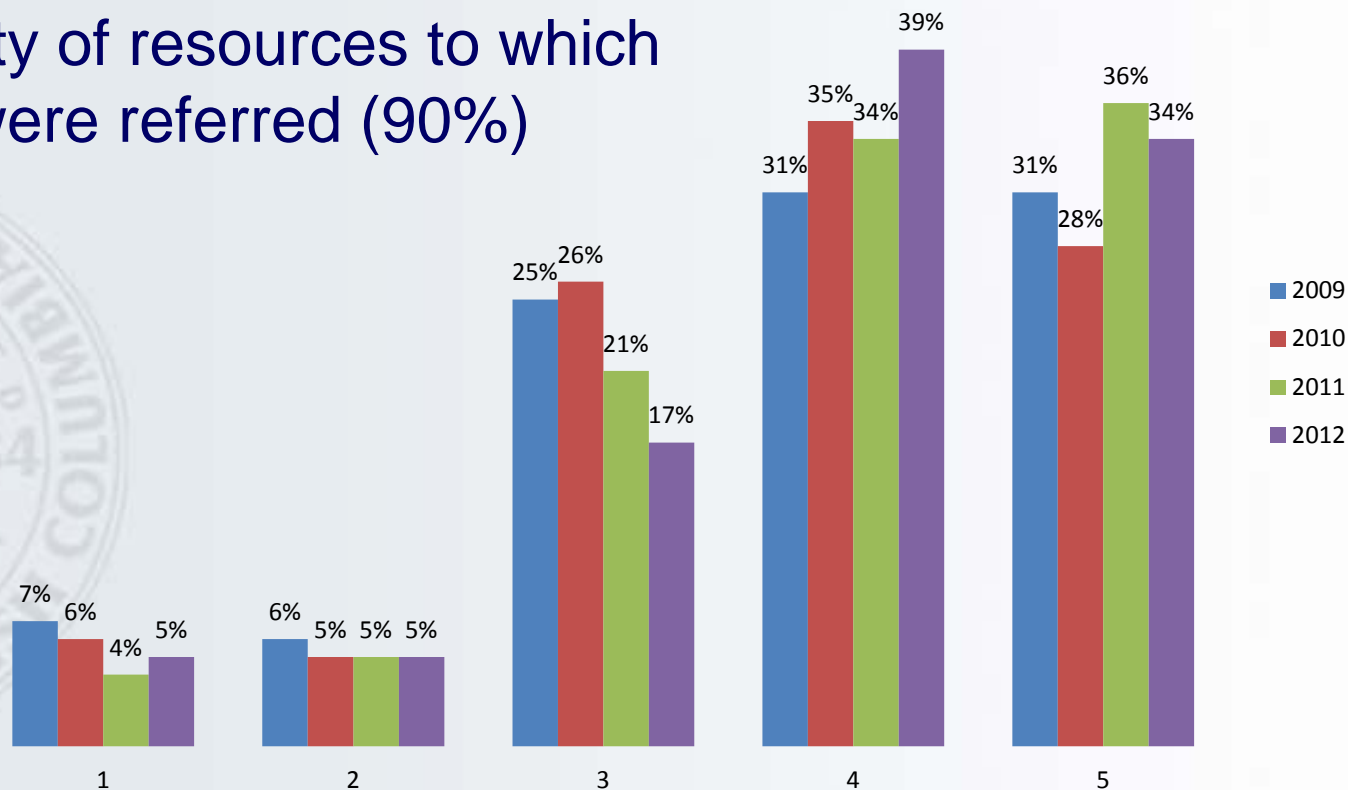
Quality of advice (92%)



Key Performance Measures

At least 90% of the lawyers responding to a survey rate their satisfaction level at 3 or higher on a 5 point scale

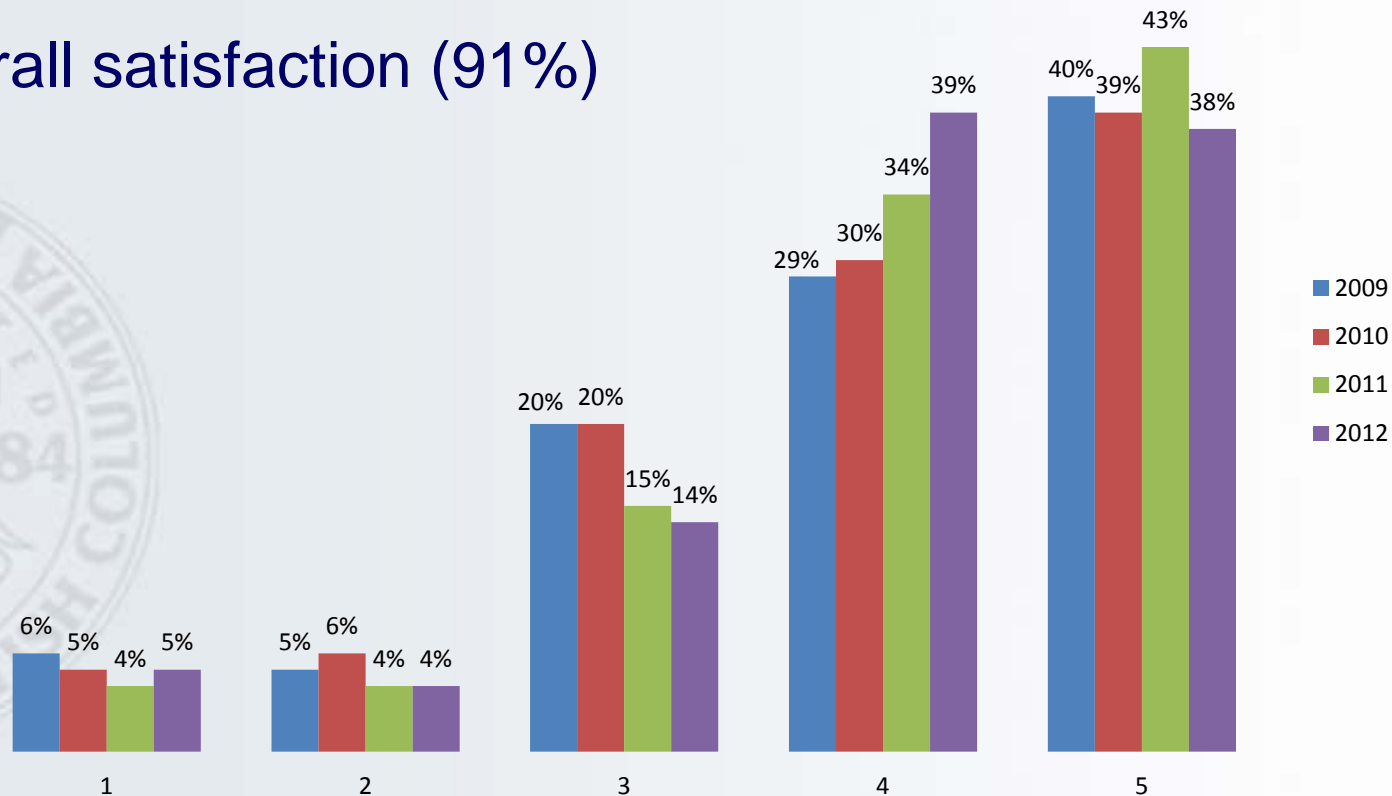
Quality of resources to which you were referred (90%)



Key Performance Measures

At least 90% of the lawyers responding to a survey rate their satisfaction level at 3 or higher on a 5 point scale

Overall satisfaction (91%)



The Law Society *of British Columbia*



Practice Standards



Department Highlights

The Practice Standards Department conducts practice reviews, and then advises the Practice Standards Committee on whether lawyers referred to the program meet accepted standards in their law practices. Where lawyers do not meet accepted standards, the Department monitors remedial measures directed by the Committee.

In 2012, 25 Practice Standards referral files were completed and closed. 27 files were opened. 25 of 25 lawyers for whom Practice Standards files were completed and closed improved by at least one point.

The Department also oversees the continuing operation and enhancement of several online support programs, including the Small Firm Practice Course and the Practice Refresher Course. The ratings for these online support programs exceeded the KPM target, with the exception of the online Practice Locums program.

Key Performance Measures

At least two thirds of the lawyers who complete their referral demonstrate an improvement of at least 1 point on a 5 point scale in any one of the following categories:

1. Office management
 2. Client relations and management
 3. Knowledge of law and procedure
 4. Personal/other
- In 2012, 25 Practice Standards referral files were completed and closed.
 - 25 of 25 lawyers for whom Practice Standards files were completed and closed improved by at least one point.

Key Performance Measures

At least two thirds of the lawyers who complete their referral do so at an efficiency rating of 3 or higher on a 5 point scale in any one of the following categories:

1. Office management
2. Client relations and management
3. Knowledge of law and procedure
4. Personal/other

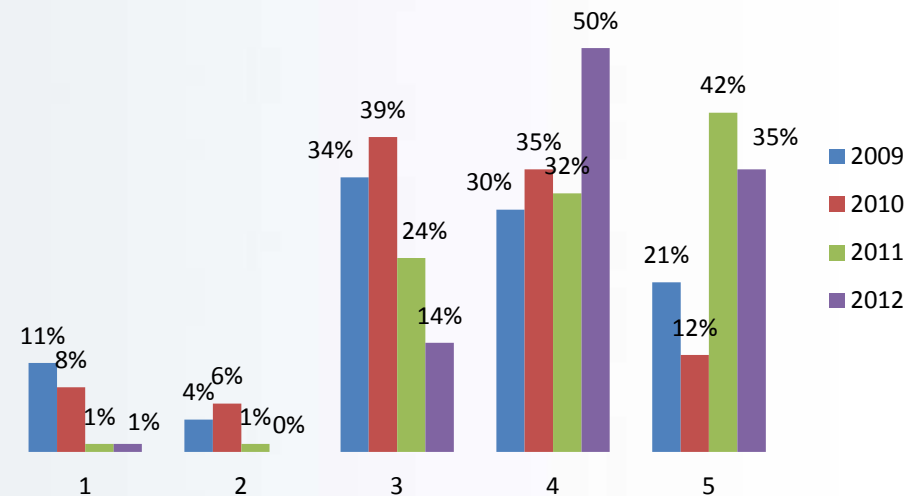
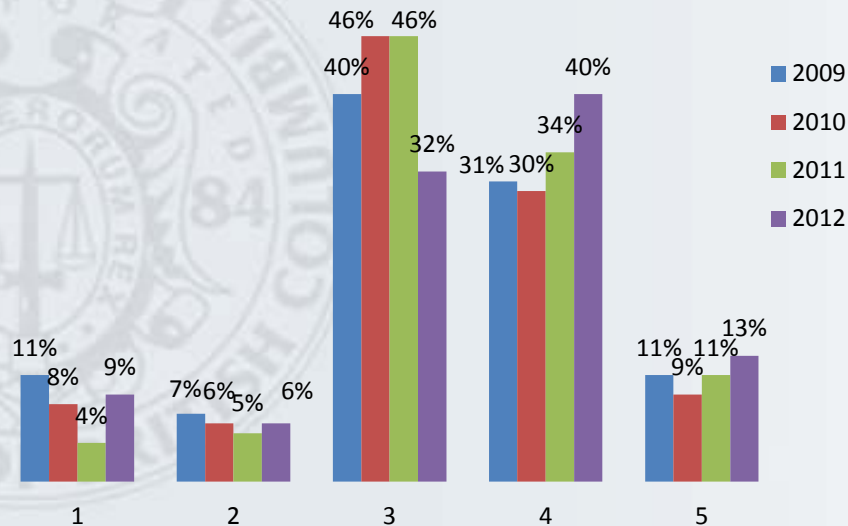
25 of the 25 lawyers finished at a rating of 3 or higher. The minimum threshold for a successful closure was a 3.

25 of the 25 referrals were completed at an efficiency rating of 3 or higher.

Key Performance Measures

At least 85% of the lawyers responding to a survey rate their satisfaction level at 3 or higher on a 5 point scale for these programs:

Succession and Emergency Planning Assistance (85%)

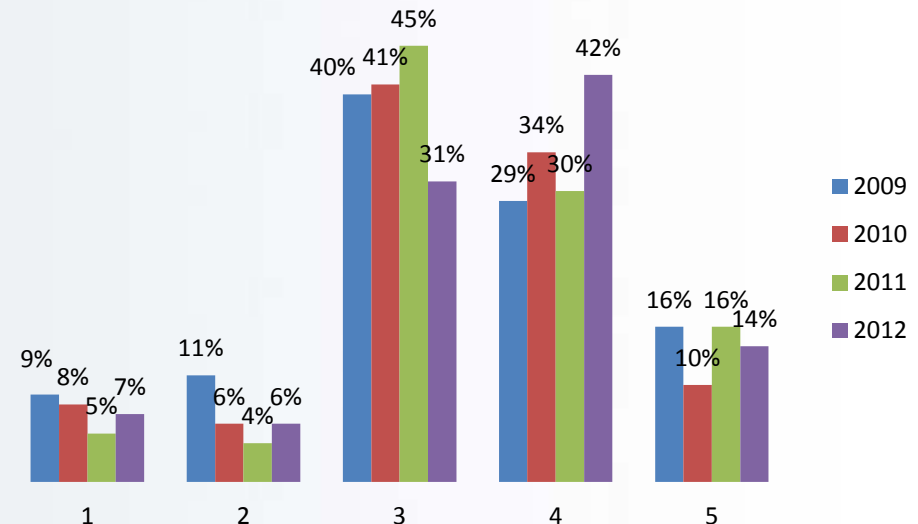
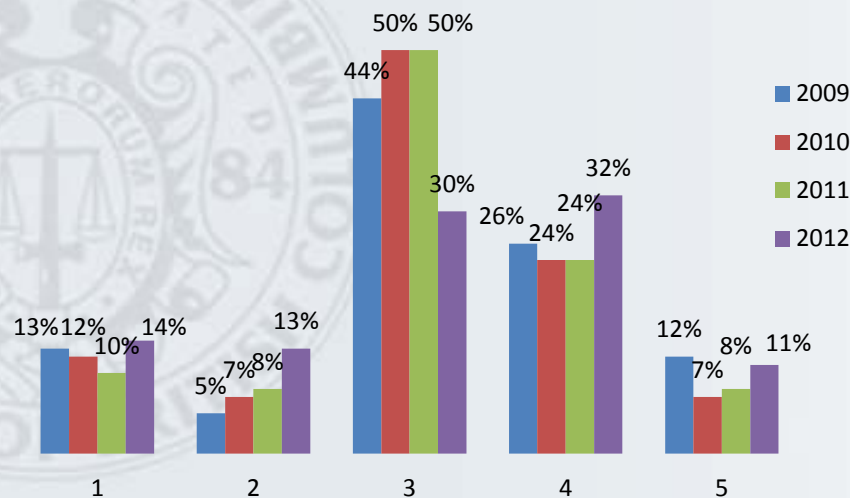


Practice Refresher Course (99%)

Key Performance Measures

At least 85% of the lawyers responding to a survey rate their satisfaction level at 3 or higher on a 5 point scale for these programs:

Practice Locums Program (73%)

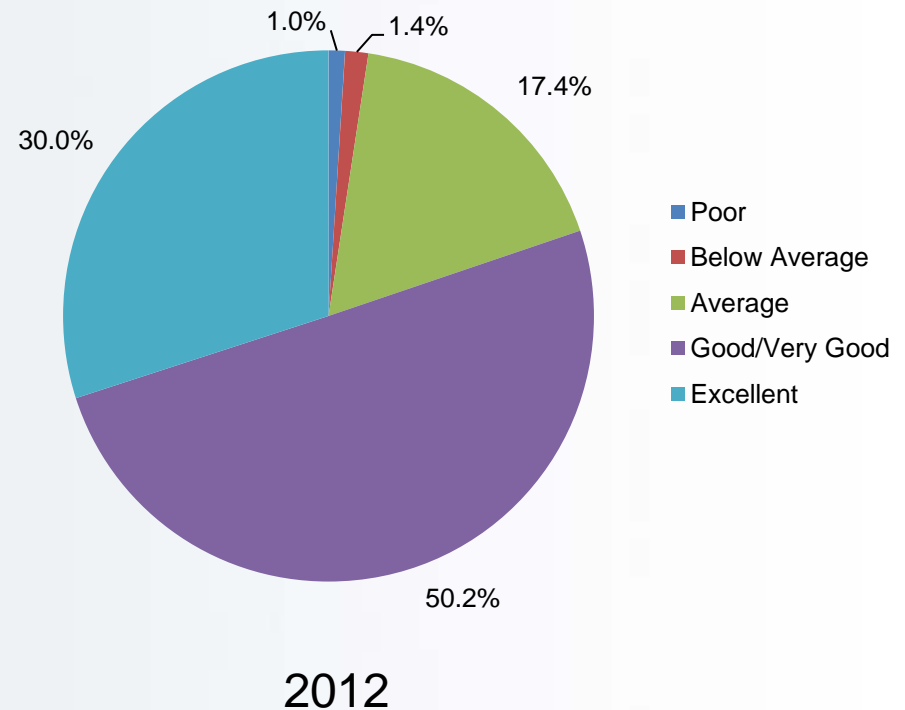


Bookkeeper Support Program (87%)

Key Performance Measures

At least 85% of the lawyers responding to a survey rate their satisfaction level at 3 or higher on a 5 point scale for these programs:

Small Firm Practice Course
(97.6% at 3 or higher)



The Law Society *of British Columbia*



Lawyers Insurance Fund



Department Highlights

LIF's Goal

Our goal is to maintain a professional liability insurance program for BC lawyers that provides reasonable limits of coverage for the protection of both lawyers and their clients, and exceptional service, at a reasonable cost to lawyers. The Key Performance Measures indicate that we are achieving this goal.

Key Performance Measures

1. **Policy limits** for negligence and theft, the **member deductible**, and the **premium** are reasonably comparable with the 13 other Canadian jurisdictions.

Our coverage limits for negligence and theft, at \$1m and \$300,000, respectively, are comparable. Our Part B coverage contractually assures payment on transparent terms, and thus may be superior to others that are based on the exercise of discretion.

Our member deductible, at \$5,000 per claim, is also comparable.

At \$1,750, our premium compares very favourably, especially considering that ours alone includes the risk of theft claims. All others charge a separate fee for this.

Department Highlights

Key Performance Measures cont.

2. Suits under the *Insurance Act* by claimants are fewer than 0.5% of files closed.

Claimants have an unfettered right to proceed to court for a decision on the merits of their claim. However, if they obtain a judgment against a lawyer for which the policy should respond but does not due to a policy breach by the lawyer, we are failing to reasonably protect them. If that occurred, the claimant would sue the Captive directly under the Insurance Act, for compensation. There were no suits by claimants against the Captive in 2012. All meritorious claims were settled with the consent of the claimant or paid after judgment.

3. Every five years, third party auditors provide a written report on whether LIF is meeting its goals:

Third party auditors declared “The goal of resolving claims in a cost effective manner balancing the interests of the insured lawyer, the claimant and the Law Society members is clearly being met – or exceeded – by this collegial and passionate group.”

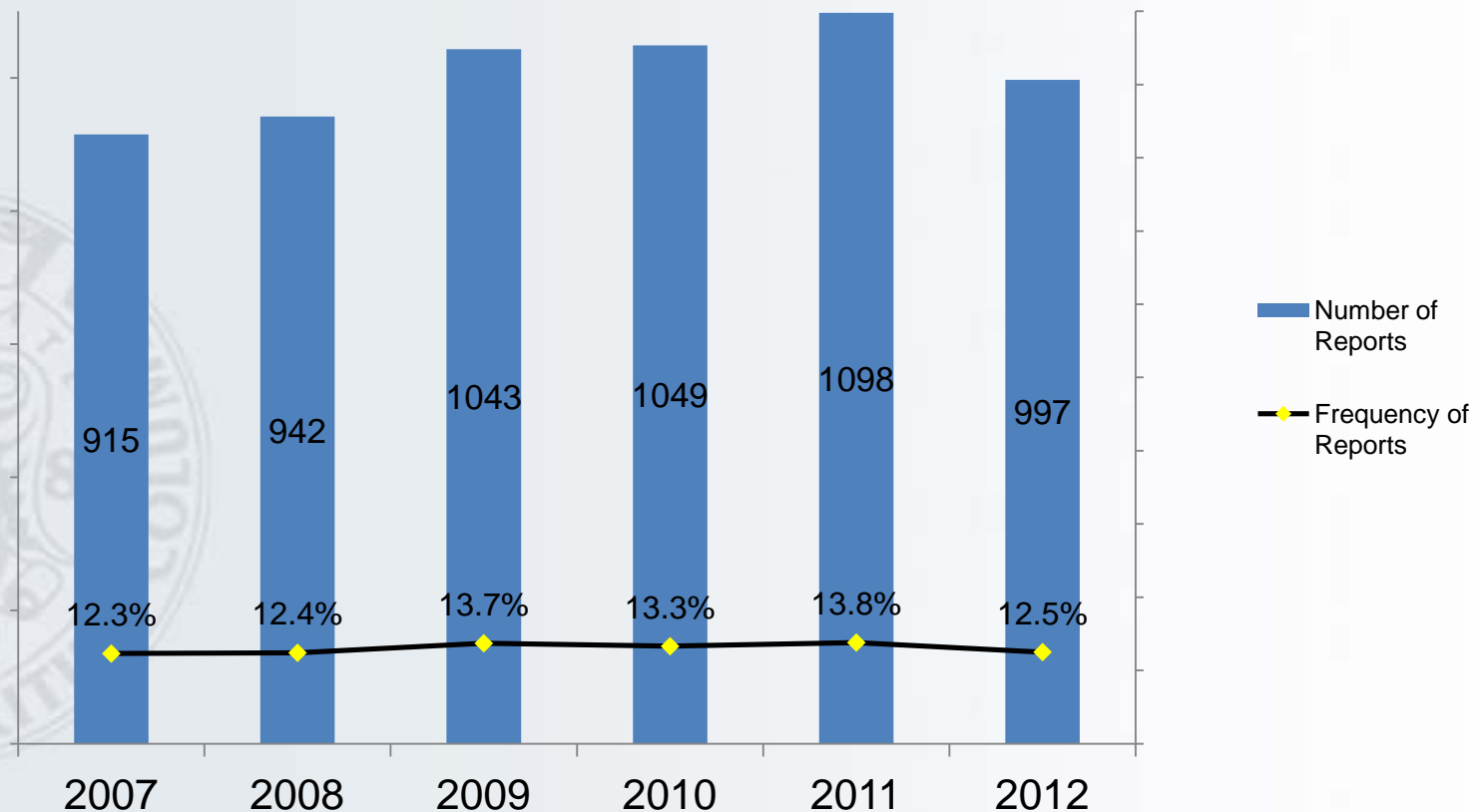
4. Insured lawyers demonstrate a high rate of satisfaction (90% choose 4 or 5 on a 5 point scale) in Service Evaluation Forms.

In 2012, 97% of insureds selected 4 or 5.

Frequency of Insurance Reports

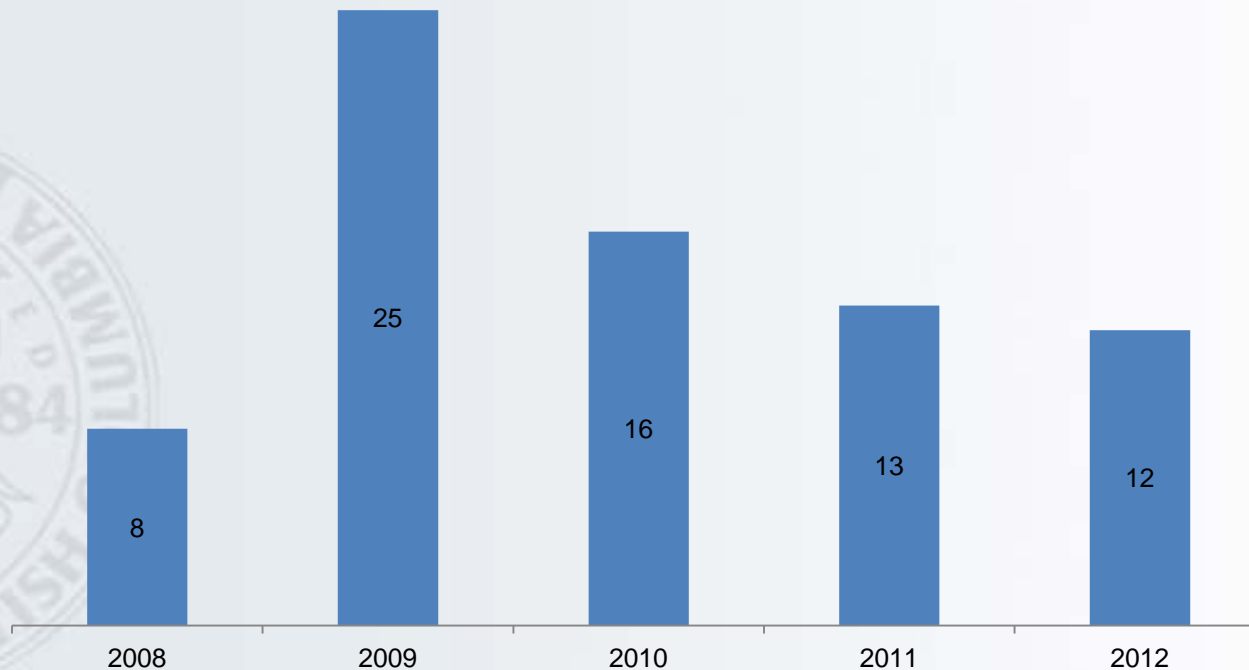
Part A - Number and Frequency of Reports

The number of reports divided by the median number of insured lawyers



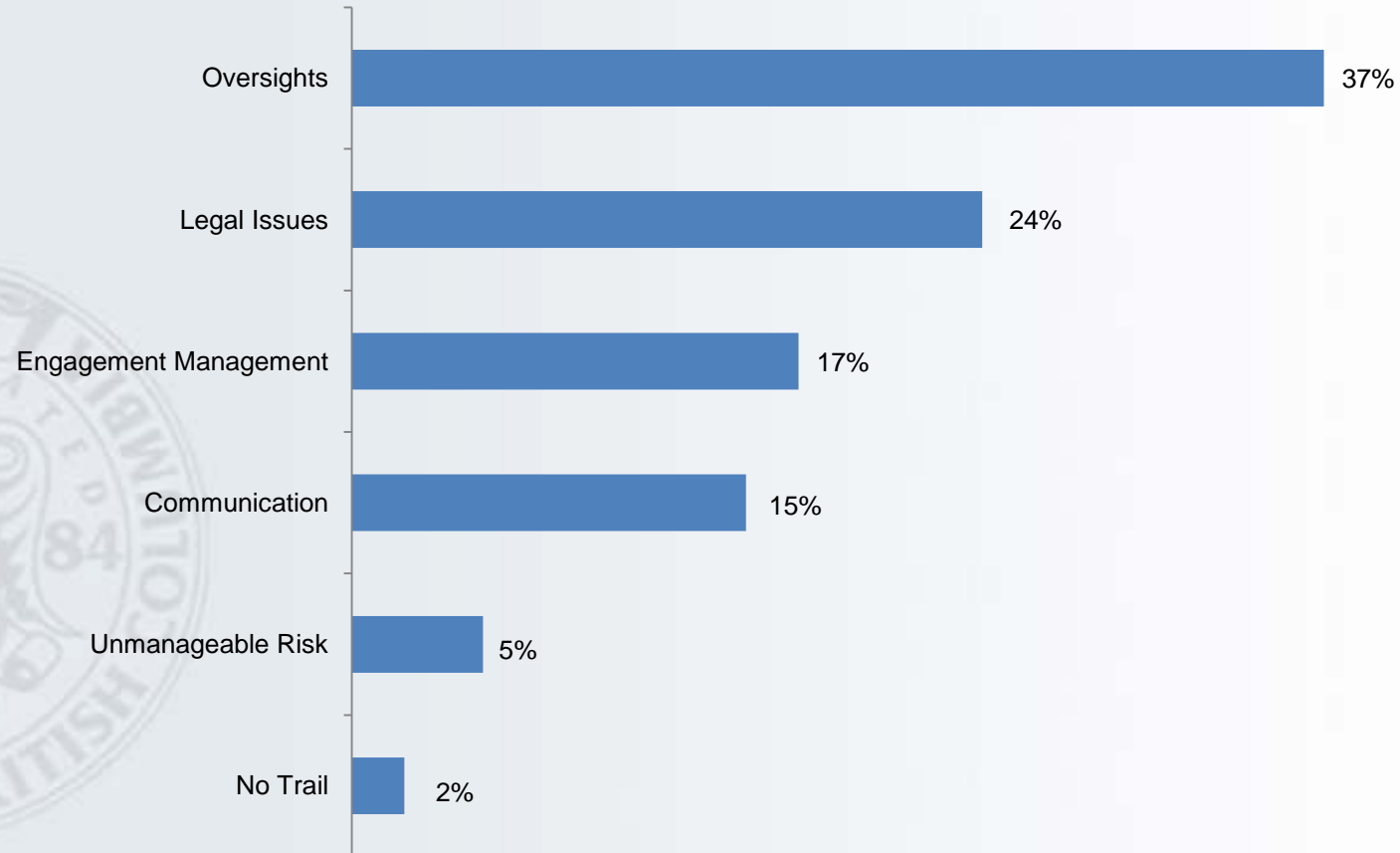
Key Activities

Part B - Number of Reports



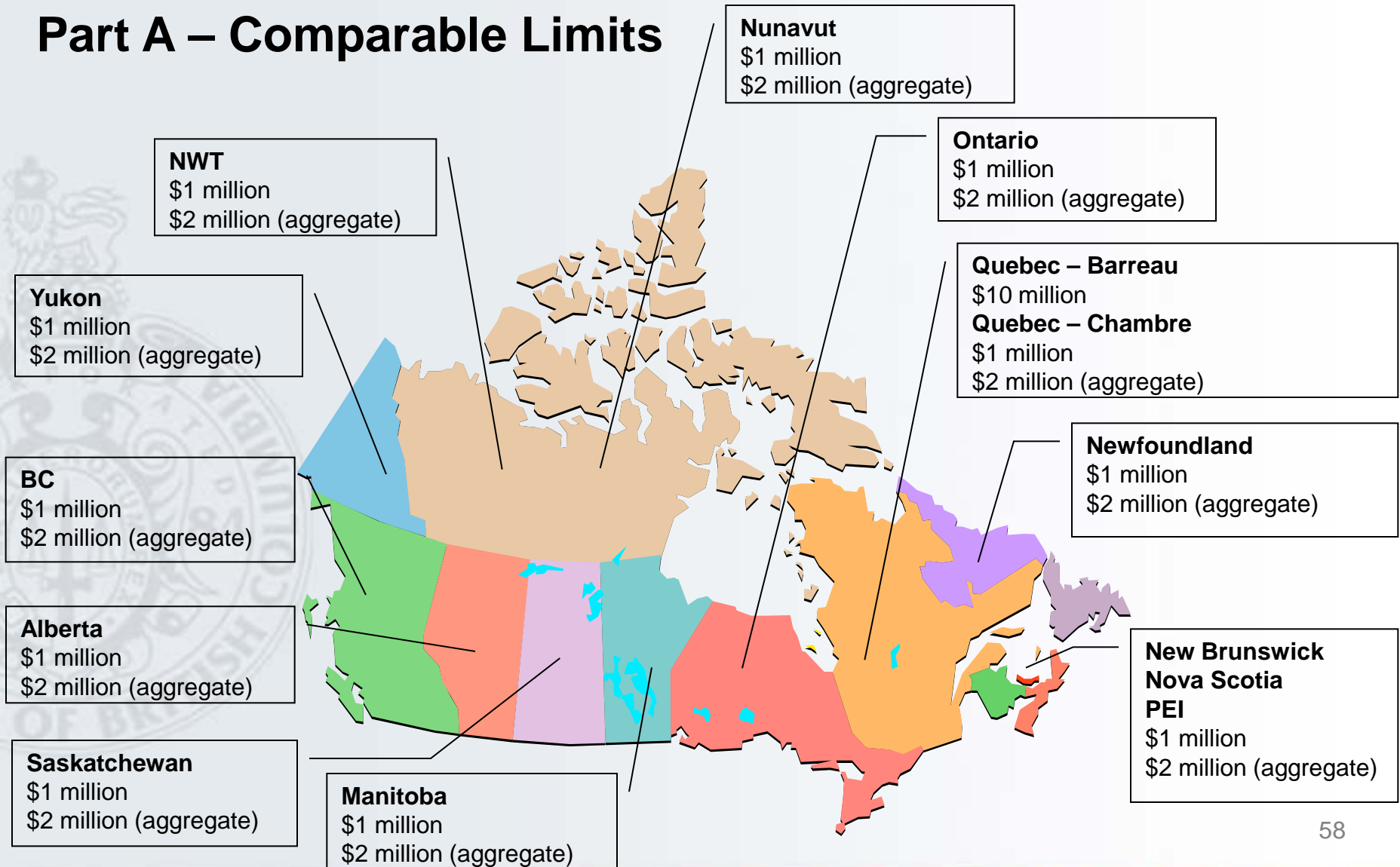
Key Activities

Causes of Reports



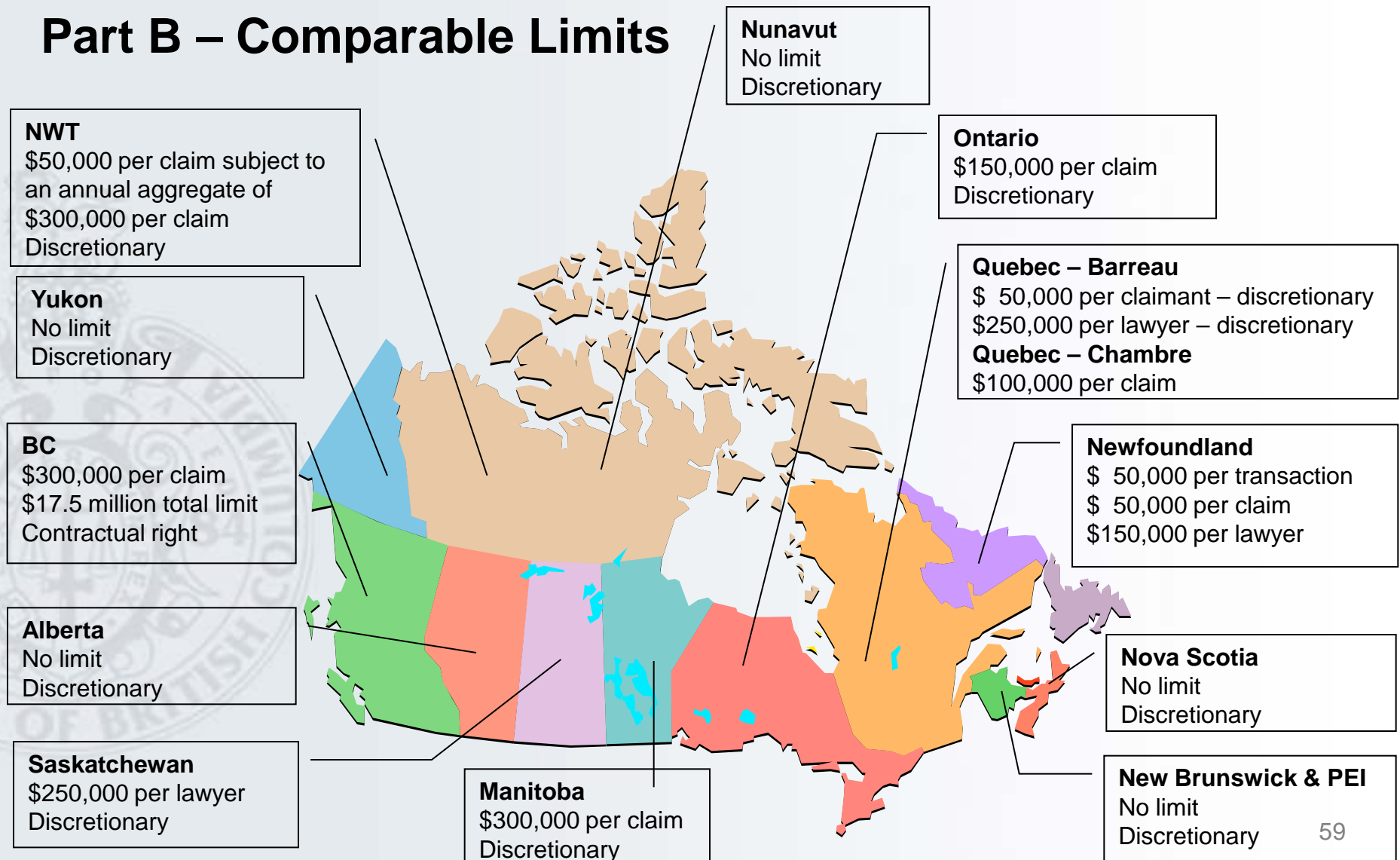
Key Performance Measures

Part A – Comparable Limits



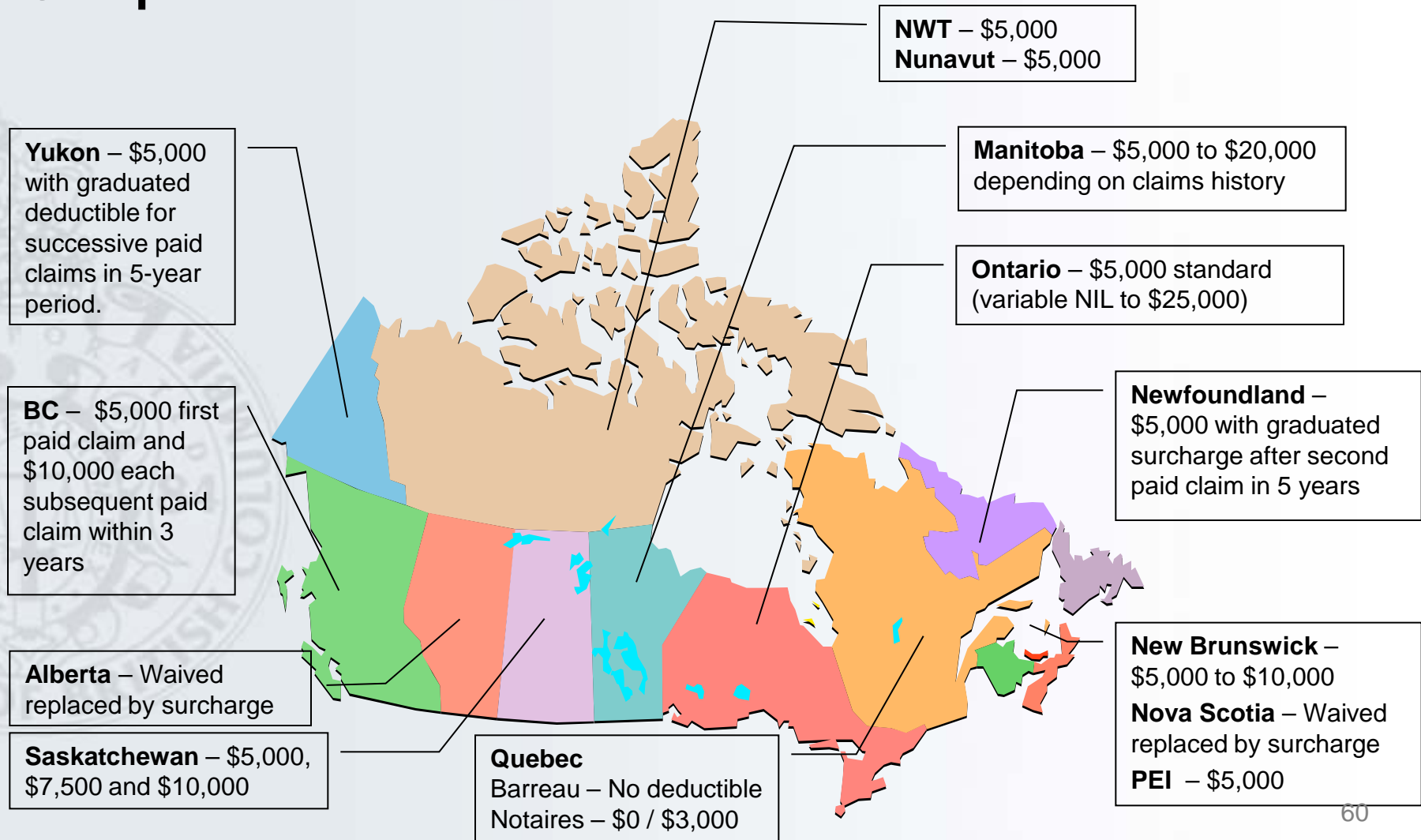
Key Performance Measures

Part B – Comparable Limits



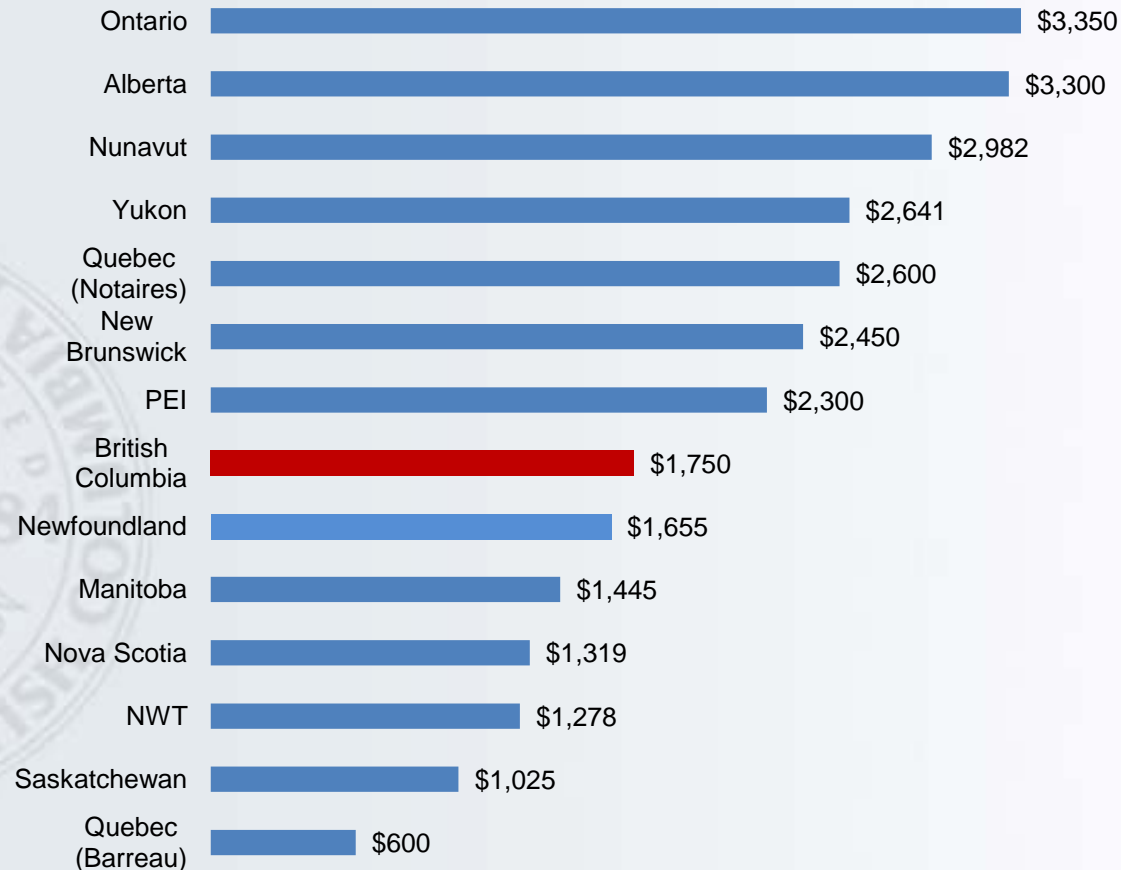
Key Performance Measures

Comparable Member Deductible



Key Performance Measures

Comparable Current Insurance Premium



Key Performance Measures

Outside claims audit every 5 years: obtain opinion

2011 C. Hampton and W. Bogaert Audit Findings

“...we can say with certainty that the claims handling goals are institutionalized in the claims documents, procedures and files, and are almost routinely met in the day to day handling of claims.”

“...the materials we have reviewed strongly evidence the desire of Lawyers Insurance Fund management for continuous improvement and excellence, to provide even better service to its insureds and to be even more cost effective in its claims handling and resolution.”

“In summary, we found a very experienced, skilled, creative and motivated staff and management performing tremendously and at a high level of effectiveness. The goal of resolving claims in a cost effective manner balancing the interests of the insured lawyer, the claimant and the Law Society members is clearly being met – or exceeded – by this collegial and passionate group.”

Key Performance Measures

Outside claims audit every 5 years: obtain opinion

2008 CBELA Audit Findings

“Not unexpectedly the results of the audit were very positive...

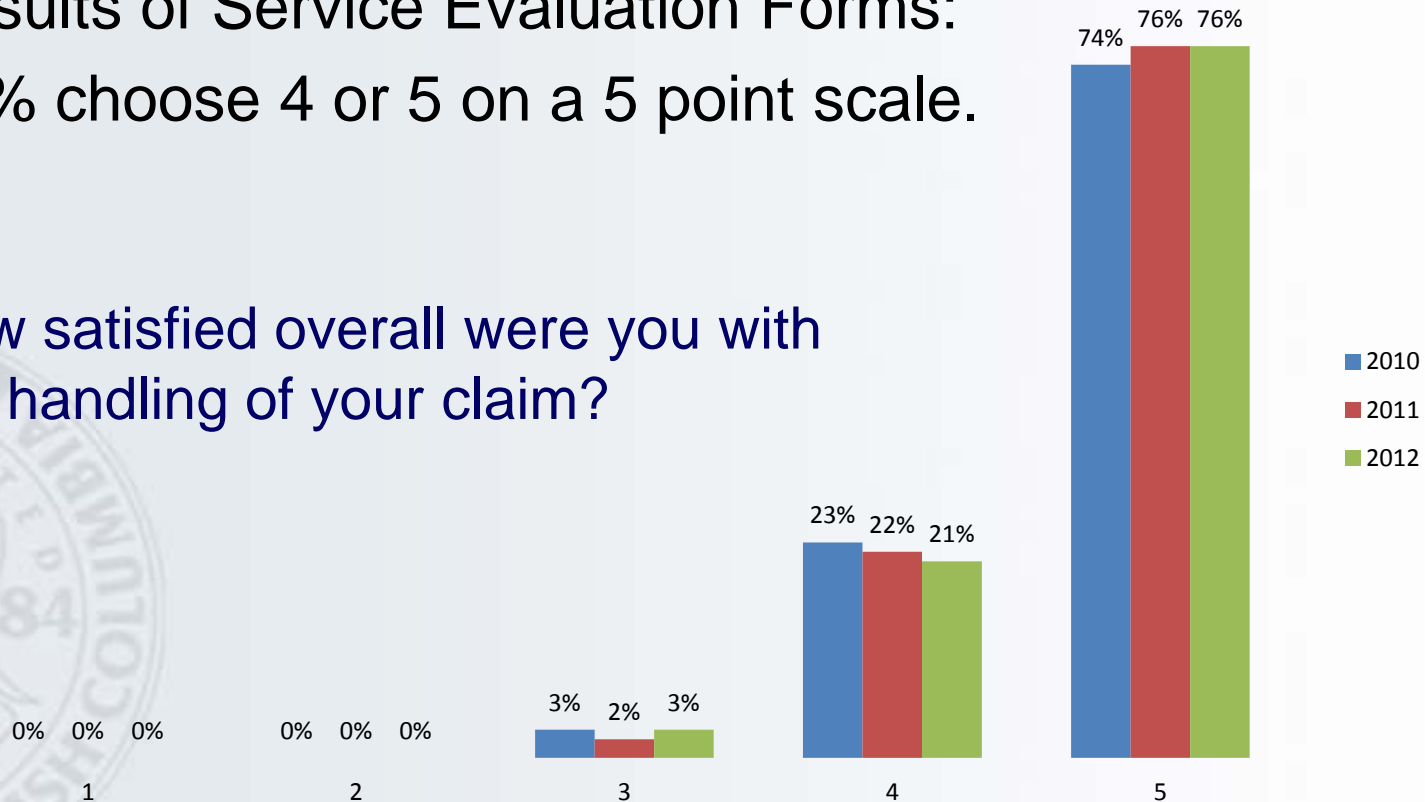
There are numerous positive aspects to this program. Key underlying attributes of the program can be summed up as follows:

- Clarity of mandate and LSBC support of the program
- Highly trained, professional, committed individuals with a shared history
- Very high level of expertise in management of E&O claims
- Effective, sound management of a cohesive group whose size compliments the administrative style of the BC program”

Key Performance Measures

Results of Service Evaluation Forms:
90% choose 4 or 5 on a 5 point scale.

How satisfied overall were you with
the handling of your claim?



Not At All ←

→ A Lot

Memo

To: Benchers
From: Deb Armour
Date: February 5, 2013
Subject: 2012 Results for Key Performance Measures for Professional Conduct and Discipline

The 2012 KPM's for Professional Conduct and Discipline for timeliness met the KPM target, but those related to thoroughness, fairness and courtesy did not meet the targets. This memorandum is provided to the Benchers as additional information and analysis of the 2012 KPM results.

The core function of the Professional Conduct and Discipline programs is to handle complaints about lawyers in a fair, effective and timely manner and maintain a regulatory process that is consistent, thorough and transparent.

To assess these functions, the Benchers approved 6 key performance measures (KPMs). Five measures provide information about complainants' perceptions of the complaint process in terms of timeliness, fairness, courtesy and thoroughness and also whether complainants would recommend that someone make a complaint to the Law Society if someone had a problem with a lawyer. Each of these measures is subjective but together they provide a picture of how complainants perceive that process in relation to some critical factors.

Each time a file is closed whether it is after staff review, Complainants' Review Committee (CRC) review, or after one of the disciplinary actions ordered by Discipline Committee (Letter from the Chair, Conduct Meeting, Conduct Review or Citation), a letter is sent to the complainant enclosing a survey seeking their ratings on the 5 areas identified above. The KPM results are compiled from the responses received from those surveys. This year, we closed 852 matters. We received 120 survey responses, resulting in a response rate of 14%.

In 2012, we closed 12% of the files on the basis of no jurisdiction. That figure was 8% in 2011 and 3% in 2010. This year, 27% of the survey responses came from those complainants whose complaints were closed on the basis of no jurisdiction. In 2011, that figure was 20% and 12% in 2010. There has always been a strong level of dissatisfaction on the files that we have closed for no jurisdiction. While we typically have a disproportionately high survey response rate on no jurisdiction files, it was particularly high this year.

A common complaint that is closed for lack of jurisdiction relates to fee complaints. The Law Society offers a fee mediation program. There has historically been very little take-up for this program. While complainants often show an interest in accessing this program, it requires the agreement of lawyers who are complained about who have shown less enthusiasm. We are working on a communication package which we hope will improve the participation rate in the fee mediation program.

Going forward, we will also pay particular attention to all files closed for no jurisdiction to determine whether there are other ways we can improve satisfaction for those complainants.

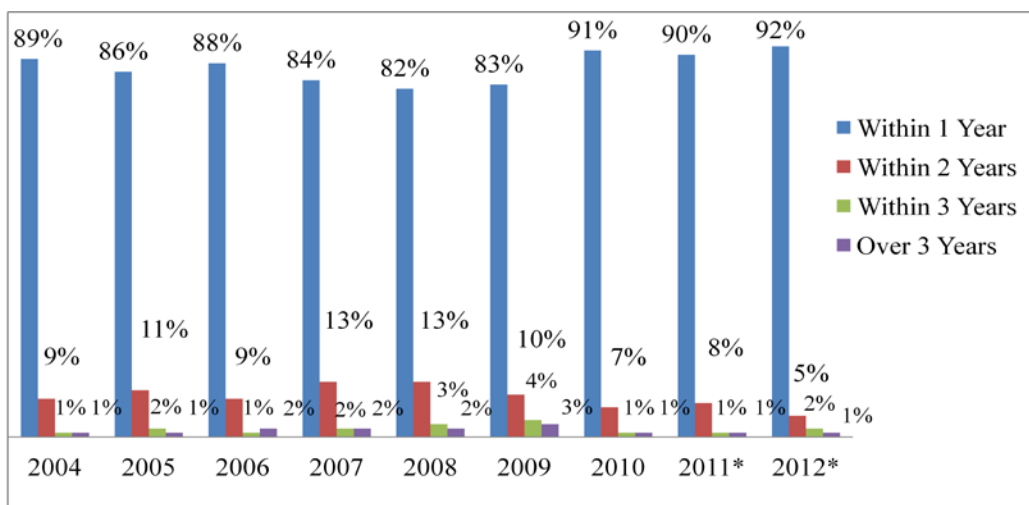
A close scrutiny of the verbatims indicated that approximately 13% of the respondents had unrealistic expectations of what the Law Society could do for them. It is difficult to glean other generalities from the verbatims.

Of those respondents who indicated they were not satisfied, 35 went to the CRC. Out of that number, the CRC took no action on 34. The other request has not yet been considered by the CRC.

Interestingly, while we met our timeliness goal, the KPM result on timeliness (77%) is lower than last year (81%). We now produce a number of statistics to measure timeliness. These statistics show that we made very significant improvements in all timeliness statistics in 2012 compared with 2011.

The graph below indicates that we closed a greater percentage of files in 2012 than we have done in the previous 8 years.

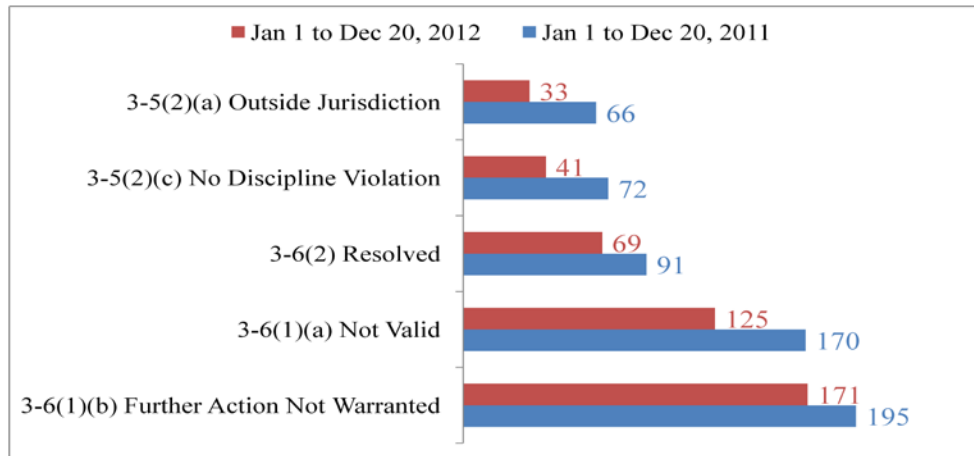
CLOSED COMPLAINTS BY DURATION



In addition, the average age of the files closed at staff level (i.e. without going to Discipline Committee) has been significantly reduced year over year.

AVERAGE AGE OF FILES CLOSED AT STAFF LEVEL

Per Closing Rule, in Days



In 2012, 33% of all complaints were closed within 60 days, compared to 25% in 2011 and 15% in 2010. It could be inferred that the speed with which files are now closed may contribute to complainants feeling their concerns were not addressed thoroughly or fairly.

At this time, we do not know whether the decrease in the KPM results is a longer term trend as this is the first year we have had lower results. We will continue to monitor the KPM survey results received during the 2013 year to see if the trend continues.

Law Society of British Columbia

Enterprise Risk Management – Updated February 2013

Executive Summary

An enterprise risk is the threat that an event or action will adversely affect an organization's ability to achieve its strategic goals and mandate.

An Enterprise Risk Management Plan (ERM) is a governance tool which provides for the:

- Identification of enterprise risks that can have an impact on the achievement of the Law Society's strategic goals and mandate
- Determination of relative priority of these risks based on their potential to occur and the extent of the impact
- Management of the risks through mitigation strategies, retaining, reducing, avoiding or transferring the risks

To successfully manage these risks, a framework for risk identification, measurement and monitoring has been developed by Management and will be reported to the Audit Committee on an annual basis.

The process going forward will be:

- Management Board will play a central role, with the Chief Executive Officer being the main liaison per the Executive Limitations
- The ERM plan will be maintained through semi-annual discussions by Management Board and related departments to refresh the Risk Schedule and related risk management efforts
- The Risk Schedule will be updated in conjunction with the annual review of the Key Performance Measures to the Audit Committee, and then to the Benchers
- Should a risk change or a new risk occur, the escalation process will be to inform the appropriate Management Board member, and/or the CEO, with a report out to the President (or Executive Committee) when required, subject to the Executive Limitations

The top eight strategic residual risks are noted below, with the full Risk Schedule attached as Appendix A.

| Summary of Major Strategic Residual Risks (top 8 – yellow risks) | | |
|--|--|------------------|
| Category | Risk | MB Lead |
| Regulatory | R1: Adverse change in Provincial <i>Legal Profession Act</i> or government policy direction | CEO |
| Regulatory | R3: Conflict of interest event by Benchers or staff | CEO |
| Financial | F2: Economic and/or financial market downturn | CFO |
| Operational | O1: Natural disaster | CEO |
| Operational | O3: Breach of confidential and/or FOIPPA information to members, employees and/or the public | Tribunal Counsel |
| Operational | O4: Unauthorized access to data and information | CIPO and CFO |
| Lawyers Insurance | LIF3: Catastrophic theft under Part B of the LPL policy | Dir of Insurance |
| Lawyers Insurance | LIF8: Investment devaluation | CFO |

Law Society of British Columbia
Enterprise Risk Management
Risk Schedule – Prioritized ~~2011~~
Updated February 2013

| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|---------------|--|--|---------------------|--|---------------------|---|-------------------------------|
| REGULATORY | R1: Adverse change in Provincial Legal Profession Act or government policy direction | <ul style="list-style-type: none"> • Political: direct government intervention in the Law Society authority and structures as well as the possible loss of the right to self regulation • Reputational: diminished public perception of independence | | <ul style="list-style-type: none"> • Benchers Strategic Plan • Meet KPMs and monitor Bellwether • Continuous review of regulatory model • Requests for appropriate amendments to <i>Legal Profession Act</i> • Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law • Benchers policies and training • Hearing panel composition and training • Media monitoring • Crisis communication plan • <u>2011 Regulatory Plan – continued implementation</u> • <u>More formal government relations process instituted</u> • <u>Legal Profession Act Amendments - 2012</u> | | <ul style="list-style-type: none"> • Federation - National <u>discipline and admission</u> standards <u>being developed</u> • 2011 Regulatory Plan • Formalised process and plan for a tag postive stakeholder relations • <u>Governance review in 2012 – Governance Committee reviewing recommendations in 2013</u> • | Chief Executive Officer (CEO) |
| REGULATORY | R3: Conflict of interest event by Benchers or staff | <ul style="list-style-type: none"> • Political: direct government intervention in the Law Society authority and structures • Reputational: diminished public perception of independence along with a loss of reputation with the membership | | <ul style="list-style-type: none"> • Hearing panel composition (<u>public and lawyer members</u>) and training • Benchers policies and training • Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law <u>including investigations conducted by</u> | | <ul style="list-style-type: none"> • Governance review in 2012 – <u>Governance Committee reviewing recommendations in 2013</u> | CEO |

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Law Society of British Columbia
Enterprise Risk Management
Risk Schedule – Prioritized ~~2011~~
Updated February 2013

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|---------------|---|--|---------------------|---|---------------------|--|--|
| | | | | independent external counsel where appropriate <ul style="list-style-type: none"> Crisis communication plan Enhanced role of Tribunal Counsel | | <ul style="list-style-type: none"> Enhanced role of the Tribunal Counsel | |
| FINANCIAL | F2: Economic and/or financial market downturn | <ul style="list-style-type: none"> Financial: investment devaluation as well as losses of market value in the building and revenue | | <ul style="list-style-type: none"> Investment policies and procedures (SIIP) Quarterly reviews of investment performance and benchmarking Investment managers and pooled funds Annual operating and capital budgeting process Monthly and quarterly financial review process Long-term leases Real estate expert advice and monitoring | | | Chief Financial Officer & Director of Trust Regulation (CFO) |
| OPERATIONAL | O1: Natural disaster | <ul style="list-style-type: none"> Operational and financial: injury of staff and/or building damage Operational: service disruption Financial: unexpected costs | | <ul style="list-style-type: none"> Off-site storage and servers Fire and earthquake safety plan and training Information technology backup plan Building due diligence reviews Insurance coverage Comprehensive earthquake training completed in 2011 annual earthquake drills (Shake-Out) instituted 2007 Building Due Diligence report confirms the buildings met building codes | | <ul style="list-style-type: none"> Update earthquake training Formal earthquake assessment of building | CEO |

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|---------------|--|---|---------------------|--|---------------------|---|-----------------------|
| | | | | <u>when built 835 was updated to current standards in 1992 due diligence report notes that 845 and 835 buildings should not sustain catastrophic failure in a major seismic event</u> | | | |
| OPERATIONAL | O3: Breach of confidential and/or FOIPPA information to members, employees and/or the public | <ul style="list-style-type: none"> • Reputational: diminished public perception of independence and possible loss of reputation with membership | | <ul style="list-style-type: none"> • Information technology security policy, process and procedures • Member file and case file management procedures • Building security system and procedures • FOIPPA training of staff | | <ul style="list-style-type: none"> • Perform privacy review – <u>report completed and action plan being implemented in 2013</u> • Establish privacy of information policies – <u>same</u> • Enhanced FOI employee training – <u>same</u> | Tribunal Counsel |
| OPERATIONAL | O4: Unauthorized access to data and information | <ul style="list-style-type: none"> • Reputational: diminished public perception of independence and possible loss of reputation with membership | | <ul style="list-style-type: none"> • Information technology security policy, process and procedures • Records management policies • <u>Confidential shredding contract</u> • <u>External website security review completed in 2012</u> | | <ul style="list-style-type: none"> • Review of security system profiles and policies – <u>part of privacy review recommendations</u> • <u>Implementation of LEO – security profiles</u> | CIPO and CFO |

Law Society of British Columbia
Enterprise Risk Management
Risk Schedule – Prioritized ~~2011~~
Updated February 2013

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|------------------------|---|--|---------------------|---|---------------------|---|------------------------------------|
| LAWYERS INSURANCE FUND | LIF3: Catastrophic theft under Part B of the LPL policy | <ul style="list-style-type: none"> • Reputational: diminished public perception of the profession • Financial: significant investigation expense and settlement payments | | <ul style="list-style-type: none"> • Trust rules and audit program • Proactive claims and risk management practices • Policy wording on limits • Chartis insurance policy for Part B • Maintenance of surplus levels | | | Director of Lawyers Insurance Fund |
| LAWYERS INSURANCE FUND | LIF8: Investment devaluation | <ul style="list-style-type: none"> • Financial: insufficient reserves or surplus | | <ul style="list-style-type: none"> • Investment policies and procedures (SIIP) • Investment managers and pooled funds • Quarterly reviews of investment performance • Real estate expert advice and monitoring • Maintenance of surplus levels | | | CFO |
| REGULATORY | R2: Loss of a lawsuit alleging a failure of the Law Society to follow due process | <ul style="list-style-type: none"> • Political: direct government intervention in the Law Society authority and structures as well as the possible loss of the right to self regulation • Reputational: diminished public perception of independence along with a loss of reputation with the membership • Financial: lawsuit defense and settlement costs | | <ul style="list-style-type: none"> • Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law • Benchers policies and training • Crisis communication plan • S.86 Legal Profession Act (statutory protection against lawsuits and liability) • D & O policy underwritten by Chartis • <u>Hearing panel training</u> • <u>2011 Regulatory Plan – continued implementation</u> • <u>Enhanced role of the Tribunal Counsel</u> | | <ul style="list-style-type: none"> • 2011 Regulatory Plan • Federation - National <u>admission and discipline</u> standards <u>being developed</u> • <u>Enhanced role of the Tribunal Counsel</u> | Chief Legal Officer (CLO) |

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Law Society of British Columbia
Enterprise Risk Management
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Updated February 2013

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|---------------|--|--|---------------------|---|---------------------|---|--|
| REGULATORY | R4: Failure of the Law Society to stay within jurisdiction and/or wrongful prosecution | <ul style="list-style-type: none"> • Political: direct government intervention in the Law Society authority and structures • Reputational: diminished public perception of independence along with a loss of reputation with the membership | | <ul style="list-style-type: none"> • Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law • Bencher policies and training • Crisis communication plan • Hearing panel training • <u>Enhanced role of the Tribunal Counsel</u> | | <ul style="list-style-type: none"> • <u>Enhanced role of the Tribunal Counsel</u> | CLO and Tribunal Counsel |
| REGULATORY | R5: Loss of a lawsuit alleging failure to sanction or deal with a lawyer | <ul style="list-style-type: none"> • Political: direct government intervention in the Law Society authority and structures • Reputational: diminished public perception of independence along with a loss of reputation with the membership • Financial: costs and damages imposed through possible litigation | | <ul style="list-style-type: none"> • Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law • Bencher policies and training • S.86 Legal Profession Act (statutory protection against lawsuits and liability) • D & O policy underwritten by Chartis • Crisis communication plan • Hearing panel composition and training | | <ul style="list-style-type: none"> • <u>National discipline standards</u> | CLO and Tribunal Counsel |
| REGULATORY | R6: Loss of a lawsuit alleging wrongful deprivation of lawyers (prospective) membership (livelihood) | <ul style="list-style-type: none"> • Reputational: diminished public perception of independence along with a loss of reputation with the membership • Financial: costs and damages imposed through possible litigation | | <ul style="list-style-type: none"> • Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law • <u>Appropriate credentialing procedures including investigations, assessment of applications and credentials hearings</u> • Bencher policies and training • S.86 Legal Profession Act (statutory protection against lawsuits and liability) • D & O policy underwritten by Chartis | | <ul style="list-style-type: none"> • National admission standards <u>being developed</u> | CLO and the Director of Education and Practice |

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Enterprise Risk Management
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|---------------|--|---|---------------------|--|---------------------|---|------------------------------------|
| | | | | <ul style="list-style-type: none"> • Crisis communication plan • Hearing panel training | | | |
| REGULATORY | R7: Admission decisions are not reflective of the character, fitness, and competencies of a prospective lawyer | <ul style="list-style-type: none"> • Political: possible loss of the right to self regulation • Reputational: diminished public perception of independence • Financial: costs and damages imposed through possible litigation | | <ul style="list-style-type: none"> • Law Society Admission Program • Revised Credentialing standards and procedures | | <ul style="list-style-type: none"> • Legislative amendment to allow internal Law Society appeals of prior decisions • National admission standards <u>being developed</u> | Director of Education and Practice |
| FINANCIAL | F1: Misappropriation of Law Society financial assets | <ul style="list-style-type: none"> • Reputational: loss of reputation with the membership • Financial: loss of revenue, increased fees | | <ul style="list-style-type: none"> • Internal controls • Schedule of authorizations • External audit • Monthly and quarterly financial review process • Crime insurance | | | CFO |
| FINANCIAL | F3: Loss of tenants | <ul style="list-style-type: none"> • Financial: losses of market value in the building and lease revenue | | <ul style="list-style-type: none"> • Long-term leases, effect early renewals when appropriate • External property management firm expertise • Building maintenance plan • Building due-diligence reviews • 10 year capital plan • Annual operating and capital budgets | | | CFO |

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|---------------|--|---|---------------------|---|---------------------|---|-----------------------|
| FINANCIAL | F4: Unexpected escalation of operating costs | <ul style="list-style-type: none"> • Financial: loss of revenue | | <ul style="list-style-type: none"> • Executive limitations • Schedule of Authorizations • Annual operating and capital budgeting process • Monthly and quarterly financial review process • External property management firm expertise • Building maintenance plan • Building due-diligence review • Ten-year capital plan | | | CFO |
| FINANCIAL | F5: Inaccurate or untimely financial reporting | <ul style="list-style-type: none"> • Reputational: loss of reputation with the membership • Financial: loss of revenue or increase in costs • Operational: poor decision-making | | <ul style="list-style-type: none"> • Internal control system • Executive limitations • Annual external audit • Investment policies and procedures (SIIP) • Quarterly reviews of investment performance and benchmarking • Annual operating and capital budgets • Monthly and quarterly financial review process | | | CFO |
| FINANCIAL | F6: Lower member base | <ul style="list-style-type: none"> • Financial: loss of revenue to the Law Society | | <ul style="list-style-type: none"> • Benchers Strategic Plan • Research into profession demographics | | | CEO |

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|-------------------------------|---|---|---------------------|--|---------------------|--|-----------------------|
| OPERATIONAL | O2: Failure (not related to a natural disaster) in the infrastructure and/or security of the building | <ul style="list-style-type: none"> Operational and financial: injury of staff and/or building damage Operational: service disruption Financial: unexpected costs | | <ul style="list-style-type: none"> Off-site storage and servers Information technology backup plan External property management firm Building due-diligence reviews Ten-year capital plan Building maintenance plan Insurance coverage | | <ul style="list-style-type: none"> Review of security system profiles and policies – part of privacy review recommendations Project LEO re: sea g | CFO and CIPO |
| OPERATIONAL | O5: Loss of data and information | <ul style="list-style-type: none"> Reputational: diminished public perception of independence and possible loss of reputation with membership Operational: service disruption Financial: unexpected costs | | <ul style="list-style-type: none"> Off-site storage and servers Information technology backup plan Information technology security policy, process and procedures Records management policies and LEO Off-site Iron Mountain storage for closed files Insurance coverage External website security review completed in 2012 | | <ul style="list-style-type: none"> Project LEO re: search capab lity Review of security system profiles and policies – part of privacy review recommendations and LEO | CIPO and CFO |
| STAFF AND WORKING ENVIRONMENT | SW1: Loss of key personnel | <ul style="list-style-type: none"> Operational: service disruption as well as loss of corporate knowledge | | <ul style="list-style-type: none"> Succession planning and cross training | | | CEO |

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Law Society of British Columbia
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|-------------------------------|--|--|---------------------|--|---------------------|--|-----------------------|
| STAFF AND WORKING ENVIRONMENT | SW2: Inability to recruit and/or retain skilled staff as an organization | <ul style="list-style-type: none"> • Operational: service disruption as well as loss of corporate knowledge | | <ul style="list-style-type: none"> • Compensation and benefits program • Market benchmarking • Employee Recognition Program • Human resource and operational standards, policies and procedures • Succession planning and cross training • Employee survey and action plans • Annual performance management and coaching process • Hiring practices and use of recruiting firms • Professional, leadership and skills development program | | <ul style="list-style-type: none"> • Redesign Employee Recognition Program – <u>RREX recognition and reward program being implemented in 2013</u> | CEO |
| STAFF AND WORKING ENVIRONMENT | SW3: Labour action (strike) | <ul style="list-style-type: none"> • Operational: service disruption | | <ul style="list-style-type: none"> • Cross training • Compensation and benefit philosophy • PEA negotiations – <u>completed three year contract 2013 - 2015</u> • Employee Recognition Program • Human resource and operational standards, policies and procedures | | | CIFO |
| STAFF AND WORKING ENVIRONMENT | SW4: Unhealthy or unsafe conditions | <ul style="list-style-type: none"> • Operational and reputational: injury to staff and/or diminished levels of staff performance • Operational: service disruption | | <ul style="list-style-type: none"> • Human resource and operational standards, policies and procedures • Health and Safety Committee • First Aid attendants • Fire and earthquake safety plan and training • Property management firm expertise and | | | CFO |

Law Society of British Columbia
Enterprise Risk Management
Risk Schedule – Prioritized ~~2011~~
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|-------------------------------|---|---|---------------------|--|---------------------|--|------------------------------------|
| | | | | <ul style="list-style-type: none"> building maintenance plan Workers Compensation coverage | | | |
| STAFF AND WORKING ENVIRONMENT | SW5: Loss of a lawsuit on human rights issues by staff | <ul style="list-style-type: none"> Operational and reputational: diminished levels of staff performance Financial: unexpected costs | | <ul style="list-style-type: none"> Human resource and operational standards, policies and procedures Annual performance management and coaching process Leadership development training Legal counsel and advice | | | CFO |
| LAWYERS INSURANCE FUND | LIF1: Inadvertent loss of captive structure for LIF | <ul style="list-style-type: none"> Financial: requirement to restructure insurance program | | <ul style="list-style-type: none"> Legal and tax advice (review) of appropriate structure | | | Director of Lawyers Insurance Fund |
| LAWYERS INSURANCE FUND | LIF2: Loss of third-party lawsuit against captive, insurance operations or in-house counsel | <ul style="list-style-type: none"> Financial: exposure to compensatory damage award | | <ul style="list-style-type: none"> Established and documented quality control (Claims Manual) S.86 Legal Profession Act (possible statutory protection against lawsuits and liability) E & O insurance policy underwritten by Markel | | | Director of Lawyers Insurance Fund |
| LAWYERS INSURANCE FUND | LIF4: Catastrophic losses under Part A of the LPL policy | <ul style="list-style-type: none"> Financial: significant investigation expense and settlement payments | | <ul style="list-style-type: none"> Policy wording on limits and “related errors” Proactive claims and risk management practices Monitoring of LPL insurance trends and risks Maintenance of surplus levels <u>Stop-loss reinsurance treaty underwritten by ENCON in place from 2012 forward</u> | | Obtain a review of options for stop-loss coverage <ul style="list-style-type: none"> <u>Completed Jan 2012 and reviewed Jan 2012.</u> | Director of Lawyers Insurance Fund |

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Law Society of British Columbia
Enterprise Risk Management
Risk Schedule – Prioritized ~~2011~~
Updated February 2013

| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|------------------------|---|--|---------------------|--|---------------------|---|------------------------------------|
| LAWYERS INSURANCE FUND | LIF5: Significant error in advice to insured or payment (non-payment) of individual claim | <ul style="list-style-type: none"> • Financial: unnecessary payments | | <ul style="list-style-type: none"> • Established and documented quality control (Claims Manual) • E&O insurance policy underwritten by Markel | | | Director of Lawyers Insurance Fund |
| LAWYERS INSURANCE FUND | LIF6: Error in actuarial advice | <ul style="list-style-type: none"> • Financial: insufficient reserves | | <ul style="list-style-type: none"> • External actuarial • External auditor reviews of actuarial methodology and numbers • Monitoring of LPL insurance trends and risks • Maintenance of surplus levels | | | Director of Lawyers Insurance Fund |
| LAWYERS INSURANCE FUND | LIF7: Lawsuit for “bad faith” failure to settle / denial of coverage | <ul style="list-style-type: none"> • Reputational: loss of reputation with the public or profession • Financial: exposure to excess damage award | | <ul style="list-style-type: none"> • Established and documented quality control (Claims Manual) • Protocol to avoid “bad faith” losses • S.86 Legal Profession Act (possible statutory protection against lawsuits and liability) • E&O insurance policy underwritten by Markel • Maintenance of surplus levels | | | Director of Lawyers Insurance Fund |

Law Society of British Columbia
Enterprise Risk Management
Risk Assessment Tools

| Likelihood (Rating) | Estimated Chance of a Single Occurrence Within Five Years |
|------------------------|---|
| High (4) | 80 - 100% |
| Medium-High (3) | 60 – 80% |
| Medium (2) | 40 – 60% |
| Low (1) | 0 – 40% |

| Consequences (Rating) | Financial Consequences | Operational Consequences | Reputational Consequences | Political Consequences |
|--------------------------|--|---|--|---|
| High (5) | A material loss of financial assets or cash: > \$750,000 in general, or 200% of gross case reserves/expected value for LIF claims, or >20% negative return for LIF investments | A substantial proportion of operations cannot be restored in a timely manner, essential services are unable to be delivered, and/or there is a significant loss of corporate knowledge that will result in the under-achievement of the Law Society's mandate | An irreparable loss of member and stakeholder trust in, or severe public criticism at a national and provincial level that brings disrepute to the reputation of, the Law Society | Change in the mandate and/or the imposition of a new governance as well as management structure for the Law Society is enacted by the government |
| Medium-High (4) | A substantial loss of financial assets or cash: \$500,000 - \$750,000 in general, 190% of gross case reserve expected value for LIF claims >15% negative return for LIF investments | Part of the operation cannot be restored in a timely manner, with some disruption to essential services, and/or a loss of corporate knowledge that can impact on the ability to render key decisions for the Law Society in the short to medium term | A substantial loss of member and stakeholder trust in, or sustained public criticism at a provincial level of, the Law Society which will be difficult to remedy over the short to medium term | The Law Society is susceptible to a potential change in government rules and legislation with implications for its authorities and/or an imposed change in the management structure |

Law Society of British Columbia
Enterprise Risk Management
Risk Assessment Tools

| | | | | |
|--|---|--|---|--|
| <p>Medium (3)</p> <p>Low-Medium (2)</p> <p>Low (1)</p> | <p>A moderate loss of financial assets or cash: \$250,000 - \$500,000 in general 180% of gross case reserves/expected value for LIF claims 10% negative return for LIF investments</p> | <p>Some parts of the operation will be disrupted, but essential services can be maintained, and/or there is some loss of corporate knowledge that warrants management attention but the implications for which are limited to select projects or processes</p> | <p>Some loss of member and stakeholder trust in, and local public criticism over a short period of time of, the Law Society which warrants management attention</p> | <p>A change in Provincial direction affecting the operations of the Law Society is likely, but can be addressed within the current governance and management structure</p> |
| | <p>A manageable loss of financial assets or cash: \$100,000 - \$250,000 in general 170% of gross case reserves/expected value for LIF claims 5% negative return for LIF investments</p> | <p>Some inefficiency will exist, leading to increased cost and/or time in the provision of essential services, and/or a loss of corporate knowledge that may result in minor disruptions in specific projects or processes</p> | <p>A relatively minor setback in the building of member and stakeholder trust in, or "one off" unfavorable local public attention put toward, the Law Society</p> | <p>Minor, non-routine changes may occur in regulation of relevance, and the nature of guidance that is provided by the government, to the Law Society</p> |
| | <p>A relatively immaterial loss of financial assets or cash: < \$100,000 in general 160% of gross case reserves/expected value for LIF claims <5% negative return for LIF investments</p> | <p>No measurable consequence</p> | <p>No measurable consequence</p> | <p>No measurable consequence</p> |

Law Society of British Columbia
Enterprise Risk Management
Risk Assessment Tools

| | | Consequences | | | | |
|-------------|---|--------------|------------|--------|-------------|------|
| | | Low | Low-Medium | Medium | Medium-High | High |
| Likelihood | | 1 | 2 | 3 | 4 | 5 |
| High | 4 | | | | | |
| Medium-High | 3 | | | | | |
| Medium | 2 | | | | | |
| Low | 1 | | | | | |

Law Society of British Columbia

Enterprise Risk Management – Updated February 2013

Executive Summary

An enterprise risk is the threat that an event or action will adversely affect an organization's ability to achieve its strategic goals and mandate.

An Enterprise Risk Management Plan (ERM) is a governance tool which provides for the:

- Identification of enterprise risks that can have an impact on the achievement of the Law Society's strategic goals and mandate
- Determination of relative priority of these risks based on their potential to occur and the extent of the impact
- Management of the risks through mitigation strategies, retaining, reducing, avoiding or transferring the risks

To successfully manage these risks, a framework for risk identification, measurement and monitoring has been developed by Management and will be reported to the Audit Committee on an annual basis.

The process going forward will be:

- Management Board will play a central role, with the Chief Executive Officer being the main liaison per the Executive Limitations
- The ERM plan will be maintained through semi-annual discussions by Management Board and related departments to refresh the Risk Schedule and related risk management efforts
- The Risk Schedule will be updated in conjunction with the annual review of the Key Performance Measures to the Audit Committee, and then to the Benchers
- Should a risk change or a new risk occur, the escalation process will be to inform the appropriate Management Board member, and/or the CEO, with a report out to the President (or Executive Committee) when required, subject to the Executive Limitations

The top eight strategic residual risks are noted below, with the full Risk Schedule attached as Appendix A.

| Summary of Major Strategic Residual Risks (top 8 – yellow risks) | | |
|--|--|------------------|
| Category | Risk | MB Lead |
| Regulatory | R1: Adverse change in Provincial <i>Legal Profession Act</i> or government policy direction | CEO |
| Regulatory | R3: Conflict of interest event by Benchers or staff | CEO |
| Financial | F2: Economic and/or financial market downturn | CFO |
| Operational | O1: Natural disaster | CEO |
| Operational | O3: Breach of confidential and/or FOIPPA information to members, employees and/or the public | Tribunal Counsel |
| Operational | O4: Unauthorized access to data and information | CIPO and CFO |
| Lawyers Insurance | LIF3: Catastrophic theft under Part B of the LPL policy | Dir of Insurance |
| Lawyers Insurance | LIF8: Investment devaluation | CFO |

Law Society of British Columbia
Enterprise Risk Management
Risk Schedule – Prioritized
Updated February 2013

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| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|---------------|---|--|---------------------|---|---------------------|--|-------------------------------|
| REGULATORY | R1: Adverse change in Provincial <i>Legal Profession Act</i> or government policy direction | <ul style="list-style-type: none"> • Political: direct government intervention in the Law Society authority and structures as well as the possible loss of the right to self regulation • Reputational: diminished public perception of independence | | <ul style="list-style-type: none"> • Benchers Strategic Plan • Meet KPMs and monitor Bellwether • Continuous review of regulatory model • Requests for appropriate amendments to <i>Legal Profession Act</i> • Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law • Benchers policies and training • Hearing panel composition and training • Media monitoring • Crisis communication plan • 2011 Regulatory Plan – continued implementation • More formal government relations process instituted • Legal Profession Act Amendments - 2012 | | <ul style="list-style-type: none"> • Federation - National discipline and admission standards being developed • Governance review in 2012 – Governance Committee reviewing recommendations in 2013 | Chief Executive Officer (CEO) |
| REGULATORY | R3: Conflict of interest event by Benchers or staff | <ul style="list-style-type: none"> • Political: direct government intervention in the Law Society authority and structures • Reputational: diminished public perception of independence along with a loss of reputation with the membership | | <ul style="list-style-type: none"> • Hearing panel composition (public and lawyer members) and training • Benchers policies and training • Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law including investigations conducted by independent, external counsel where appropriate • Crisis communication plan | | <ul style="list-style-type: none"> • Governance review in 2012 – Governance Committee reviewing recommendations in 2013 | CEO |

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Enterprise Risk Management
Risk Schedule – Prioritized
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| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|---------------|---|--|---------------------|---|---------------------|---|--|
| | | | | <ul style="list-style-type: none"> Enhanced role of Tribunal Counsel | | | |
| FINANCIAL | F2: Economic and/or financial market downturn | <ul style="list-style-type: none"> Financial: investment devaluation as well as losses of market value in the building and revenue | | <ul style="list-style-type: none"> Investment policies and procedures (SIIP) Quarterly reviews of investment performance and benchmarking Investment managers and pooled funds Annual operating and capital budgeting process Monthly and quarterly financial review process Long-term leases Real estate expert advice and monitoring | | | Chief Financial Officer & Director of Trust Regulation (CFO) |
| OPERATIONAL | O1: Natural disaster | <ul style="list-style-type: none"> Operational and financial: injury of staff and/or building damage Operational: service disruption Financial: unexpected costs | | <ul style="list-style-type: none"> Off-site storage and servers Fire and earthquake safety plan and training Information technology backup plan Building due diligence reviews Insurance coverage Comprehensive earthquake training completed in 2011, annual earthquake drills (Shake-Out) instituted 2007 Building Due Diligence report confirms the buildings met building codes when built, 835 was updated to current standards in 1992, due diligence report notes that 845 and 835 buildings should not sustain catastrophic failure in a major | | | CEO |

Law Society of British Columbia
Enterprise Risk Management
Risk Schedule – Prioritized
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| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|------------------------|---|--|---------------------|---|---------------------|--|------------------------------------|
| | | | | seismic event | | | |
| OPERATIONAL | O3: Breach of confidential and/or FOIPPA information to members, employees and/or the public | <ul style="list-style-type: none"> Reputational: diminished public perception of independence and possible loss of reputation with membership | | <ul style="list-style-type: none"> Information technology security policy, process and procedures Member file and case file management procedures Building security system and procedures FOIPPA training of staff | | <ul style="list-style-type: none"> Perform privacy review – report completed and action plan being implemented in 2013 Establish privacy of information policies - same Enhanced FOI employee training – same | Tribunal Counsel |
| OPERATIONAL | O4: Unauthorized access to data and information | <ul style="list-style-type: none"> Reputational: diminished public perception of independence and possible loss of reputation with membership | | <ul style="list-style-type: none"> Information technology security policy, process and procedures Records management policies Confidential shredding contract External website security review completed in 2012 | | <ul style="list-style-type: none"> Review of security system profiles and policies – part of privacy review recommendations Implementation of LEO – security profiles | CIPO and CFO |
| LAWYERS INSURANCE FUND | LIF3: Catastrophic theft under Part B of the LPL policy | <ul style="list-style-type: none"> Reputational: diminished public perception of the profession Financial: significant investigation expense and settlement payments | | <ul style="list-style-type: none"> Trust rules and audit program Proactive claims and risk management practices Policy wording on limits Chartis insurance policy for Part B Maintenance of surplus levels | | | Director of Lawyers Insurance Fund |

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Enterprise Risk Management
Risk Schedule – Prioritized
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| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|------------------------|--|--|---------------------|---|---------------------|--|---------------------------|
| LAWYERS INSURANCE FUND | LIF8: Investment devaluation | <ul style="list-style-type: none"> Financial: insufficient reserves or surplus | | <ul style="list-style-type: none"> Investment policies and procedures (SIIP) Investment managers and pooled funds Quarterly reviews of investment performance Real estate expert advice and monitoring Maintenance of surplus levels | | | CFO |
| REGULATORY | R2: Loss of a lawsuit alleging a failure of the Law Society to follow due process | <ul style="list-style-type: none"> Political: direct government intervention in the Law Society authority and structures as well as the possible loss of the right to self regulation Reputational: diminished public perception of independence along with a loss of reputation with the membership Financial: lawsuit defense and settlement costs | | <ul style="list-style-type: none"> Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law Bencher policies and training Crisis communication plan S.86 Legal Profession Act (statutory protection against lawsuits and liability) D & O policy underwritten by Chartis Hearing panel training 2011 Regulatory Plan – continued implementation Enhanced role of the Tribunal Counsel | | <ul style="list-style-type: none"> Federation - National admission and discipline standards being developed | Chief Legal Officer (CLO) |
| REGULATORY | R4: Failure of the Law Society to stay within jurisdiction and/or wrongful prosecution | <ul style="list-style-type: none"> Political: direct government intervention in the Law Society authority and structures Reputational: diminished public perception of independence along with a loss of reputation with the membership | | <ul style="list-style-type: none"> Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law Bencher policies and training Crisis communication plan Hearing panel training Enhanced role of the Tribunal Counsel | | | CLO and Tribunal Counsel |
| REGULATORY | R5: Loss of a lawsuit | <ul style="list-style-type: none"> Political: direct government | | <ul style="list-style-type: none"> Appropriate procedures for investigation | | | CLO and Tribunal |

Law Society of British Columbia
Enterprise Risk Management
Risk Schedule – Prioritized
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| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|---------------|--|--|---------------------|--|---------------------|--|--|
| | alleging failure to sanction or deal with a lawyer | <p>intervention in the Law Society authority and structures</p> <ul style="list-style-type: none"> • Reputational: diminished public perception of independence along with a loss of reputation with the membership • Financial: costs and damages imposed through possible litigation | | <p>and prosecution of legal matters commensurate with administrative law</p> <ul style="list-style-type: none"> • Bencher policies and training • S.86 Legal Profession Act (statutory protection against lawsuits and liability) • D & O policy underwritten by Chartis • Crisis communication plan • Hearing panel composition and training | | | Counsel |
| REGULATORY | R6: Loss of a lawsuit alleging wrongful deprivation of lawyers (prospective) membership (livelihood) | <ul style="list-style-type: none"> • Reputational: diminished public perception of independence along with a loss of reputation with the membership • Financial: costs and damages imposed through possible litigation | | <ul style="list-style-type: none"> • Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law • Appropriate credentialing procedures, including investigations, assessment of applications and credentials hearings • Bencher policies and training • S.86 Legal Profession Act (statutory protection against lawsuits and liability) • D & O policy underwritten by Chartis • Crisis communication plan • Hearing panel training | | <ul style="list-style-type: none"> • National admission standards being developed | CLO and the Director of Education and Practice |

Law Society of British Columbia
Enterprise Risk Management
Risk Schedule – Prioritized
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| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|---------------|--|---|---------------------|--|---------------------|--|------------------------------------|
| REGULATORY | R7: Admission decisions are not reflective of the character, fitness, and competencies of a prospective lawyer | <ul style="list-style-type: none"> • Political: possible loss of the right to self regulation • Reputational: diminished public perception of independence • Financial: costs and damages imposed through possible litigation | | <ul style="list-style-type: none"> • Law Society Admission Program • Revised Credentialing standards and procedures | | <ul style="list-style-type: none"> • Legislative amendment to allow internal Law Society appeals of prior decisions • National admission standards being developed | Director of Education and Practice |
| FINANCIAL | F1: Misappropriation of Law Society financial assets | <ul style="list-style-type: none"> • Reputational: loss of reputation with the membership • Financial: loss of revenue, increased fees | | <ul style="list-style-type: none"> • Internal controls • Schedule of authorizations • External audit • Monthly and quarterly financial review process • Crime insurance | | | CFO |
| FINANCIAL | F3: Loss of tenants | <ul style="list-style-type: none"> • Financial: losses of market value in the building and lease revenue | | <ul style="list-style-type: none"> • Long-term leases, effect early renewals when appropriate • External property management firm expertise • Building maintenance plan • Building due-diligence reviews • 10 year capital plan • Annual operating and capital budgets | | | CFO |

Law Society of British Columbia
Enterprise Risk Management
Risk Schedule – Prioritized
Updated February 2013

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| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|---------------|--|---|---------------------|---|---------------------|---|-----------------------|
| FINANCIAL | F4: Unexpected escalation of operating costs | <ul style="list-style-type: none"> • Financial: loss of revenue | | <ul style="list-style-type: none"> • Executive limitations • Schedule of Authorizations • Annual operating and capital budgeting process • Monthly and quarterly financial review process • External property management firm expertise • Building maintenance plan • Building due-diligence review • Ten-year capital plan | | | CFO |
| FINANCIAL | F5: Inaccurate or untimely financial reporting | <ul style="list-style-type: none"> • Reputational: loss of reputation with the membership • Financial: loss of revenue or increase in costs • Operational: poor decision-making | | <ul style="list-style-type: none"> • Internal control system • Executive limitations • Annual external audit • Investment policies and procedures (SIIP) • Quarterly reviews of investment performance and benchmarking • Annual operating and capital budgets • Monthly and quarterly financial review process | | | CFO |
| FINANCIAL | F6: Lower member base | <ul style="list-style-type: none"> • Financial: loss of revenue to the Law Society | | <ul style="list-style-type: none"> • Benchers Strategic Plan • Research into profession demographics | | | CEO |

Law Society of British Columbia
Enterprise Risk Management
Risk Schedule – Prioritized
Updated February 2013

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| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|-------------------------------|--|---|---------------------|--|---------------------|--|-----------------------|
| OPERATIONAL | O2: Failure (not related to a natural disaster) in the infrastructure and/or security of the building | <ul style="list-style-type: none"> Operational and financial: injury of staff and/or building damage Operational: service disruption Financial: unexpected costs | | <ul style="list-style-type: none"> Off-site storage and servers Information technology backup plan External property management firm Building due-diligence reviews Ten-year capital plan Building maintenance plan Insurance coverage | | <ul style="list-style-type: none"> Review of security system profiles and policies – part of privacy review recommendations | CFO and CIPO |
| OPERATIONAL | O5: Loss of data and information | <ul style="list-style-type: none"> Reputational: diminished public perception of independence and possible loss of reputation with membership Operational: service disruption Financial: unexpected costs | | <ul style="list-style-type: none"> Off-site storage and servers Information technology backup plan Information technology security policy, process and procedures Records management policies and LEO Off-site Iron Mountain storage for closed files Insurance coverage External website security review completed in 2012 | | <ul style="list-style-type: none"> Review of security system profiles and policies – part of privacy review recommendations and LEO | CIPO and CFO |
| STAFF AND WORKING ENVIRONMENT | SW1: Loss of key personnel | <ul style="list-style-type: none"> Operational: service disruption as well as loss of corporate knowledge | | <ul style="list-style-type: none"> Succession planning and cross training | | | CEO |

Law Society of British Columbia
Enterprise Risk Management
Risk Schedule – Prioritized
Updated February 2013

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| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|-------------------------------|--|--|---------------------|--|---------------------|---|-----------------------|
| STAFF AND WORKING ENVIRONMENT | SW2: Inability to recruit and/or retain skilled staff as an organization | <ul style="list-style-type: none"> Operational: service disruption as well as loss of corporate knowledge | | <ul style="list-style-type: none"> Compensation and benefits program Market benchmarking Employee Recognition Program Human resource and operational standards, policies and procedures Succession planning and cross training Employee survey and action plans Annual performance management and coaching process Hiring practices and use of recruiting firms Professional, leadership and skills development program | | <ul style="list-style-type: none"> Redesign Employee Recognition Program – RREX recognition and reward program being implemented in 2013 | CEO |
| STAFF AND WORKING ENVIRONMENT | SW3: Labour action (strike) | <ul style="list-style-type: none"> Operational: service disruption | | <ul style="list-style-type: none"> Cross training Compensation and benefit philosophy PEA negotiations – completed three year contract 2013 - 2015 Employee Recognition Program Human resource and operational standards, policies and procedures | | | CIPO |
| STAFF AND WORKING ENVIRONMENT | SW4: Unhealthy or unsafe conditions | <ul style="list-style-type: none"> Operational and reputational: injury to staff and/or diminished levels of staff performance Operational: service disruption | | <ul style="list-style-type: none"> Human resource and operational standards, policies and procedures Health and Safety Committee First Aid attendants Fire and earthquake safety plan and training Property management firm expertise and | | | CFO |

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Enterprise Risk Management
Risk Schedule – Prioritized
Updated February 2013

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| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|--------------------------------------|--|---|---------------------|---|---------------------|---|------------------------------------|
| | | | | <ul style="list-style-type: none"> building maintenance plan Workers Compensation coverage | | | |
| STAFF AND WORKING ENVIRONMENT | SW5: Loss of a lawsuit on human rights issues by staff | <ul style="list-style-type: none"> Operational and reputational: diminished levels of staff performance Financial: unexpected costs | | <ul style="list-style-type: none"> Human resource and operational standards, policies and procedures Annual performance management and coaching process Leadership development training Legal counsel and advice | | | CFO |
| LAWYERS INSURANCE FUND | LIF1: Inadvertent loss of captive structure for LIF | <ul style="list-style-type: none"> Financial: requirement to restructure insurance program | | <ul style="list-style-type: none"> Legal and tax advice (review) of appropriate structure | | | Director of Lawyers Insurance Fund |
| LAWYERS INSURANCE FUND | LIF2: Loss of third-party lawsuit against captive, insurance operations or in-house counsel | <ul style="list-style-type: none"> Financial: exposure to compensatory damage award | | <ul style="list-style-type: none"> Established and documented quality control (Claims Manual) S.86 Legal Profession Act (possible statutory protection against lawsuits and liability) E & O insurance policy underwritten by Markel | | | Director of Lawyers Insurance Fund |
| LAWYERS INSURANCE FUND | LIF4: Catastrophic losses under Part A of the LPL policy | <ul style="list-style-type: none"> Financial: significant investigation expense and settlement payments | | <ul style="list-style-type: none"> Policy wording on limits and “related errors” Proactive claims and risk management practices Monitoring of LPL insurance trends and risks Maintenance of surplus levels Stop-loss reinsurance treaty underwritten by ENCON in place from 2012 forward | | | Director of Lawyers Insurance Fund |

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| Risk Category | Risk Statement | Potential Consequences | Inherent Risk Level | Existing Strategies and Controls to Mitigate the Risk | Residual Risk Level | Planned (In Progress) Strategies and Controls | Management Board Lead |
|------------------------|---|--|---------------------|--|---------------------|---|------------------------------------|
| LAWYERS INSURANCE FUND | LIF5: Significant error in advice to insured or payment (non-payment) of individual claim | <ul style="list-style-type: none"> Financial: unnecessary payments | | <ul style="list-style-type: none"> Established and documented quality control (Claims Manual) E&O insurance policy underwritten by Markel | | | Director of Lawyers Insurance Fund |
| LAWYERS INSURANCE FUND | LIF6: Error in actuarial advice | <ul style="list-style-type: none"> Financial: insufficient reserves | | <ul style="list-style-type: none"> External actuarial External auditor reviews of actuarial methodology and numbers Monitoring of LPL insurance trends and risks Maintenance of surplus levels | | | Director of Lawyers Insurance Fund |
| LAWYERS INSURANCE FUND | LIF7: Lawsuit for “bad faith” failure to settle / denial of coverage | <ul style="list-style-type: none"> Reputational: loss of reputation with the public or profession Financial: exposure to excess damage award | | <ul style="list-style-type: none"> Established and documented quality control (Claims Manual) Protocol to avoid “bad faith” losses S.86 Legal Profession Act (possible statutory protection against lawsuits and liability) E&O insurance policy underwritten by Markel Maintenance of surplus levels | | | Director of Lawyers Insurance Fund |

Law Society of British Columbia
Enterprise Risk Management
Risk Assessment Tools

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| Likelihood (Rating) | Estimated Chance of a Single Occurrence Within Five Years |
|------------------------|---|
| High (4) | 80 - 100% |
| Medium-High (3) | 60 – 80% |
| Medium (2) | 40 – 60% |
| Low (1) | 0 – 40% |

| Consequences (Rating) | Financial Consequences | Operational Consequences | Reputational Consequences | Political Consequences |
|--------------------------|--|---|--|---|
| High (5) | A material loss of financial assets or cash: > \$750,000 in general, or 200% of gross case reserves/expected value for LIF claims, or >20% negative return for LIF investments | A substantial proportion of operations cannot be restored in a timely manner, essential services are unable to be delivered, and/or there is a significant loss of corporate knowledge that will result in the under-achievement of the Law Society's mandate | An irreparable loss of member and stakeholder trust in, or severe public criticism at a national and provincial level that brings disrepute to the reputation of, the Law Society | Change in the mandate and/or the imposition of a new governance as well as management structure for the Law Society is enacted by the government |
| Medium-High (4) | A substantial loss of financial assets or cash: \$500,000 - \$750,000 in general, 190% of gross case reserve expected value for LIF claims >15% negative return for LIF investments | Part of the operation cannot be restored in a timely manner, with some disruption to essential services, and/or a loss of corporate knowledge that can impact on the ability to render key decisions for the Law Society in the short to medium term | A substantial loss of member and stakeholder trust in, or sustained public criticism at a provincial level of, the Law Society which will be difficult to remedy over the short to medium term | The Law Society is susceptible to a potential change in government rules and legislation with implications for its authorities and/or an imposed change in the management structure |

Law Society of British Columbia
Enterprise Risk Management
Risk Assessment Tools

3096

| | | | | |
|--|---|--|---|--|
| <p>Medium (3)</p> <p>Low-Medium (2)</p> <p>Low (1)</p> | <p>A moderate loss of financial assets or cash: \$250,000 - \$500,000 in general 180% of gross case reserves/expected value for LIF claims 10% negative return for LIF investments</p> | <p>Some parts of the operation will be disrupted, but essential services can be maintained, and/or there is some loss of corporate knowledge that warrants management attention but the implications for which are limited to select projects or processes</p> | <p>Some loss of member and stakeholder trust in, and local public criticism over a short period of time of, the Law Society which warrants management attention</p> | <p>A change in Provincial direction affecting the operations of the Law Society is likely, but can be addressed within the current governance and management structure</p> |
| | <p>A manageable loss of financial assets or cash: \$100,000 - \$250,000 in general 170% of gross case reserves/expected value for LIF claims 5% negative return for LIF investments</p> | <p>Some inefficiency will exist, leading to increased cost and/or time in the provision of essential services, and/or a loss of corporate knowledge that may result in minor disruptions in specific projects or processes</p> | <p>A relatively minor setback in the building of member and stakeholder trust in, or “one off” unfavorable local public attention put toward, the Law Society</p> | <p>Minor, non-routine changes may occur in regulation of relevance, and the nature of guidance that is provided by the government, to the Law Society</p> |
| | <p>A relatively immaterial loss of financial assets or cash: < \$100,000 in general 160% of gross case reserves/expected value for LIF claims <5% negative return for LIF investments</p> | <p>No measurable consequence</p> | <p>No measurable consequence</p> | <p>No measurable consequence</p> |

Law Society of British Columbia
Enterprise Risk Management
Risk Assessment Tools

3097

| | | Consequences | | | | |
|-------------|---|--------------|------------|--------|-------------|------|
| | | Low | Low-Medium | Medium | Medium-High | High |
| Likelihood | | 1 | 2 | 3 | 4 | 5 |
| High | 4 | | | | | |
| Medium-High | 3 | | | | | |
| Medium | 2 | | | | | |
| Low | 1 | | | | | |



CEO's Report to the Benchers

March 1, 2013

Prepared for: Benchers

Prepared by: Timothy E. McGee

Introduction

The first two months of the year have been extremely busy ones on many fronts for all of us at the Law Society. There has been much work and progress at the Task Force and Committee levels and we have also been busy finalizing our year end financial reporting, and annual reporting under our Enterprise Risk Management Plan and our Key Performance Measures. I have set out below the items I would like to highlight for this month's meeting.

Audit Committee Review of the Law Society's 2012 Key Performance Measures and Enterprise Risk Management Plan

The Audit Committee Review of the Law Society's 2012 Key Performance Measures and Enterprise Risk Management Plan has been distributed to the Benchers as part of the meeting agenda package. The report and results were reviewed by the Audit Committee at its last meeting and Peter Lloyd, FCA, Chair of the Audit Committee, will be introducing the report to the Benchers. Management Board and I will be happy to answer any questions.

Justice Summit Steering Committee Update

The Ministry of Justice and Attorney General hosted Justice Summit has been scheduled for March 14 and 15, 2013. The Summit will begin with a BC Justice Leaders' dinner, featuring welcoming remarks by the Minister of Justice and Attorney General and a keynote address by The Honourable Mr. Justice Richard Wagner, Supreme Court of Canada. While the agenda for the working sessions on March 15 is still being finalized it will likely include discussions on a number of topics relating to the criminal justice and public safety sector including values, challenges and priorities for improvements.

Participants will be drawn from a wide variety of backgrounds, including the justice ministry, police agencies, victims' services, defense bar, municipalities, legal organizations, community service providers and members of the academic community.

CSAE Symposium for Chief Staff and Elected Officers

President Vertlieb and I will be attending the 2013 CSAE Symposium for Chief Staff and Elected Officers in Montreal, Quebec on February 24 and 25. The Symposium is the lead educational conference on best practices for ensuring a strong and productive working relationship between chief elected and chief staff officers from a wide variety of organizations. This year we will also have the opportunity to reconnect with our counterparts from Alberta, Nova Scotia and Ontario at the conference. Art and I will provide highlights of the Symposium at the March 2013 Bencher meeting.

CLE-TV Code of Conduct Course Update

I am pleased to advise that the CLE-TV BC Code of Conduct course Part II (offered jointly by the Law Society and CLEBC) was watched by an estimated 7,200 people in February 2013. CLE advises this is record attendance for any course offered by their organization. Thank you again to Gavin Hume, QC and Practice Advisors Lenore Rowntree and Barbara Buchanan for developing and leading these webcasts.

PLTC – Bencher and Life Bencher Participation

Thank you to the following Benchers and Life Bencher who took time to teach Professional Ethics at PLTC on February 14:

Art Vertlieb, QC
 Leon Getz, QC
 Bill MacLagan
 Thelma O'Grady
 Phil Riddell
 Gordon Turriff QC

Timothy E. McGee
 Chief Executive Officer



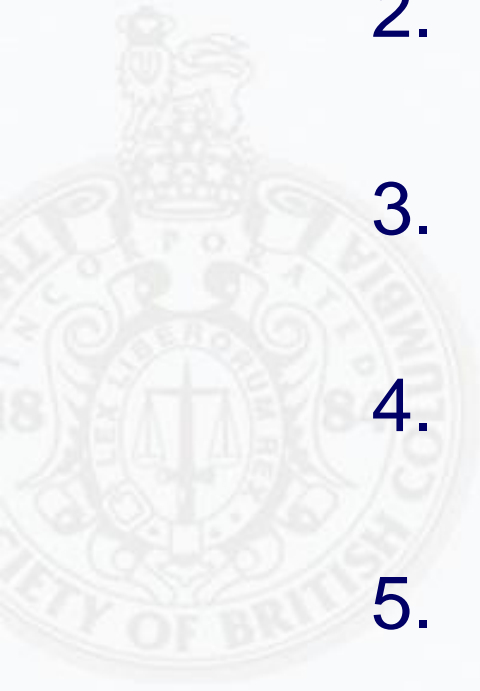
*Lawyers
Insurance
Fund*

Lawyers Insurance Fund

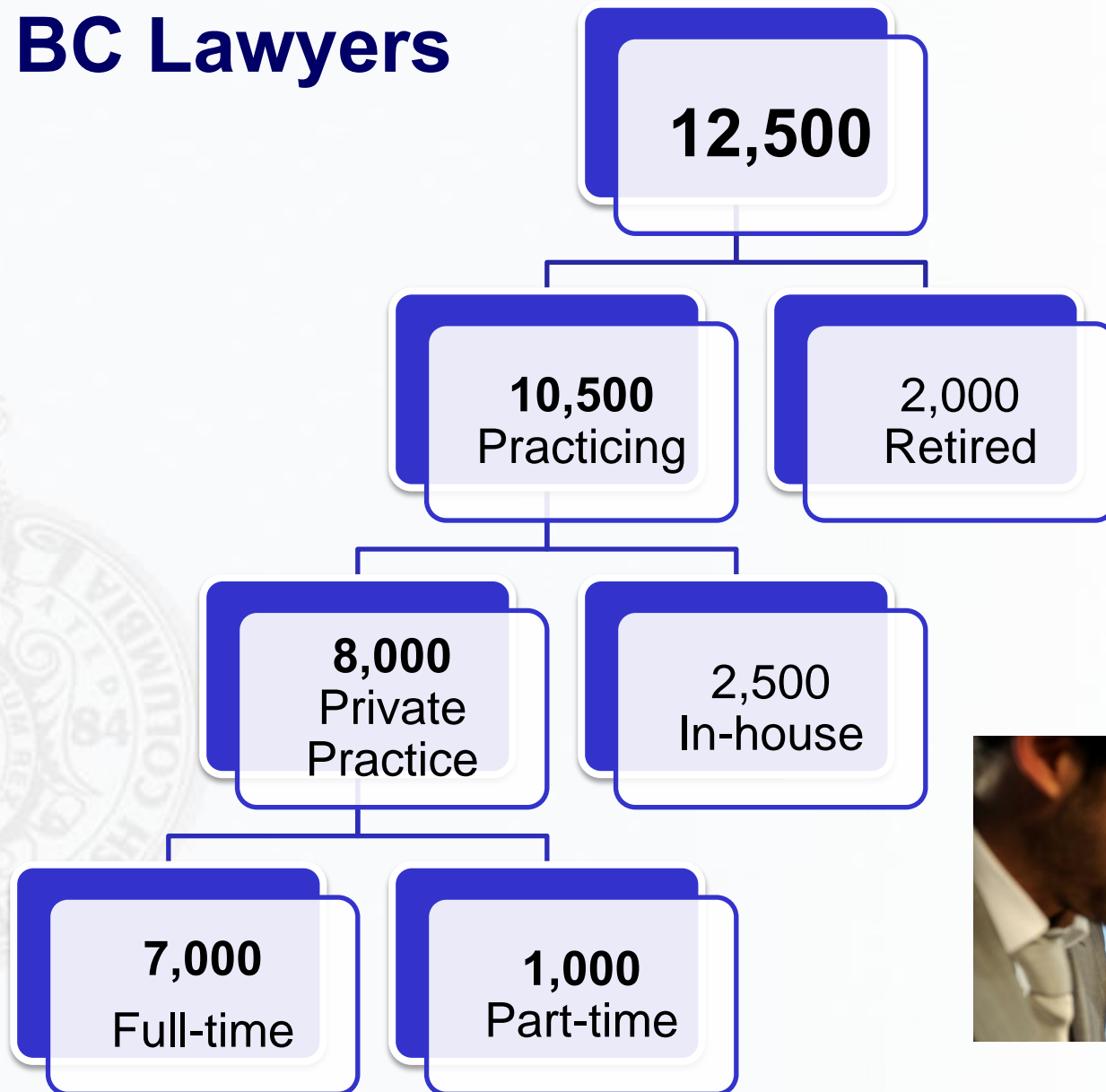
2012 Year End Report: Out of the woods?

Overview

1. BC lawyers
2. Part A (negligence)
3. Part B (theft)
4. Insurance fee
5. Risk Management and Service Evaluation

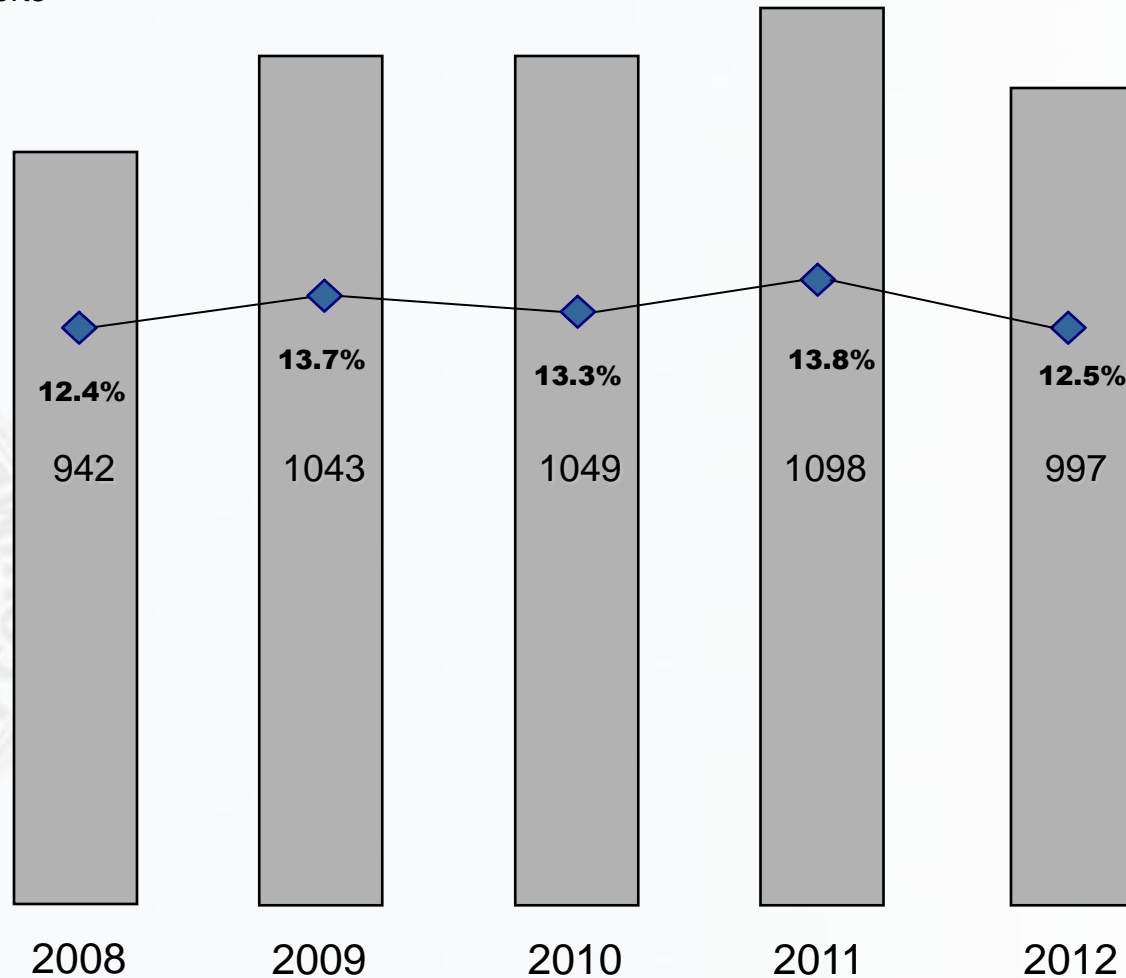


BC Lawyers

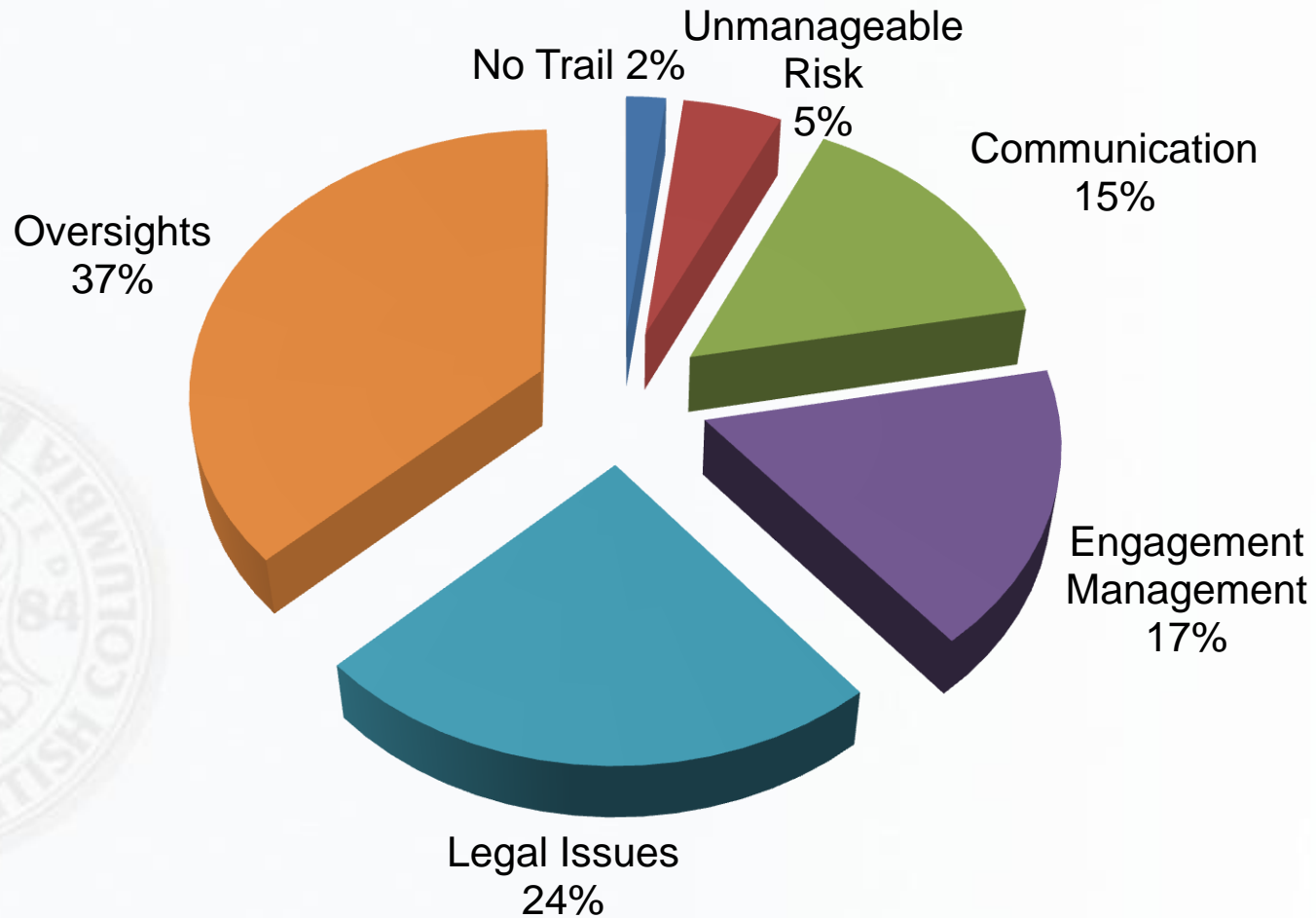


Number and Frequency of Reports

■ Number of Reports
◆ Frequency of Reports

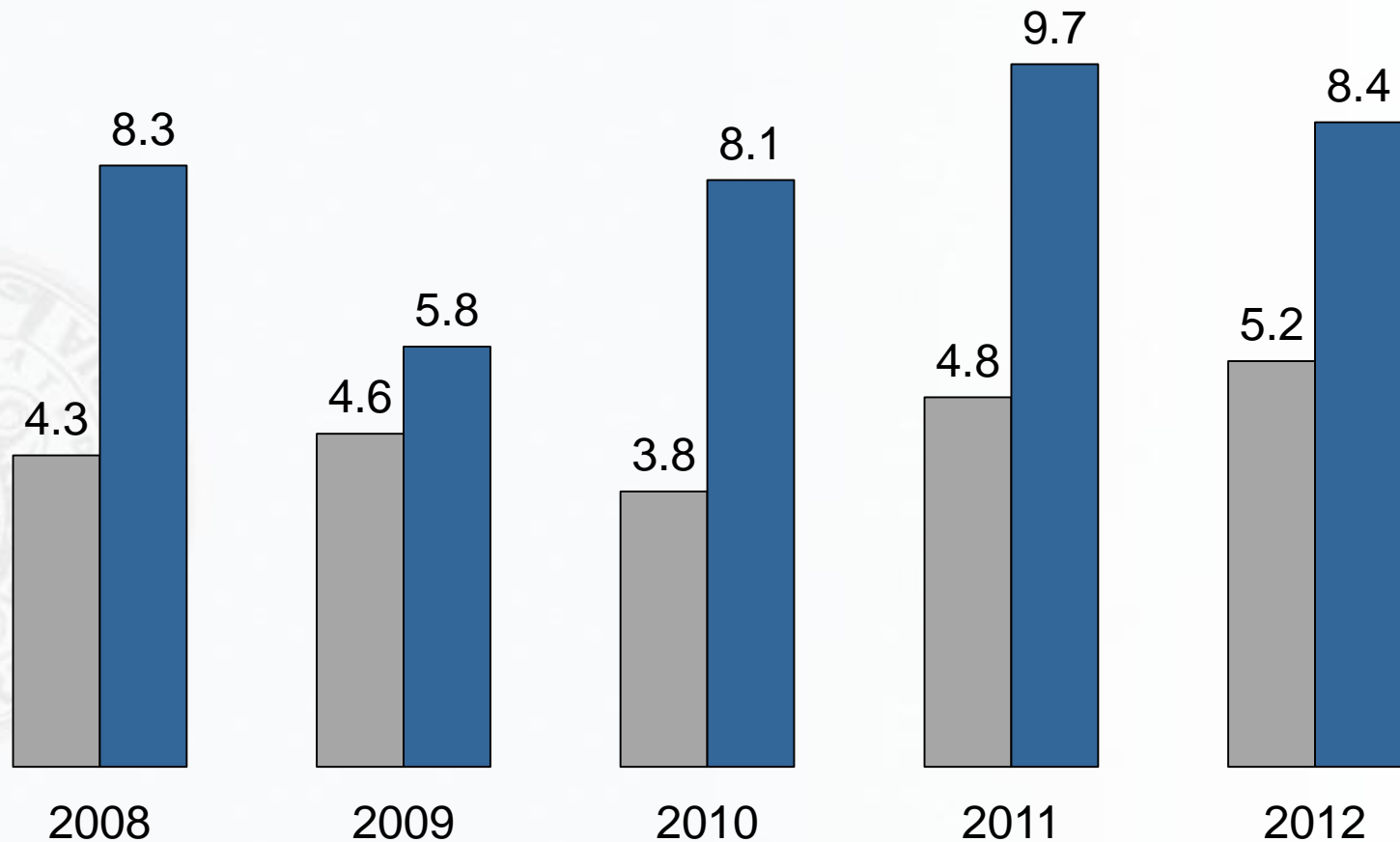


Causes of Reports

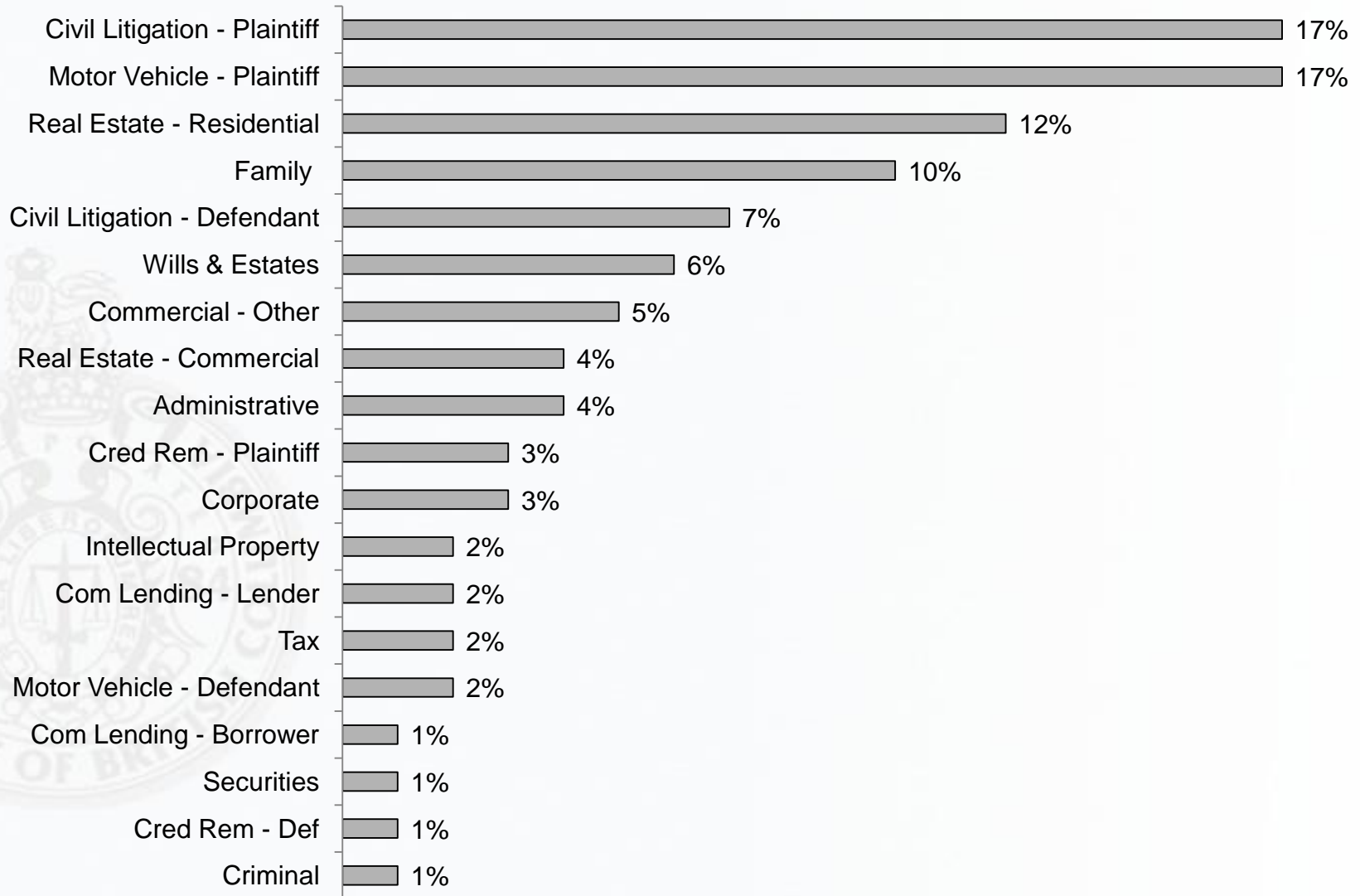


Claim Payments

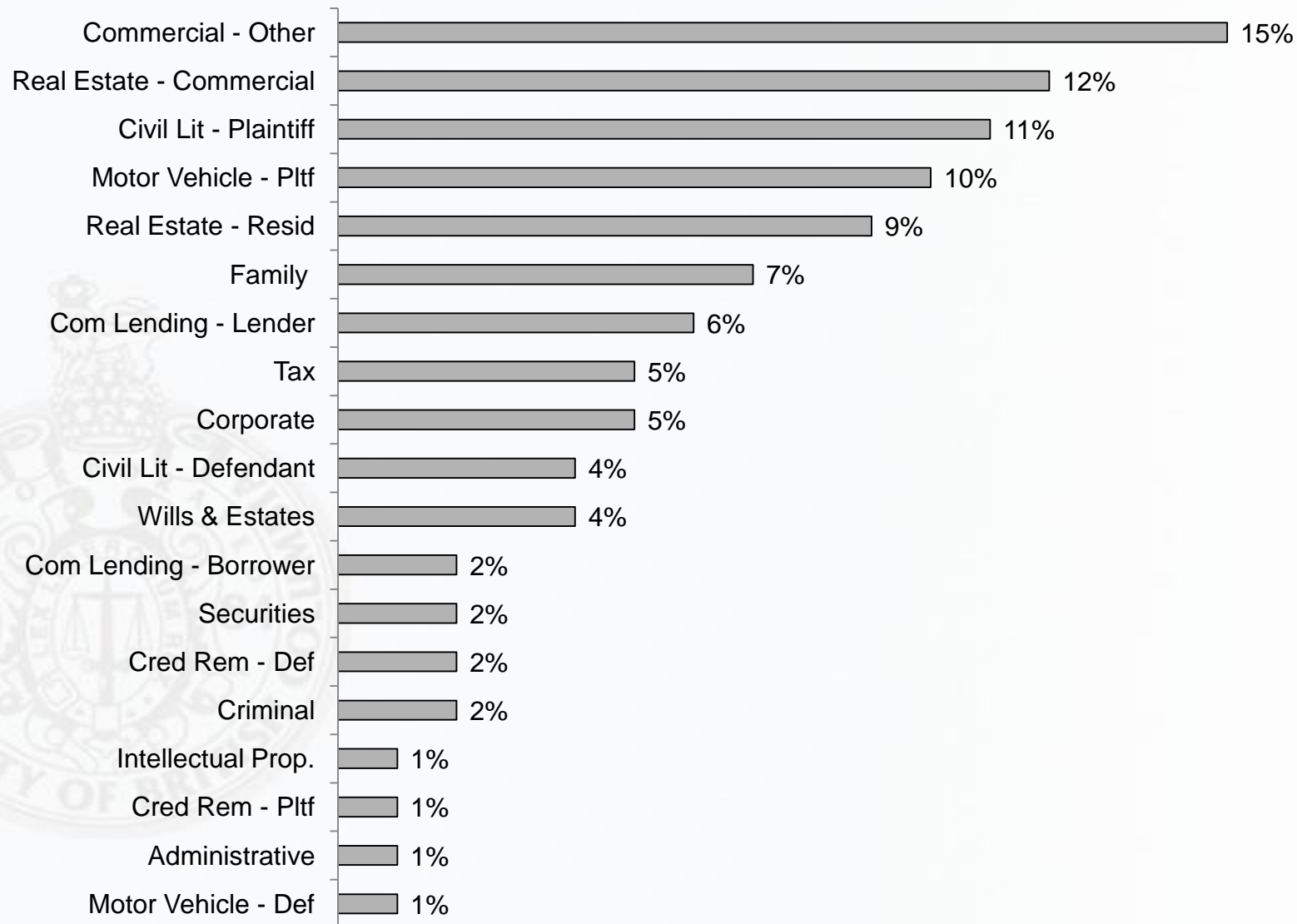
Expense
Indemnity



Frequency by Area of Practice

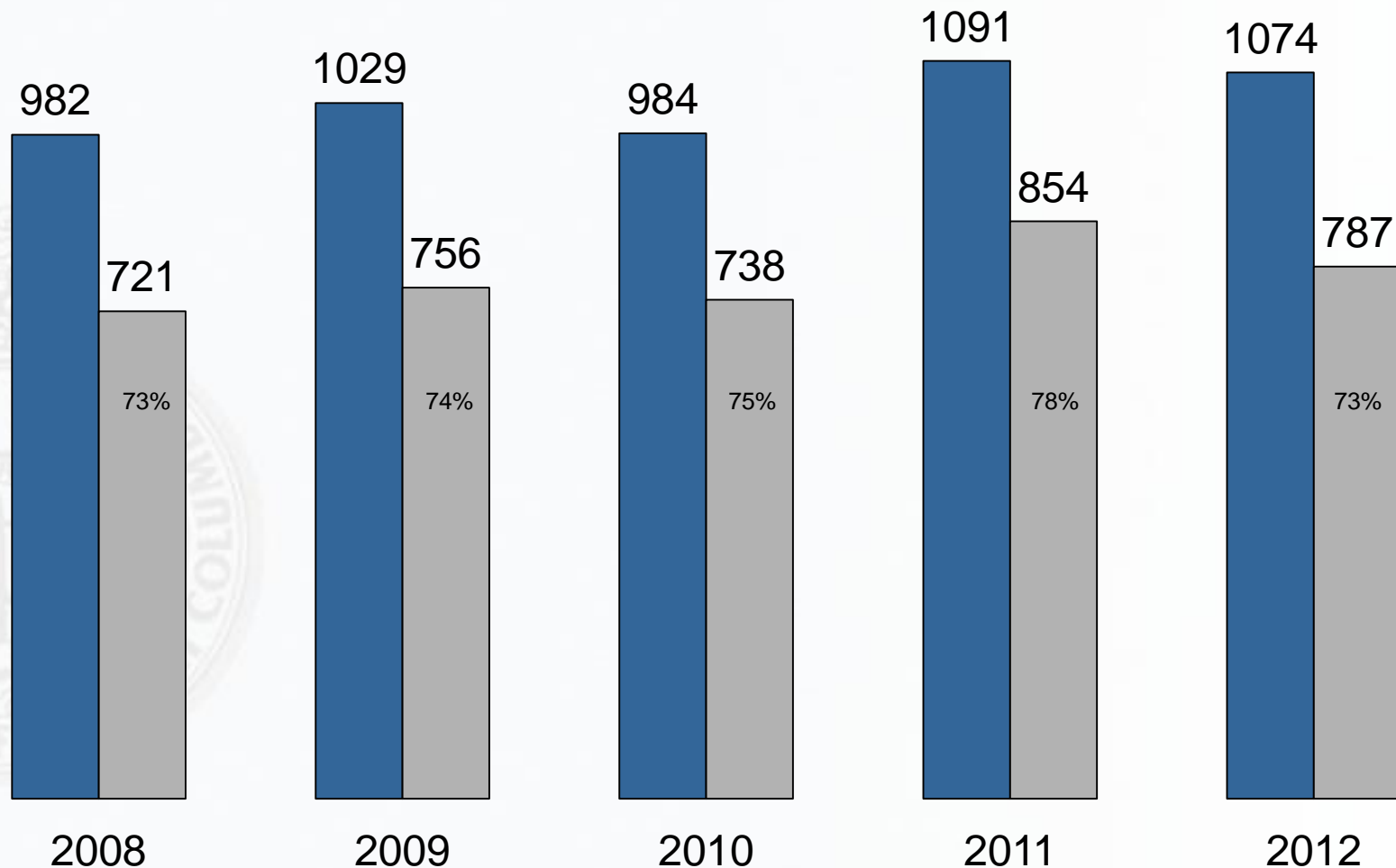


Severity by Area of Practice

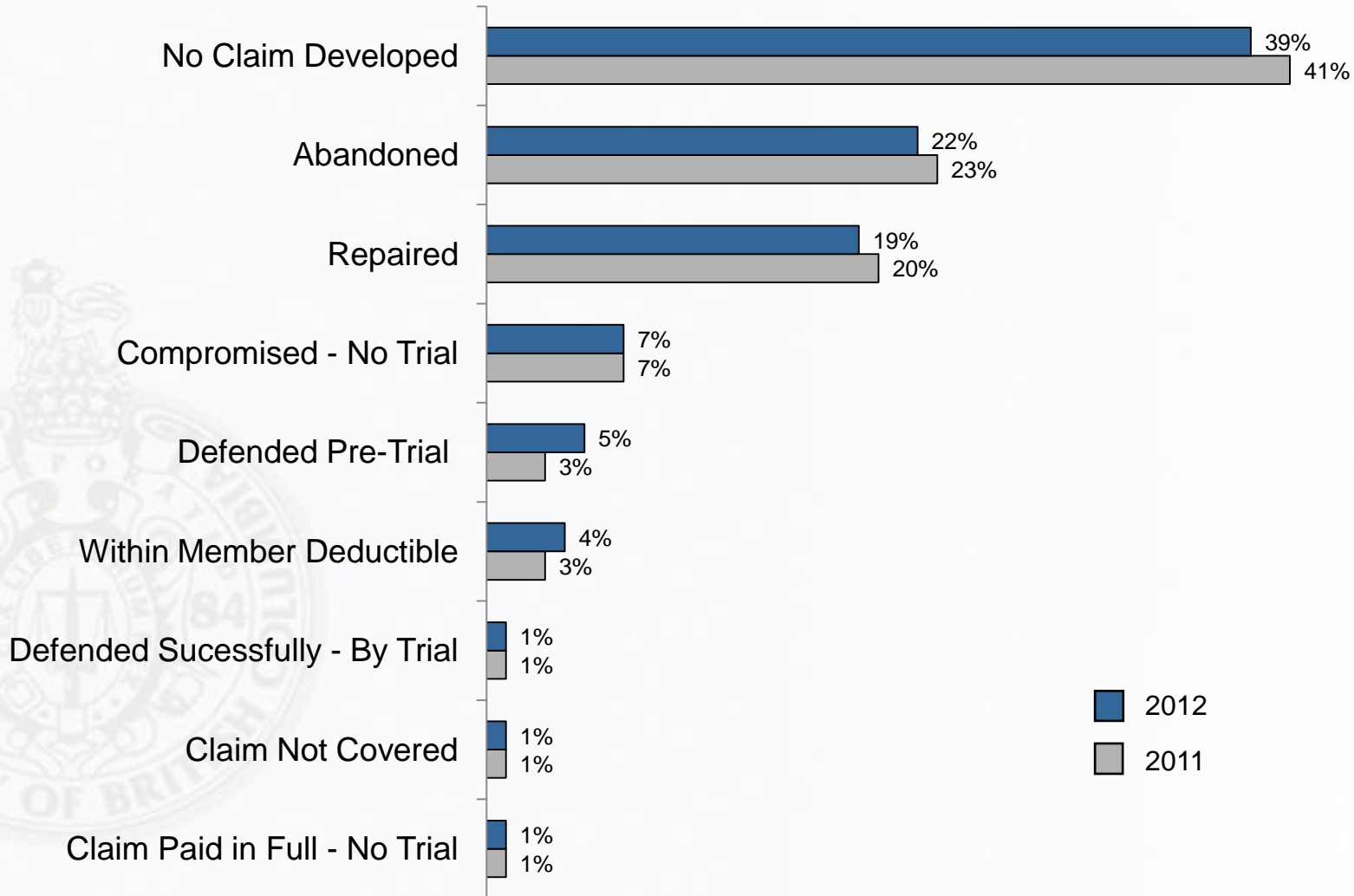


Closed Reports with No Payment

- Total Reports Closed
- Reports Closed with No Payment



Results of Reports



Other Results in 2012

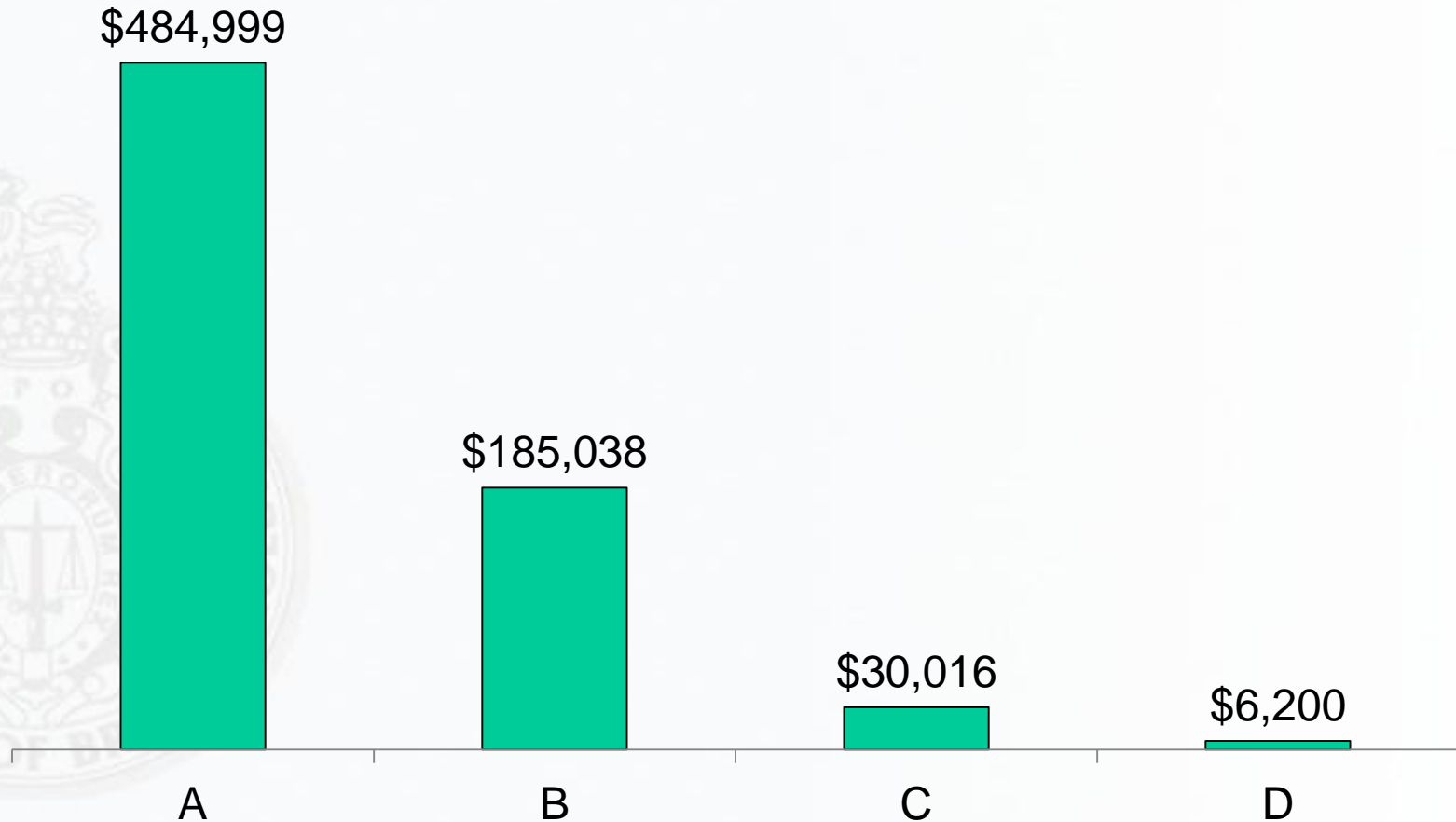
| | 2012 |
|--|------|
| Indemnity payments | 119 |
| Excess payments (settlements over \$1 million) | 7 |
| Percentage of claims defended in-house | 14% |
| Number of risk management presentations | 20 |
| Matters tried | 14 |
| • Trials won | 13 |
| • Trials lost | 1 |
| • Appeals won | 1 |
| • Appeals lost | 1 |

Part B

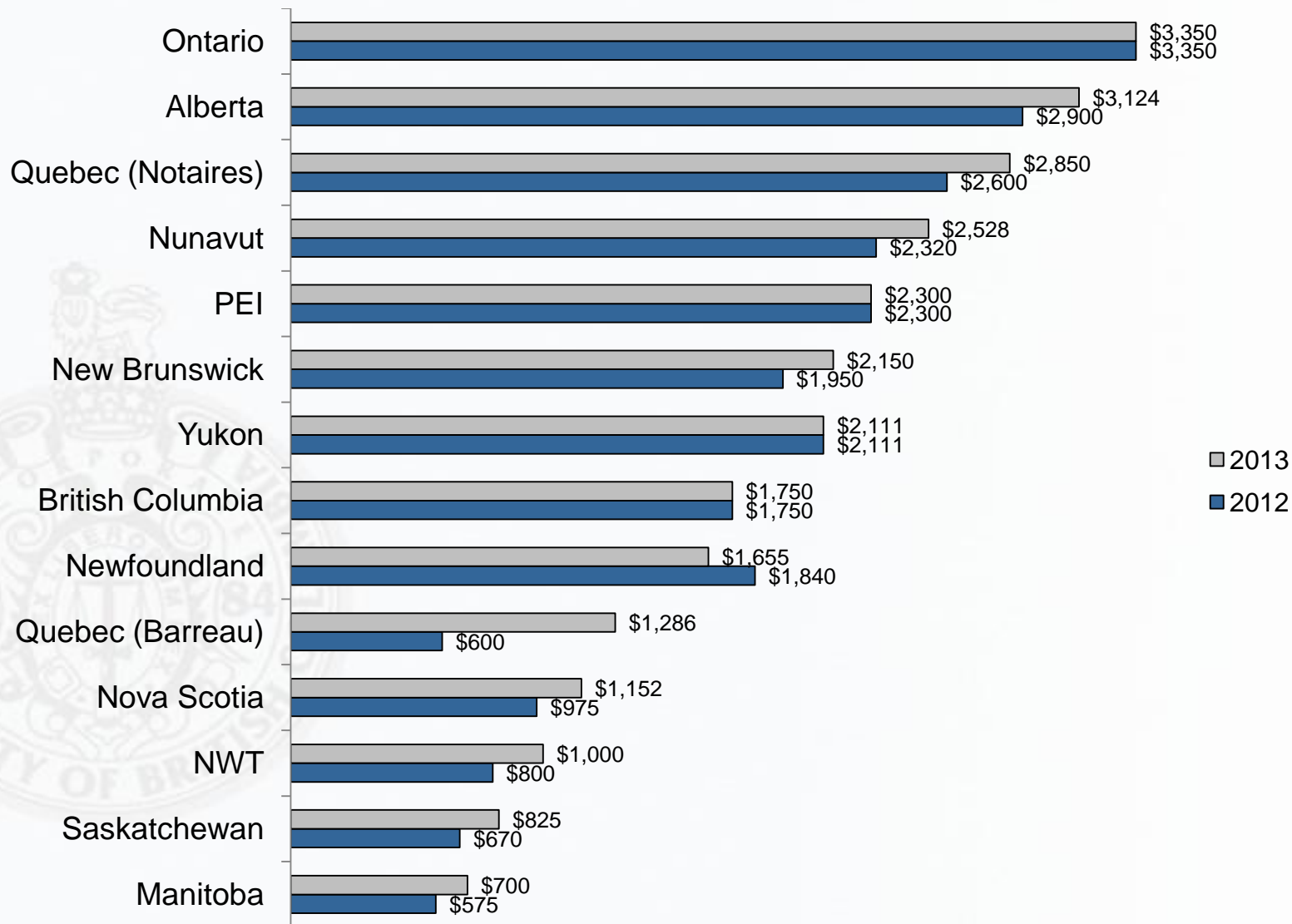
In 2012:

- 8 claims were paid on behalf of 4 different lawyers, totaling approximately \$351,600.
- 3 claims did not fall within coverage for Part B, as they did not involve a misappropriation by the lawyer.
- 1 claim was abandoned.
- There were no recoveries from lawyers (or their custodians) but we did sue one lawyer.

Part B – Lawyers with Paid Claims



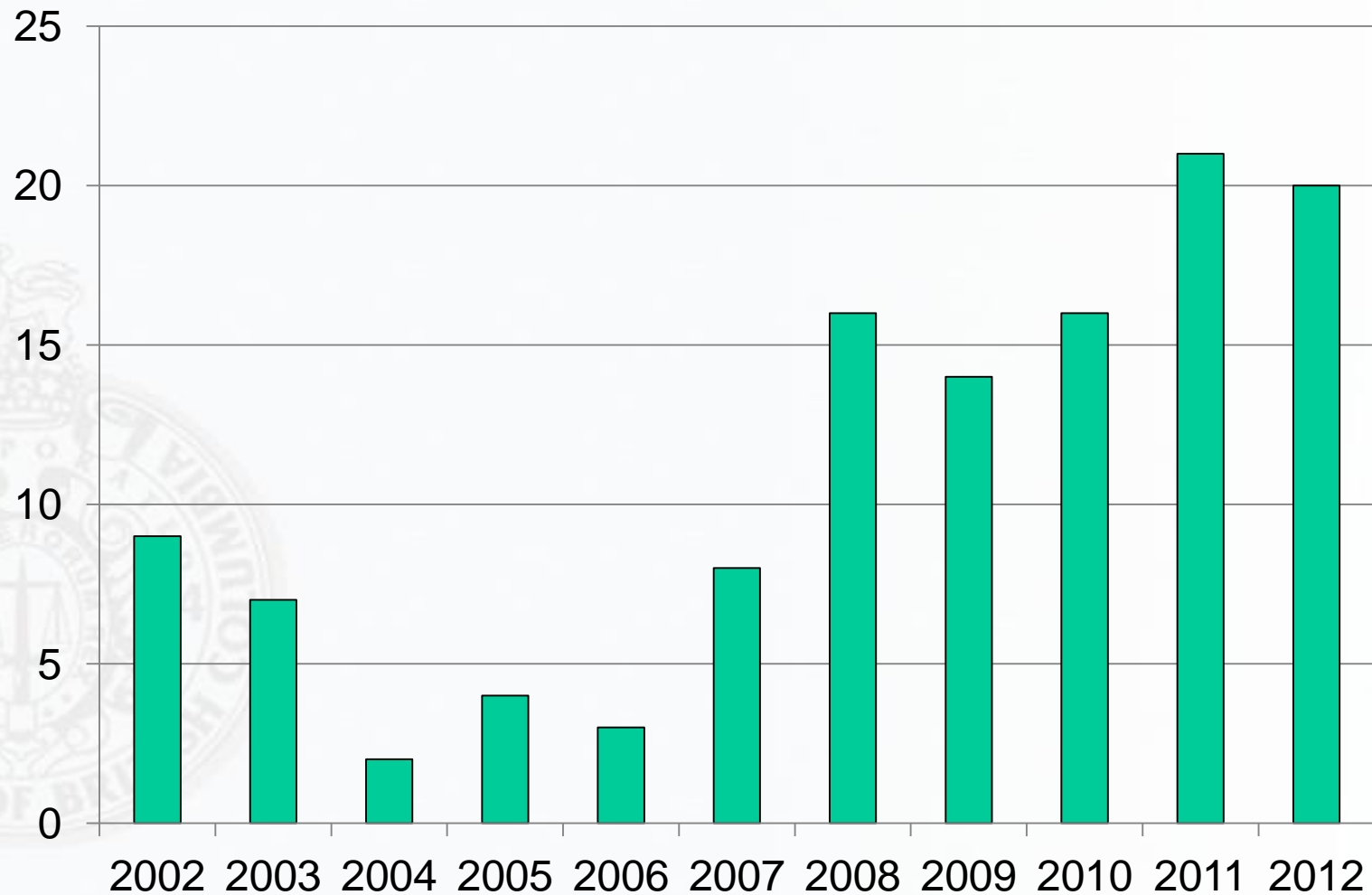
Insurance Fee Comparison



Service Evaluation and Risk Management

- SEF's completed – 457 (out of 1074)
- Kudos (good) – 287
- Grumbles (bad) – 9
- Risk Management comments – 263

Risk Management Presentations



Risk Management Presentations

- Continuing Legal Education – 7
- Canadian Bar Association – 6
- Professional Legal Training Course – 3
- Law Firms – 2
- Trial Lawyers Association of BC – 1
- Canadian Paralegal Institute – 1

Total audience reached - 1232

New on the horizon...

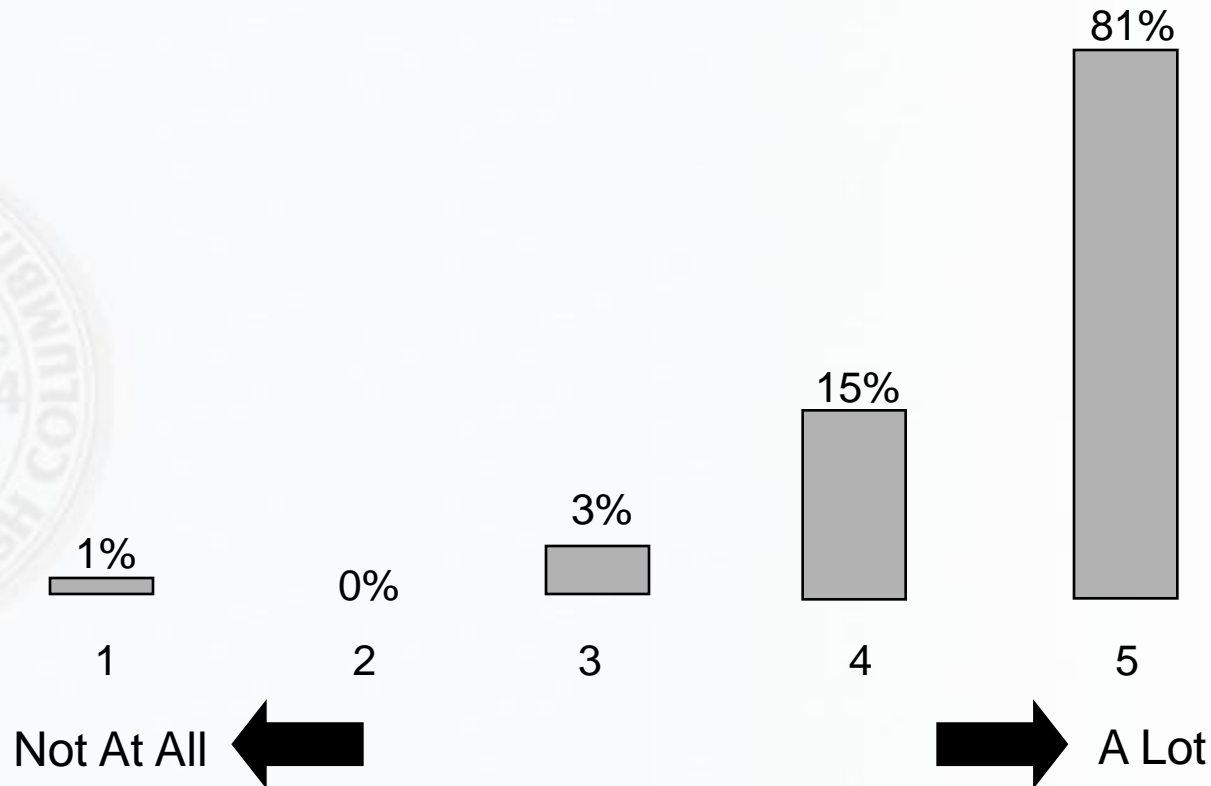
What if my paralegal makes a mistake?



My Insurance Policy: Questions and answers

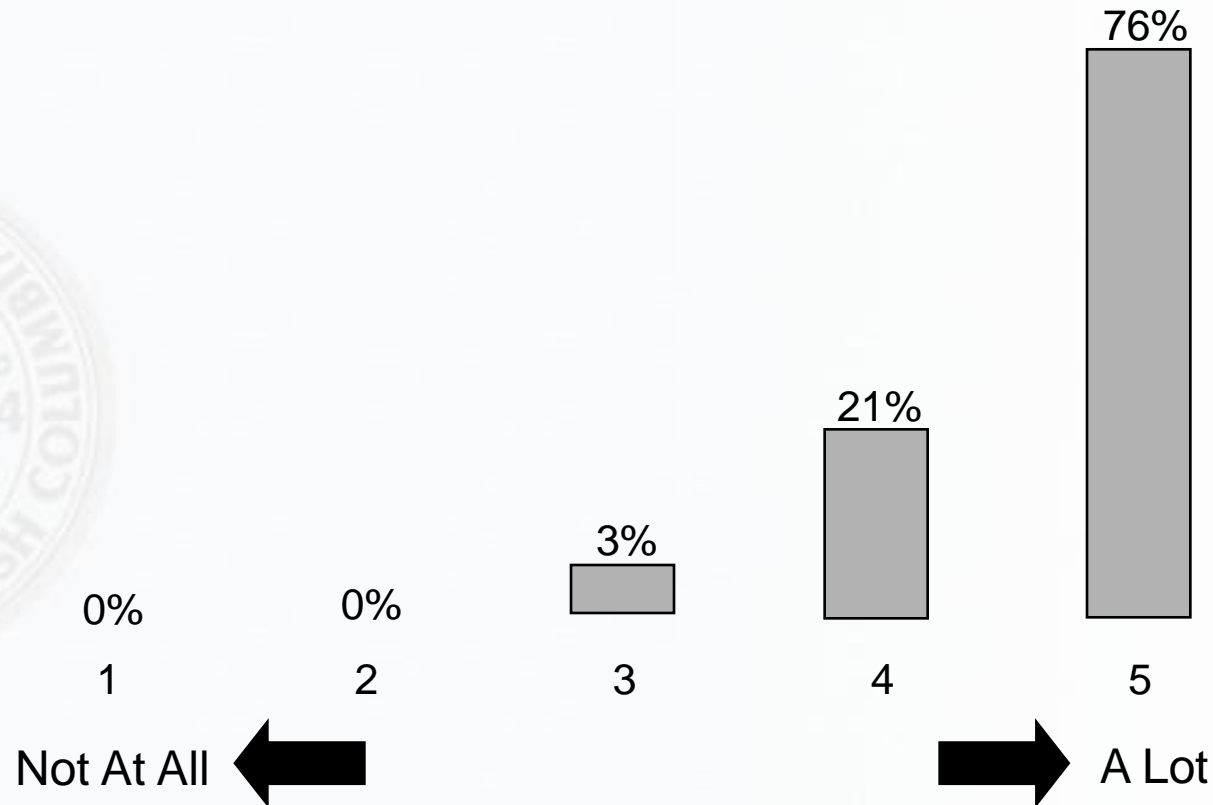
Part A Service Evaluation Form Results

How satisfied overall were you with the outcome of your claim?



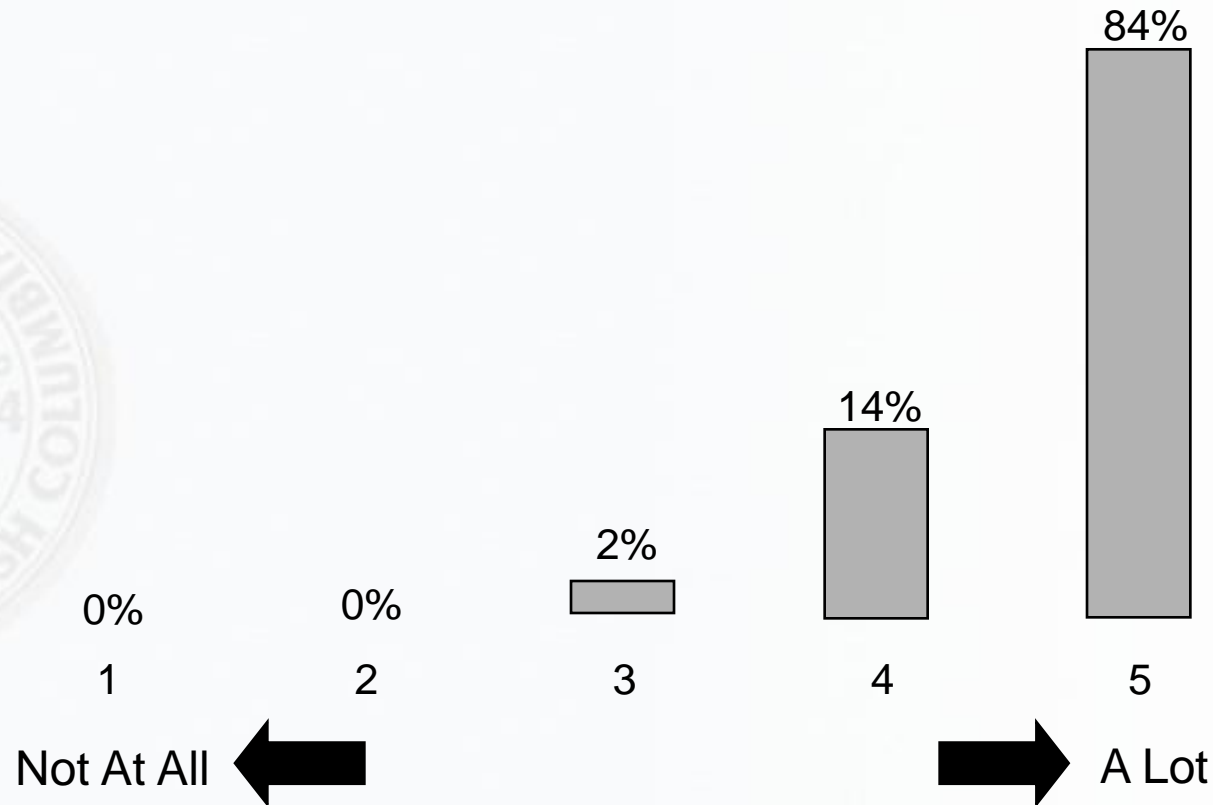
Part A Service Evaluation Form Results

How satisfied overall were you with the handling of your claim?



Part A Service Evaluation Form Results

How satisfied overall were you with the services provided by LIF claims counsel?



Thank you



Memo

To: Benchers

From: 2012 Unauthorized Practice Committee (the “Committee”):
Stacy Kuiack (Chair), Lee Ongman (Vice Chair), Miriam Kresivo, QC, Gregory
Petrisor, Tony Wilson

Date: February 1, 2013

Subject: Unauthorized Practice Committee Review for 2012

COMMITTEE BACKGROUND

The Committee is responsible for overseeing the Unauthorized Practice Program (the “UAP Program”). The Committee, which generally meets quarterly, provides instructions and guidance to staff counsel on policy matters with respect to the application and enforcement of the unauthorized practice of law provisions found in sections 15 and 85 of the *Legal Profession Act* (the “Act”). The overriding purpose of the Committee is to protect the public against those who are unqualified, unregulated, uneducated and uninsured to practice law. The Committee and staff will only act if there is evidence of harm to the public. Examples of conduct that threatens the public include providing harmfully poor legal advice, clogging of the court system with inept or vexatious representation, taking advantage of vulnerable groups in society, and attempting to gain a false advantage over other litigants by posing as lawyers. In addition, the Committee and staff will enforce the prohibitions in the Act against individuals whose participation in the legal system threatens the proper administration of justice, including disbarred or suspended lawyers, vexatious litigants, those who falsely hold themselves out as lawyers, Freeman-on-the-Land, and other such movements.

THE UAP PROGRAM

The UAP Program is a complaint-driven process which takes an “information first, enforcement, if necessary” approach with unauthorized practitioners. Staff investigates all complaints it receives and makes a determination in each case whether a matter is in the public interest to pursue. Staff relies on the guidelines set by the Committee when deciding whether to proceed in any individual case. If action is warranted, staff will send a letter to the unauthorized practitioner informing the person of the Act. Staff may also seek an undertaking from the unauthorized practitioner whereby he or she acknowledges being informed of the pertinent provisions of the Act and agrees to abide by those provisions moving forward. If the party neglects or refuses to sign an undertaking, or if the party has breached an undertaking previously provided to the Law Society, staff may proceed with an injunction application under section 85 of the Act. In extreme cases, the Law Society brings contempt of court proceedings against those who persist in engaging in the practice of law despite the existence of a court order.

In addition to its enforcement arm, the UAP Program also seeks to inform the public and lawyers on the application of the Act. Generally, 2/3 of inquiries and complaints come from the public and 1/3 from lawyers. We receive approximately five to ten complaints per year from the judiciary or administrative tribunal adjudicators.

MAJOR COMMITTEE TOPICS OF 2012

In 2012, the Committee determined that properly protecting the public mandated that the orders obtained against unauthorized practitioners needed to be better publicized. The Committee has instructed staff to put a searchable database of unauthorized practitioners on the Law Society website with links to the actual orders and reasons for judgment. Communications advises the database should be online in March 2013.

One of the other major topics addressed by the Committee in 2012 was the rise of the Freemen on the Land movement. Briefly, people belonging to the 'Freemen' philosophy reject the jurisdiction of the government, courts and police. Freemen choose which laws they wish to obey and reject those which do not suit their anti-establishment ideology, such as paying taxes or using drivers' licenses. Due to their anti-establishment mentality, Freemen are regularly before the courts and engage in activities such as 'paper terrorism' which proves expensive to opposing litigants and taxes the justice system as whole. The UAP department has a lot of interaction with these 'anti-establishment' 'paper terrorists'. In addition to authorizing injunction proceedings against three separate Freemen, the department is working with the RCMP and the Society of Notaries Public to address this common concern.

STATISTICS

At any given time in 2012, the UAP Program had between 45 and 70 open files, with most files being resolved within three months of opening. The UAP Program continued to conduct more of its litigation in-house than in years past, including two Court of Appeal files. While all inquiries were investigated in 2012, staff only opened new files of matters where protection of the public was clearly required. This refined focus for the opening of files is reflected in the smaller number of new files opened in 2012.

| | 2012 | 2011 | 2010 |
|---------------------------------|------|------|------|
| Inquiries | 131 | 160 | 143 |
| Files Opened | 64 | 81 | 77 |
| Files Closed | 93 | 107 | 118 |
| Undertakings Received | 33 | 36 | 34 |
| Injunctions Received | 10 | 9 | 6 |
| Contempt Orders Obtained | 2 | 1 | 1 |
| Court of Appeal Orders Obtained | 3 | 0 | 0 |



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BARRISTERS AND SOLICITORS

William R. Younie, Q.C.* Colleen M. Johel* Alix L. Reid*

Eric J. Wagner*

Counsel

G. Glen Ridgway, Q.C.*

9200
2/12

e-mail: byounie@ridgco.com

February 8, 2013

The Law Society of British Columbia
845 Cambie Street
Vancouver, BC V6B 4Z9

Attention: Art Vertlieb, Q.C.

Dear Sir:

I wish to thank The Law Society for putting on the Q.C. reception earlier this week. It was a most enjoyable event for all of us.

I also wish to take this opportunity to thank the Benchers for finding time during the January meeting to hear an update with respect to the Lawyers Assistance Program. On behalf of LAP, I wish to again thank The Law Society for its strong and consistent support.

Yours very truly,

RIDGWAY & COMPANY

Per:


WILLIAM R. YOUNIE, Q.C.

ks

Rec'd 9300
2/14



BRITISH
COLUMBIA

FEB 12 2013

Mr. Bruce LeRose, Q.C.
President
The Law Society of British Columbia
845 Cambie Street
Vancouver BC V6B 4Z9

Dear Mr. LeRose: *Bruce:*

I would like to take this opportunity, on behalf of my colleagues and myself, to express our deep appreciation of your exemplary service as President of the Law Society of British Columbia.

As you complete your term as president, you and your colleagues may properly take immense pride in the many initiatives and achievements that demonstrate why the Law Society is of such fundamental importance to the justice system in British Columbia.

The provisions of the *Legal Profession Amendment Act, 2012*, and the new *Code of Professional Conduct*, are achievements of signal importance in answering the needs of British Columbians for quality legal services and ensuring the best possible professional standards in the face of modern challenges. They will further the Law Society's commitment and success in continuing to build accessibility, public participation, and high professional standards.

The pilot project respecting paralegals and the Justicia initiative to improve the place of women lawyers in private practice are striking examples of the Society's commitment to address changing circumstances.

I would also note, in particular, your chairmanship of the Task Force to Study the Future of Legal Regulation as an important undertaking as we continue to grapple with the requirements of the public interest and access to justice.

May I extend to you my best regards and warmest wishes for the future.

Sincerely,

Shirley Bond
Minister of Justice
and Attorney General

*Thanks for
The great
work!*

Ministry of
Justice

Office of the
Minister of Justice
and Attorney General

Mailing Address:
PO Box 9044 Stn Prov Govt
Victoria BC V8W 9E2
e-mail: JAG.Minister@gov.bc.ca
website: www.gov.bc.ca/justice

Telephone: 250 387-1866
Facsimile: 250 387-6411



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2/18

FEB 12 2013

Mr. Art Vertlieb, Q.C.
President
The Law Society of British Columbia
845 Cambie Street
Vancouver BC V6B 4Z9

Dear Mr. Vertlieb:

Art:

I am in receipt of Mr. Bruce LeRose's letter on behalf of the Law Society of British Columbia, in which he provides feedback on the government's *White Paper on Justice Reform – Part One: A Modern Transparent Justice System*. I appreciate your taking the time to express your general support of the first part of our justice reform plan, as well as your points of concern. I apologize for the delayed response.

With respect to the Justice and Public Safety Council, you have noted that the government is establishing the Council as part of the Ministry of Justice, as recommended by Mr. Geoffrey Cowper in his report. While Mr. Cowper initially considered recommending a Council with membership beyond government, he concluded that the Council must be within government and be the central body in which senior ministry executives carry out their work. As noted in White Paper, Part 1, the independence of key participants in the justice system could preclude them from being part of the Council.

Having said that however, I have asked Ministry of Justice staff to identify opportunities for incorporating the voice of the Law Society of British Columbia – and other justice system participants – in to the functions of the Justice and Public Safety Council and report back to me after further consultation with the Law Society. I think that the upcoming Justice Summit will provide an opportunity for exactly this type of consultation.

The objective of the Council is to ensure that strategic priorities for the justice system are influenced by and formulated based on collaboration among leaders from across the justice system. It is my expectation that this will be done through the Justice Summit and other engagements as well as one or more expert advisory boards. In particular I look forward to the input and expertise offered by the Law Society and its members. I would also welcome input at the Justice Summit or elsewhere on how we can ensure that the Council is best informed by non-governmental participants in the justice system.

.../2



EXECUTIVE DIRECTOR'S REPORT

A report for the period from **January 1, 2012** to **December 31, 2012**.

The LAP helped approximately **474** new cases in 2012. This is up from **436** new cases in 2011, **446** in 2010, **348** in 2009, and **418** in 2008. These new cases involve initial contact, usually by telephone, followed in most cases by meeting(s) in person, either with a representative or myself. During these meetings information is obtained, a program of recovery or for personal development is created, and a referral to another resource is often made. In many cases a rep continues as a support person and in all cases one or more follow up calls are made, usually by me.

Volunteer Base

There is exciting work being done by the **LAP volunteer representatives**. We currently have almost **300** volunteers throughout the province. The volunteer network is the cornerstone of the LAP, providing a support group to help members continue in their recovery or healing process.

Building and maintaining this volunteer base takes a great deal of time and resources. We are creating local committees of volunteers. Due to changes in circumstances, individual volunteers often move from one region to another or are merely unavailable to continue. This creates the need for a regular and continuous process of training and organization of the volunteers. I did volunteer trainings in Prince George, and had meetings with the volunteer groups in Kelowna. The volunteers meet regularly as a support group in Prince George, are available to help in Kelowna and Victoria.

Thirteenth Annual LAP Volunteers Training and Retreat

The 13th annual Lawyers Assistance Program of British Columbia volunteers training retreat was held March 2nd to 4th, 2012, at Harrison Hot Springs. Approximately **70** men and women volunteers attended comprised of lawyers and judges from all areas of

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British Columbia. In keeping with LAP's succession planning strategy, the group included a variety of ages and stages of life and legal practice. The retreat is one of the on-going initiatives to fulfill LAP's mandate of creating and promoting a healthy legal community. As such, those lawyers and judges who have volunteered to help other lawyers and judges are able to get together once a year as a group and obtain additional training and take the learning and sense of community generated by this event to every area of the Province. Traditionally, this weekend is much anticipated as it is both instructive and collegial and provides the opportunity for the participants to connect with the supportive and encouraging community that LAP provides. The theme of the 2012 Volunteers Training and Retreat was Connection.

The weekend retreat opened with the traditional Friday evening Welcome Circle facilitated by LAPBC's ED Derek LaCroix, where the participants had the opportunity to introduce themselves to each other and talk briefly about their relationship to LAP. This year, the circle theme was to describe our individual experience of the essence of being truly connected. Themes that emerged as a result of this were as follows:

Connecting means truly listening and being respectful of others' boundaries;
 True connection means that one is able to share their own vulnerability and ask for help;
 Through connection we can make the Bar and the Bench a better place;
 True connection means that principles of compassion and honesty are activated and engaged within the framework of the communication;
 Connection is about engaging in life with courage and speaking authentically with others;
 and
 Connection is about being mindfully present to another's experience so you are connected authentically to yourself and also to the community at large.

The human connection and positive energy created in this circle set the tone for the positive framework and encouraging atmosphere that was maintained during the entire retreat.

On Saturday morning, following an early STEP meeting and nutritious breakfast, the speakers were counsellors Toni Pieroni and Larry Butler with their engaging and interactive workshop Communication Skills for Developing Connection: Communication Begins Before You Open Your Mouth.

They began by brainstorming our assumptions of what works and what does not work when we are supporting someone. The process of analyzing and engaging in self-reflection about our thoughts and internal self-talk about the person and the situation was revealing. It led us to gain insight and clarity about our internal narratives and the spin we put on the stories we share about self, others, and the situations we might find ourselves in. Evaluating our beliefs, assumptions, feelings, physical sensations and emotions as we are engaged in a supportive role was helpful, as was the self-analysis of how we use our energy in our communication with self and others. This workshop was highly useful for enhancing communication effectiveness.

Following a delicious buffet lunch, 12 Step Meeting, and experiential and interactive Yoga with Susan Kurtz, LAP Associate Director Susan Burak presented a workshop on

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Freewriting for Lawyers. The guided experiential exercises were designed to liberate participants from the limiting interference of self-criticism and judgment that they might have adopted through past discouraging experiences encountered during previous creative endeavors. Volunteer attendees enjoyed discovering their innate creative abilities to write spontaneously and effectively. They also discovered the value of recognizing the energy inherent in first thoughts and how this adds to authenticity and immediacy in the art of communication and connection. Attendees discovered that through this medium of expression, entering the present moment of self-reflection and mindfulness resulted in better connection and immediacy not only with their writing, but also with their ability to share, communicate, and engage with others through spontaneously sharing narratives of their life experience.

A substantial and delicious Saturday evening buffet dinner was followed by a most entertaining talent show. The amazing array of talented individuals included a singing debut by Dawn Bircher. The volunteer attendees were generous in sharing their talents which included poetry readings, songs, musical performances and stand-up comedy by our very own Karen O'Connor Coulter. The evening was rounded out by an Open 12 Step Meeting which provided the opportunity to those not familiar with 12 Step Programs to attend.

Sunday morning participants arose early and many attended the 12 STEP meeting followed by another nutritious breakfast. All Participants then attended a highly useful and practical workshop: Boundaries For LAP Volunteers presented by Associate Director Robert Bircher. Robert presented both the theories and ideas on boundaries and also how they are necessary and useful to be an effective support person. Through the experiential exercises participants had the opportunity to connect with each other and also to practice and develop their skill set with respect to this all important self initiated limit that promotes integrity. Through his engaging manner Bob taught participants the important characteristics of healthy boundary setting which are flexible and appropriate and how to avoid co-dependence and develop good "Boundary Muscle" and model these characteristics when working with clients. This workshop provided participants with essential tools to develop their confidence in how to share their experience and nurture strength and hope in clients and how to appropriately inspire clients in their journey of recovery.

In Sunday afternoon's wrap-up circle led by CEO Derek LaCroix Participants shared their personal learning experiences and insights about authentic connection and volunteering. Overall they commented on how helpful the weekend program was in developing their skill set and ability to bring their real selves forward in a secure and supportive environment that provided them with the tools for connection.

The participant feedback was highly positive and the comments indicated that the participants valued the practical skills "deep insights, practical solutions and both put into action".

The 14th annual Volunteer training event will be held at Harrison on **March 1st to 3rd, 2013.**

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Loon Lake Retreat

The 16th Annual LAP Lawyers in AA retreat was held September 28 to 30, 2012 at Loon Lake, near Maple Ridge. 26 lawyers from around B.C. gathered to practice, share on and work the 12 Steps. There was a good mix of women, and newer and more experienced members. The weekend was a great success. The feeling of fellowship was palpable, the participants reported learning a lot, having unique experiences and being more motivated to increase their 12 Step practices. The leadership role was shared by several of our own home grown members. The steps were divided among 8 people, men and women, and approaches from several different 12 Step programs were shared. The leaders shared their experience and led us through the 12 Steps. It was a highly interactive and experiential weekend. There was a good deal of discussion about the Steps and about developing a practice using the Steps. The weekend embodied the message and principles the LAP is hoping to convey to the entire bar. If we all lived by these principles we would indeed have “a kinder, gentler” profession and the practice of law would be more satisfying and rewarding; truly a way to be of service to our fellow man and a way to live a useful life. It was truly a weekend of lawyers helping lawyers.

. We shared about our own experiences with the steps. The weekend provided many opportunities to interact with others, to learn and to practice the Steps and to share your experience, strength, and hope.

. This is an event that is entirely self supporting by the participants.

The next Lawyers in AA retreat will be at Loon Lake, **September 27 to 29, 2013.**

Gratitude Lunch

On June 15, 2012, the rain clouds parted, the sun shone, and we held our 12th Annual Gratitude Lunch at the centrally located and beautifully appointed Law Courts Inn Restaurant in downtown Vancouver. With 180 tickets sold, the event was well attended on this rare sunny day in an otherwise record-breaking rainy month. A full range of British Columbia’s Legal Community turned out with representatives from a number of Private Law Firms, the Trial Lawyers Association of B.C., Continuing Legal

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Education, Crown Counsel Office, the Canadian Bar Association, the Law Society, a number of senior Judges, former Directors, and Active Volunteers.

This year we honoured Lawyer Assistance Program Past President Barry Kerfoot with the Lawyer Helping Lawyer Award. LAP's President Scott Huyghebaert introduced Barry Kerfoot and outlined how Barry's dedication and service to promoting and maintaining the vision of the Lawyers Assistance Program of B.C. in creating a healthy legal community has been exemplary. As Barry began his speech, he declared that of all the titles that have been bestowed upon him, the two titles he treasured most were not the scholarly accomplishments of letters after his name, but rather, they were the *Father of the Bride*, which he was to dutifully carry out the very next day, and the title of *Volunteer* for B.C.'s Lawyers Assistance Program.. Barry then proceeded to give a moving speech which outlined his story of how an intervention by Derek LaCroix during the lowest point of his life when he was suffering from liver cirrhosis and in the grips of denial saved his life. He expressed how alcoholism had also brought out the "rageaholic" aspect in his personality so that he had alienated himself from his family. He affirmed that he was very fortunate that he "was sent to Edgewood because it was treatment centre that knocked the denial out of me". Barry expressed gratitude to his family who were all in attendance that he had, over the years since the intervention, been able to repair his relationships with them and actively engage in being the Father of the Bride the next day. He also expressed gratitude to the Lawyers Assistance Program of B.C. for the opportunity of volunteering and declared that whatever service he does, he personally is rewarded ten-fold. He shared his vision that each and every B.C. Lawyer become a LAP volunteer. He reminded the audience that other LAPs in North America were not volunteer based and so the transformative humanistic connection and compassion that is possible through peer based volunteer mentoring sadly does not exist in many LAP organizations in other parts of North America. He acknowledged and thanked the volunteers for all they do and for being on-board in creating a healthy legal community.

LAP Executive Director Derek LaCroix thanked Barry for his moving speech and thanked all the attendees for their support. He reminded everyone that the amount of

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support we give each other is amazingly effective as the healthier our legal community, the better people recover. He encouraged us all to “Pay it Forward” and express gratitude once a week at a very minimum as the expression of gratitude is life enhancing and encourages people to engage effectively with life through connection and caring.

As well as being inspirational and celebratory, the 12th Annual Gratitude Lunch was a financial success.

We look forward to next year’s Gratitude Lunch which will be held on **Friday, June 21st, 2013.**

Vancouver Bar Association AGM and Silent Auction

Once again the LAP organized the Silent Auction for the VBA. It was an outstanding success and we raised \$8,801.00 which will be split between LAP and Access Pro Bono. LAP will receive half of this amount (\$4,400.50). This was down from last year by about \$640. We received much positive feedback for the organization which went into it. We will be organizing it again for 2013. Laurie Stewart worked extremely hard and was tremendously organized. In fact she was responsible for keeping this as good as it was. Members of LAP board were able to contribute donations with special thanks Doug Eastwood, Ron Argue and Darlene LeRoux. We were also able to utilize several young volunteers who were eager and happy to help.

Presentations

We are available to make presentations and to provide workshops on topics concerned with healthy living, dealing with workplace distress, helping others, and lawyers helping lawyers.

We have in the past year made two presentations and given workshops for the Kootenay Bar, talks at UVic, at UBC Law School, and talks to all the PLTC classes in Vancouver and Victoria, to the Prince George Bar Association, the Kelowna Bar Association, the Aboriginal Bar Association, Advocates Group, Peter Grant and Assoc., the staff of the Law Society and the Judicial Justices.

Workshops

We also had half day workshops, where a fee was charged. This year we offered a “Time Management for Lawyers” workshop in Victoria. This was presented by Bob Bircher and Derek and was a fabulous success. We also offered “Boundaries” over 5 weeks here in Vancouver. These workshops were CPD approved which has helped attendance, especially in areas where the practice management and ethics credits are hard to get. We

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also offered “Refirement” workshop in our office. It was a ½ day workshop with 18 in attendance.

The feedback has been excellent and we made contact with several new clients out of each of these workshops. We were also able to make a small profit from each of these.

In 2013 we will be doing more of these around the province and in Vancouver. We are now doing the Vancouver workshops in the LAP office, keeping them smaller and still able to make a profit.

Rational Approaches to Healthy Living Group.

Based on the work of Randy Paterson PhD, this is an ongoing support group for all lawyers who are working at developing a healthier life. It is particularly suited for those recovering from mood disorders, such as depression and anxiety. It fluctuates in size as people move through. It has been at 8-12 for most of the year and we are considering adding a second group. It is primarily facilitated by Bob Bircher.

Options for Lawyers

Options for Lawyers is a networking, education and support group for lawyers making job or career transitions for lawyers wishing to examine their options both personally and professionally. We have a variety of topics relating to making changes in one’s life to writing resumes and creating action plans. The group meets the third Wednesday of each month at the LAP office, 1080 Mainland Street, Suite 415.

Support Groups for Lawyers

We continue to provide support on an ongoing basis to Lawyers in recovery, especially through the lawyers’ AA group that meets Thursday at 12:30 PM. These groups are supplementary to other recovery programs. They help to provide an entry point for lawyers in recovery, provide a place for lawyers in recovery to give back to the profession by helping other members and foster the growth of good will and collegiality within the legal profession.

There are several AA groups around the Vancouver area that regularly have many lawyers in attendance. As the program has matured the lawyers can find comfort with other lawyers at these integrated meetings. We still have a need for some lawyers only meetings and those are a priority.

We have a Lawyers **Accountability Group** that meets Thursday at 5:30 p.m. at the LAP office.

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There is a **Lawyers 12 Step Group** that meets Thursday at 12:30 PM at the LAP office.

There is a **Professional Accountability Group** that meets in **Kamloops** at 5:30 PM on Thursdays.

There is a **Lawyers AA Group** that meets in **Victoria** at 12:30 PM every Thursday.

There is a **Lawyers AA Group** that meets in **Abbotsford/Chilliwack** at 5:00 PM every Monday.

There is a **Lawyers AA Group** that meets in **Port Coquitlam** at 12:30 PM every Thursday.

We have a **Codependents Anonymous Group (CODA)** that meets Tuesdays at 5:30 at the LAP office.

We have a **Codependents Anonymous Group (CODA)** in **Victoria** that meets Wednesdays at 12:00pm.

There is a **Lawyers Support Group** that meets in **Victoria** at 5:00 PM the third Thursday of the month.

We have a **Women's Step Group** the meet in **the LAP office** at 5:00 pm every Wednesday.

We have a **Meditation for Lawyers Group** that meets every Friday at 12:15 at the LAP office.

There is a **Professionals Accountability/Caduceus Group** in Prince George that meets Wednesday at 8pm and lawyers are included.

There is a regular **support group** meeting in Prince George.

As we grow the LAP will have more of these ongoing support groups throughout the whole Province. I would like to expand these to include ongoing facilitated support groups for mood disorders, transitions, meditation, and dealing with procrastination (to name just a few). This again is another area in which a strong local volunteer presence is essential.

Other Community Involvement.

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We have continued to be actively involved in the community, particularly the recovery, the therapeutic, and the personal development community. We participate with the Lawyers Professional Assistance Committee, and the Commission on Lawyers Assistance programs, including the Judicial Outreach Committee. We are involved with the Western Steps foundation, the owners of Turning Point residences. We have continued to develop our relationships with, and to visit some of, the various treatment facilities, including The Last Door, The Orchard, Edgewood, The Cedars, The Sunshine Coast Treatment Centre, and Bellwood. Together with our many volunteers in recovery we maintain a close relationship with the recovery community. We stay involved with meeting other resources, including counsellors, therapists, doctors, coaches and other helpers by attending workshops and conferences. As well we have involvement with other community organizations, which keeps the profile of LAPBC visible in the larger community and helps us keep apprised of what is happening in the community at large. We are involved with the UBC Law School Alumni.

Resources

Meetings with many counsellors, therapists, educators, and doctors have resulted in a growing referral network available to the LAP members. These meetings enable us to learn who and what is available and to increase the awareness of the LAP program in the general community. One of the reasons for additional help is to free up time to spend two days a month meeting with outside providers and resources, touring treatment facilities and generally promoting the LAP to these resources. We also have been working at upgrading our library system and we have been duplicating our CDs to allow us to be able to lend out and/or give out more. We consider our library an organic library. The materials are for the members' benefit and so long as they are being used and are of value the member may keep them.

We continue to receive excellent support from the legal community. We will be receiving \$60 per member in 2013 and have about 10,500 members.

Derek LaCroix QC
Executive Director
Lawyers Assistance Program of B.C.

LAWYERS IN RECOVERY HAVE LOW CLAIM RATES!

A recent study by the Oregon Attorney Assistance Program (OAAP) has demonstrated the truth of a belief long held by most insurers, state bars, and assistance programs: that getting lawyers into recovery saves lives and dollars. (The Oregon Attorney Assistance Program, funded by the Oregon State Bar Professional Liability Fund, provides a broad range of services to attorneys, including assistance with alcoholism and chemical dependency.)

The OAAP study involved 55 recovering lawyers who were in private practice for five years before and five years after their sobriety dates. The first portion of the study examined the incidence of malpractice claims for that ten-year period, while a second portion looked at discipline complaints.

During the five years before sobriety, these lawyers had 83 malpractice claims filed against them, whereas the number dropped dramatically - to 21 claims - in the five years after sobriety. This represents a 30 percent annual malpractice claim rate before sobriety, and an 8 percent rate after sobriety.

The same lawyers had 76 discipline complaints during the five years before sobriety and 20 discipline complaints during the five years after sobriety. This represents a 28 percent annual discipline complaint rate before sobriety, and a 7 percent discipline complaint rate afterwards.

These statistics show that malpractice and discipline complaint rates for lawyers before recovery are nearly **FOUR TIMES GREATER** than those in recovery.

Lawyers in recovery also have **LOWER** malpractice and discipline complaint rates than the general population of lawyers. In Oregon, the current annual malpractice claim rate for lawyers in private practice is 13.5 percent, compared to 8 percent for lawyers in recovery. The current annual discipline complaint rate for Oregon lawyers is 9 percent, compared to 7 percent for lawyers in recovery.

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