

The Law Society of British Columbia



Agenda

Benchers

Date: Friday, March 3, 2017

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

8:30 am Call to order

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:

The 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. Any Bencher may request that a consent agenda item be moved to the regular agenda by notifying the President or the Manager, Executive Support (Renee Collins) prior to the meeting.

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
1	Consent Agenda <ul style="list-style-type: none"> • Minutes of January 27, 2016 meeting (regular session) • Minutes of January 27, 2016 meeting (<i>in camera</i> session) • Rules Revision: Correction to Rule 3-34 • Rules Revision: Reinstatement Fee Waiver for Retired Members - Rule 2-85(3) • <i>BC Code</i> Commentary Amendments - Lawyers' Duty to Sign Orders 	1	President	Tab 1.1 Tab 1.2 Tab 1.3 Tab 1.4 Tab 1.5	Approval Approval Approval Approval Approval

The Law Society of British Columbia



Agenda

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
DISCUSSION/DECISION					
2	Honourable Suzanne Anton, QC Minister of Justice and Attorney General of British Columbia	10			Remarks
3	Legal Aid Task Force Report	40	Nancy Merrill, QC	Tab 3	Discussion/ Decision
4	Governance Committee: 2016 Bencher and Year End Survey Report	10	Steven McKoen	Tab 4	Discussion/ Decision
5	Review of the Law Society's 2016 Audited Financial Statements and Financial Reports	20	Miriam Kresivo, QC/ CFO	Tab 5	Decision
REPORTS					
6	Lawyers Insurance Fund: Program Report for 2016	20	Director of Insurance	Tab 6	Briefing
EXECUTIVE REPORTS					
7	President's Report <ul style="list-style-type: none"> • Bencher Calendar 	10	President	Oral report (update on key issues)	Briefing
	<ul style="list-style-type: none"> • TRC Advisory Committee Update 	10		Tab 7	Briefing
	<ul style="list-style-type: none"> • Briefing by the Law Society's Member of the Federation Council 	5			Briefing
	<ul style="list-style-type: none"> • Report on Outstanding Hearing & Review Decisions 	5		(To be circulated at the meeting)	Briefing

**The Law Society
of British Columbia**



Agenda

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
8	CEO's Report	15	CEO	Tab 8	Briefing
FOR INFORMATION					
9	<ul style="list-style-type: none"> • Three Month Bencher Calendar – March to May • Letter from Law Foundation: Pro Bono Law in BC 			Tab 9.1 Tab 9.2	Information Information
IN CAMERA					
10	<i>In camera</i> <ul style="list-style-type: none"> • Bencher concerns • Other business 		President/CEO		Discussion/ Decision



Minutes

Benchers

Date: Friday, January 27, 2017

Present:	Herman Van Ommen, QC, President Miriam Kresivo, QC, 1 st Vice-President Nancy Merrill, QC, 2 nd Vice-President Jasmin Ahmad Satwinder Bains Jeff Campbell, QC Pinder Cheema, QC Jeevyn Dhaliwal Craig Ferris, QC Martin Finch, QC Brook Greenberg Lisa Hamilton J.S. (Woody) Hayes, FCPA, FCA Dean P.J. Lawton, QC	Jamie McLaren Sharon Matthews, QC Steven McKoen Christopher McPherson Lee Ongman Greg Petrisor Claude Richmond Phil Riddell Elizabeth Rowbotham Mark Rushton Daniel P. Smith Michelle Stanford Sarah Westwood Tony Wilson, QC
Excused:	Thomas Fellhauer Carolynn Ryan	
Staff Present:	Tim McGee, QC Deborah Armour Taylore Ashlie Aaron Bockner Renee Collins Lance Cooke Su Forbes, QC Andrea Hilland Jeffrey Hoskins, QC	David Jordan Michael Lucas Alison Luke Jeanette McPhee Doug Munro Lesley Small Alan Treleaven Adam Whitcombe

Guests:	The Honourable Robert J. Bauman Dom Bautista Mark Benton, QC Nancy Carter Sonny Parhar Raymond Lee Richard Fyfe, QC Dennis Joseph - Xwechtaal Siem Suzette Narbonne Caroline Nevin Bill Veenstra Ryan Williams Alexis Kazanowski	Chief Justice of British Columbia Executive Director, Law Courts Center Executive Director, Legal Services Society Executive Director, Civil Policy and Legislation Office, Justice Services Branch, Ministry of Justice 1 st Vice-President, Trial Lawyers Association of BC Program Lawyer, Continuing Legal Education Society of BC Deputy Attorney General of BC, Ministry of Justice, representing the Attorney General Squamish Nation Councillor Chair, Legal Services Society Executive Director, Canadian Bar Association, BC Branch Vice President, Canadian Bar Association, BC Branch President, TWI Surveys Inc. Assistant Dean, Faculty of Law, Thompson Rivers University
---------	--	--

1. Administer Oaths of Office

Chief Justice Bauman administered oaths of office for new President Herman Van Ommen, QC, First Vice President Miriam Kresivo, QC, Second Vice President Nancy Merrill, QC and newly elected Benchers Jeevyn Dhaliwal and Jasmin Ahmad.

He thanked the Benchers for their dedication, diligent work and leadership. He also remarked on the valuable relationship between the judiciary and the Law Society, and the importance of collaboration between the two towards increased access to legal services for the public in the coming years.

2. President's Welcome

President Van Ommen began by acknowledging the hospitality of First Nations' hosts Squamish, Musqueam and Tsleil Waututh Nations, on whose territorial lands the meeting was being held. He then introduced Squamish Nation Counsellor Dennis Joseph, *Xwechtaal Siem*, to provide an opening prayer.

He also welcomed new Benchers Jeevyn Dhaliwal and Jasmin Ahmad to the table, as well as the new Ladder, First Vice President Miriam Kresivo, QC and Second Vice President Nancy Merrill, QC. For this first meeting of the year, he introduced both staff and the regular guests who attend Bencher meetings throughout the year.

CONSENT AGENDA

3. Minutes

a. Minutes

The minutes of the meeting held on December 9, 2016 were approved as circulated.

The *in camera* minutes of the meeting held on December 9, 2016 were approved as circulated

b. Resolutions

The following resolution was passed unanimously and by consent.

BE IT RESOLVED to amend the Law Society Rules by rescinding Rules 2-9 to 2-11 and substituting the following:

Definitions

2-9 In Rules 2-10 [*Business address*] and 2-11 [*Residential address*],

“**address**” includes

- (a) the name under which a lawyer carries on business, and
- (b) street address, including suite number if applicable, and mailing address, if that is different from the street address;

“**contact information**” includes the following for the purpose of a lawyer receiving communication from the Society, including confidential and secured communication:

- (a) a telephone number;
- (b) an email address;

“**place of practice**” includes

- (a) a lawyer’s chief place of practice or employment, including the residence of a lawyer who carries on a law practice from the lawyer’s residence, and
- (b) any other location from which a lawyer conducts the practice of law or is held out to conduct the practice of law.

Business address

2-10 A lawyer must advise the Executive Director of the address and contact information of all of the lawyer’s places of practice and inform the Executive Director immediately of a change of address or contact information of any of the lawyer’s places of practice.

Residential address

2-11 A lawyer who does not carry on the practice of law must advise the Executive Director of the address and contact information of the lawyer’s residence and any change in the address and contact information of the lawyer’s residence.

BE IT RESOLVED to amend Rule 3-97 by rescinding subrules (2) and (3) and substituting the following:

(2) Subject to subrule (4), a person who is charged with an offence under a federal or provincial statute, or an equivalent offence in another jurisdiction, must immediately provide to the Executive Director written notice of the charge.

BE IT RESOLVED to dissolve the Legal Services Regulatory Framework Task Force, the Regulation and Insurance Working Group, and the Tribunal Program Review Task Force effective immediately.

GUEST PRESENTATIONS

4. Provincial Court Rules Reform Project – Family Law Matters

Nancy Carter, Executive Director, Civil Policy and Legislation Office, Justice Services Branch of the Ministry of Justice attended to provide the Benchers with a presentation on the Provincial Court Family Rules Working Group and their project to revise the Family Law Rules. The Working Group is raising awareness amongst stakeholders of the consensus being reached by the Ministry of Justice and the Provincial Court on key concepts.

The Working Group itself is comprised of judges, Ministry of Justice staff and members of the Bar from various stakeholder groups such as the Legal Services Society (LSS), the Canadian Bar Association, BC Branch (CBABC) and the Law Society, whose representative is Bencher Lisa Hamilton.

At their core, the revisions aim to reflect the results of a growing body of research confirming the effectiveness of consensual processes in family breakdown, which involves both legal and non-legal issues. Also recognized is that processes need to be more easily understood, and parties need more support navigating the system.

Ms. Carter summarized the three types of reform of focus:

- the pre-court process, which will build on existing processes such as the parenting after separation tool, and include additional processes such as early assessment of claims for referral to legal advice or community services and organizations as applicable, and mediation before any hearing date;
- case management, which will include more robust “triage” of cases before the first appearance to ensure readiness or provide support for the proper preparation of the file to

a “judge ready” state, and the possible addition of a Master-type judicial officer to assist with interim orders;

- adjudication process, which will consider reform of rules around adjudication to simplify processes and more effectively use judicial resources to encourage less adversarial and more flexible trial processes tailored to best resolve matters for the particular parties at hand;

Ms. Carter also stressed the importance of resources to the model being contemplated, which may require the addition of publicly funded services such as mediation, and an examination of how to build capacity in the Court. A resource analysis is currently underway, in concert with consultation of stakeholders to better identify issues that should be explored and any concerns that should be addressed. To that end, she invited Benchers to provide their ideas and feedback.

Questions from Benchers included whether duty counsel will be retained with the new model, and if the proposed new Master will have any dispute resolution role. Ms. Carter was uncertain about the retention of duty counsel, but noted that the Working Group is in discussions with LSS regarding what early legal advice might look like. She also noted that the decision-making role of the Master could make it challenging to also incorporate a formal mediator role, but that they are exploring all options for early resolution and settlement.

In response to the question of how parties will “enter” the program, Ms. Carter explained that the initial filing process will be less comprehensive, and will trigger an assessment appointment. If the matter continues through to adjudication, further filings will be necessary. She also confirmed, in response to another, that the Ministry is particularly interested in discussing the proposed model with the Indigenous community, and are currently exploring an appropriate forum to do so.

Mr. Van Ommen thanked Ms. Carter for her informative presentation.

5. LSS: Plans and Priorities for the Coming Year

Suzette Narbonne, Chair of LSS, attended to provide Benchers with a report and update on the work of LSS and the impact of that work on individuals in our communities. She began by sharing an anecdote of a client who lacked education, training, and even basic life skills, who endured a 30 year emotionally abusive relationship and suffered substance abuse as a result and faced financial and emotional ruin. After being connected with legal aid through a transition house support worker, the client was able to slowly build confidence and a legal claim which led to spousal support, a divorce and a renewed life. There are countless stories of how legal aid assists people in communities all across BC, people whose only way to access justice is through legal aid.

Ms. Narbonne acknowledged the leadership role of the Law Society, and congratulated Benchers on their establishment of a permanent TRC Advisory Committee, noting the disproportionately high rate of Indigenous legal aid clients. LSS has made legal assistance to the Indigenous community a priority and is exploring funding for a centre for culturally appropriate support for child protection, as currently 40% of all child protection matters involve Indigenous children.

She also applauded the establishment of the Law Society's Legal Aid Task Force, expressing gratitude for the chance to participate in the recent colloquium with members of government, the judiciary, other lawyers and academics.

She also noted other leadership opportunities for the Law Society, including possible partnership with LSS to research the cost of practicing law in BC with a view to increasing fees for legal aid lawyers. At the current rate, the sustainability of legal aid is uncertain, as fewer and fewer lawyers can afford to continue to assist marginalized people.

A discussion followed regarding the provision of legal advice for those who do not qualify for legal aid, and the possibility of including within the proposed new Provincial Court model early legal advice through duty counsel. Also discussed was the reality that, as the right to counsel is constitutionally protected for criminal cases but not family cases, there is often insufficient funding to provide for aid family cases as well.

6. 2016 Employee Survey Results

Ryan Williams, President of TWI Surveys Inc., attended to provide his report on the 2016 Employee Survey results, which is the 10th such survey conducted at the Law Society.

As an overall summary, Mr. Williams reported that 75% of employees participated in the survey, which is considered a healthy response considering the survey is not mandatory. A majority of respondents indicate they understand the work the Law Society does and are inspired to do it. Challenge areas include work flow and resources, although these appear to represent unique situations within the organization and do not necessarily reflect the organization as a whole.

He then reviewed results for more particular areas of reporting, including awareness of strategic goals, opportunities for job development, trust in management and the demographics of respondents.

Comments indicate people are generally happy with their jobs, and value the people with whom they work.

Benchers queried about the rate of response, wondering whether it was a particular indicator of apathy or dissatisfaction; Mr. Williams confirmed that, while 80-90% response has been more

typical, a 75% rate of response is considered normal, and may just reflect survey apathy or the reduced “encouragement” to complete the survey. However, he would not recommend reducing the frequency of the survey given its importance as a tool for employee engagement.

EXECUTIVE REPORTS

7. President's Report

In his first President's Report, Mr. Van Ommen noted that he would not be providing a regular listing of all of his activities, but would focus on items and events pertinent to the work being done at the Bencher table.

He also noted that, going forward, the Executive Committee meeting Minutes will be posted to Bencher Resources in the week of the Bencher meeting to keep Benchers apprised of Executive Committee discussions and decisions.

At the January Executive Committee meeting, the Committee discussed the creation of a Recruitment and Nominating Committee to source qualified applicants for both internal and external committee appointments. Staff will provide a review of the possibility for further discussion at the next meeting. Also discussed was strategic planning in advance of the new plan anticipated for 2018-2020. The Committee agreed that Benchers could benefit from presentations on possible strategic plan options, as well as a session on strategic planning generally, to help familiarize them before the strategic planning process begins in the Fall.

Finally, the Executive Committee discussed a review and refresh of the Key Performance Measures (KPM's), about which Mr. McGee will be reporting, to ensure we are taking the appropriate measurements and setting appropriate levels.

8. CEO's Report

Mr. McGee began his report by welcoming Mr. Van Ommen as the Law Society President for 2017, as well as newly elected Benchers Jeevyn Dhaliwal and Jasmin Ahmad.

Providing highlights of his monthly written report to the Benchers, he noted that Leadership Council met and discussed departmental, national and international issues that could form part of the new strategic plan. Topics for consideration will be presented to Benchers over the course of several Bencher meetings in advance of the Fall strategic planning process.

He also noted that the annual budget is in the process of being finalized, and we expect to end the year positive to budget overall.

Turning to a review of the KPM's, Mr. McGee reviewed with Benchers the objectives behind the measurements, noting that the KPM's are intended to provide a “dashboard” of the core regulatory activities of the Law Society.

He highlighted the overall rating of 83%, which, while one or two percentage points below last year, still represented strong competency in key areas. Results in the area of complaints and insurance show a slight increase in the frequency of complaints, and a slight decrease in insurance reporting, both of which accord with trends in the profession generally. Neither should signal cause for concern, but represent areas to watch and understand better from a resource perspective. Results in the area of discipline show a reduction in citations but an increase in conduct reviews.

In the area of Professional Conduct, the survey of users of the complaint system shows strong results for timeliness, fairness, courtesy and thoroughness, as well as a willingness to recommend the process. These are key indicators of whether the way we conduct the process, including intake and investigations, is on the right track.

In the area of Custodianships, the KPM of timeliness was missed, which was due to two very complex files; all other custodianships in the year were closed in accordance with the target. However, this result is of concern given that timeliness was one of the original drivers of the development of the in house program. We are seeing an increase in the number and complexity of custodianships, and further analysis will be important to ensure our program is well supported to respond to increasing demands.

The area of Trust Assurance may be one suitable for a review and refresh of core objectives. Though there has been a long term reduction in referrals to Professional Conduct, there has been debate in this area regarding whether success might best be measured by finding problems, which could result in an increase of referrals. It is important both to monitor and to ensure compliance; as results are flat in this area, we should be asking what that means for this program going forward.

In response to a question, Deb Armour, Chief Legal Officer, confirmed that the KPM's do confirm that the Law Society ended the year with an increased number of discipline files, but the growing backlog is expected to be alleviated with the additional resources approved by Benchers with the 2017 budget.

Responding to another question, Alan Treleaven, Director, Education and Practice, confirmed that last year's reduced number of PLTC students is likely just a normal fluctuation and not necessarily indicative of a reduced number of articling placements; indeed the number of PLTC students has increased this year.

9. Briefing by the Law Society's Member of the Federation Council

Mr. Van Ommen briefed the Benchers as the Law Society's member of the FLSC Council. He identified two issues of importance: the first is a review of the National Committee on Accreditation program, the report for which will be presented to Council in March; the second is the approval of terms of reference for the Federation's Truth and Reconciliation Commission Calls to Action Advisory Committee. He noted that the latter was based on the BC model but adapted for the Federation. He also noted that while the Committee has not yet been populated, he has recommended the appointment of Past President David Crossin, QC. Law Society Policy and Legal Services staff lawyer Andrea Hilland will provide staff support to the Committee as well.

DISCUSSION/DECISION

10. Qualifications to Act as Articling Principal

Chair of the Credentials Committee Lisa Hamilton briefed Benchers on the Committee's report and recommendations. She began by thanking committee members and staff for their hard work in preparation of the report.

She identified the three main recommendations of the report as follows:

- Reduce qualifications to act as an articling principal from 7 years to 5 years;
- Reduce the number of years of BC and Yukon practice required for principals from 5 of 7 years to 3 of 5 years;
- Remove the unclear concept of “active practice”, and refer instead to full time practice (with an accounting for every two years of part time practice as one full time year).

She also noted the recommendation that, in exceptional circumstances, a person could apply to the committee to be a principal despite their inability to meet one or more of the requirements.

Ms. Hamilton provided Benchers with background for these recommendations. Prior to 2002, principals required four years of practice and there were no restrictions on the number of students one could have. In an effort to improve the articling experience, a task force on the admissions program recommended, and Benchers approved, an increase in the number of years of practice required and a restriction on the number of students per principal. However, she noted that the Credentials Committee regularly receives applications for exceptions to the current rules, many of which are only slightly below the requirements. The Committee uses its discretion on a

case by case basis. In many cases, without the exception the student would not otherwise have an articling position.

With the recommendations, the Committee has tried to strike a balance between ensuring the necessary experience and expanding the potential pool of qualified principals. It was noted that many potential principals applying for an exception had 5 years of practice, and many with less than 5 years of experience in BC had additional years of experience in other jurisdictions. Ms. Hamilton also noted that the recommendation of allowing part time equivalency to full time practice was aimed at expanding the pool of potential principals to include these otherwise well qualified lawyers.

There was discussion of whether lowering the year of practice requirement would have the effect of increasing the number of unpaid or underpaid articles, given the likelihood that less experienced lawyers are less financially successful. Ms. Hamilton was not aware of a correlation between a principal's practice experience and unpaid articles.

There was also discussion of any additional criteria to be principal, other than practice experience; Lesley Small, Manager, Member Services and Credentials, confirmed that staff check principals for any disciplinary proceedings, open complaints or past practice standards issues, and refer any matters of concern to the Committee.

Also discussed was the types of exceptional applications received by the Committee. Ms. Small noted that most of the applications are more than 5 years of practice but under 7 years, and that the recommendations have been based in part on the types of applications the Committee has been approving.

Following discussion, Ms. Hamilton moved that the Benchers approve the recommendations in the report, and refer them to Act and Rules to provide draft Rules revisions for Bencher approval (seconded by Ms. Stanford).

The motion was passed unanimously.

REPORTS

11. Report on the Outstanding Hearing & Review Decisions

Written reports on outstanding hearing decisions and conduct review reports were received and reviewed by the Benchers.

12. National Discipline Standards Report

Ms. Armour provided her annual report on National Discipline Standards, which are standards to address the principles that are foundational to the Law Society's role as regulator in protecting the public. She emphasized that the standards are aspirational, noting that they have only been met in their entirety once by only one law society. However, she also noted that the Law Society of BC has improved significantly, meeting 18 of the 21 standards in 2016, and improving on the remaining three.

She advised that, for the first time, we are now meeting standard 7, which is the commencement of a hearing within 9 months, 75% of the time. She recognized the efforts of staff and hearing panelists in this achievement.

The standard most often referenced is the closure of 80% of all investigation files within one year. The Law Society met that standard 91% of the time in 2016.

The Law Society continues to fall short on the standard which requires the rendering of decisions within 90 days of submission, 90% of the time. Our 2016 result was 70%.

While we now have easily accessible discipline information from 2003 on, information prior to that date is not available online.

Mr. Van Ommen observed that though we are experiencing an increase in files, we are now closing files faster and achieving a higher satisfaction rate; he applauded the efforts of all involved.

13. TRC Advisory Committee Update

Mr. Van Ommen briefed Benchers as Co-Chair of the Committee, which met last December. At that meeting the Committee received a report from Annie Rochette, Deputy Director, PLTC, on the steps being taken to implement call to action 27. Revisions to the PLTC program include adding a half day of instruction on child protection issues, a full day on Gladue reports in criminal procedure, and revising the practice materials and examinations in all subject areas to include Indigenous legal issues.

He also noted that Ms. Hilland has had the opportunity to speak publicly about the work of the Committee and the Law Society in this area on several occasions and to various community groups.

The next scheduled meeting will be in February at which the Committee will be developing its Agenda. It continues to be a vibrant and dedicated group.

14. Equity Ombudsperson Report

Following discussion of this matter In Camera, Ms. Merrill moved (seconded by Ms. Westwood) that the position of Equity Ombudsperson be brought in house within the Practice Standards Department of the Law Society.

The motion was passed unanimously.

FOR INFORMATION

14. Three Month Bencher Calendar – January to March

Mr. Van Ommen noted that staff is in the process of developing a calendar to collate numerous events of relevance to Benchers, to encourage Benchers to be more engaged with local Bar associations and the legal community in general.

He encouraged Benchers to refer to the calendar often, and to provide input on events of note for inclusion, as well as suggestions to help make it as useful as possible.

RTC
2017-01-27

REDACTED

MATERIALS

REDACTED

MATERIALS

REDACTED

MATERIALS



Memo

To: Benchers
 From: Jeffrey G. Hoskins, QC for Act and Rules Committee
 Date: January 31, 2017
 Subject: **Correction to Rule 3-34 [Advertising]**

1. The Act and Rules Committee recommends an amendment to Rule 3-34 to correct an error in citing the *Code of Professional Conduct for British Columbia*.
2. When the Law Society adopted its own version of the Federation of Law Societies' Model Code of Conduct, we took with it the Federation's somewhat complicated numbering scheme. Under the *Professional Conduct Handbook*, we were used to several "chapters," each of which was divided into a number of "rules." That is all there were, chapters and rules.
3. Under the *Code of Conduct for British Columbia*, there are now several "chapters," each divided into a number of "sections." Most of the sections are then divided into a number of "rules" and "commentaries." While the Law Society Rules make numerous correct references to provisions in the *Code of Conduct*, Barbara Buchanan, QC, has pointed out that the current Rule 3-34 is an exception and needs correcting.
4. This is the correction that the Act and Rules Committee recommends:

Advertising

3-34 A lawyer must not advertise any specialization, restricted practice or preferred area of practice except as permitted in the *Code of Professional Conduct*, ~~rule section~~ 4.3 [*Advertising nature of practice*].

5. Here is a suggested resolution that would effect that change:

BE IT RESOLVED to amend Rule 3-34 of the Law Society Rules by striking the phrase "rule 4.3" and substituting "section 4.3"



Memo

To: Benchers

From: Jeffrey G. Hoskins, QC for Act and Rules Committee

Date: January 30, 2017

Subject: **Access and Credentials Committees' request for change to Rule 2-85(3) to allow staff to waive reinstatement fee**

1. At the request of the Access to Legal Services Advisory Committee, the Credentials Committee has reconsidered its role in approving applications from retired judges to reinstate as retired members for the purpose of doing pro bono legal work. The current Rule 2-85 [*Reinstatement of former lawyer*] gives the Credentials Committee the discretion to waive the reinstatement fee on such applications. The Committee is now of the view that it would be more appropriate and efficient to assign that discretion the Executive Director.
2. I attach Lesley Small's memo explaining the situation and the draft minute of the Committee's consideration of the question. I also attach a draft change in redlined and clean versions.
3. The Act and Rules Committee recommends adoption of the change by the Benchers. This is a suggested resolution to effect the change:

BE IT RESOLVED to amend the Law Society Rules by rescinding Rule 2-85 (3) and substituting the following:

- (3) On an application under subrule (2) (c), the Executive Director may waive payment of all or part of the application fee on any conditions that the Executive Director considers appropriate.

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT

Attachments: memo and attachment
draft minute
draft amendments

JGH

DM1432832

REDACTED

MATERIALS

REDACTED

MATERIALS

REDACTED

MATERIALS



Memo

To: Credentials Committee
From: Access to Legal Services Advisory Committee
Date: October 5, 2016
Subject: Streamlining process for retired judges to have the fee waived when applying for retired membership status

The Topic

The Access to Legal Services Advisory Committee would like the Credentials Committee to consider creating a streamlined fee-waiver process for retired judges who are applying for retired membership status.

The Issue for Consideration

Over the past few years, the Access to Legal Services Advisory Committee has been considering ways to encourage more lawyers, including retired lawyers to do pro bono or mentoring. One of the topics it has considered is how to encourage retired judges to do this work. Retired lawyers who do pro bono through an approved program enjoy the benefit of insurance coverage. The Committee views it desirable to facilitate retired judges to participate in such work as well.

The Committee understands that judges who are applying for reinstatement only to facilitate the ability to then become a retired member, have been able to get the reinstatement fee waived. However, they have to go through a process to request the waiver. It is the view of the Committee that streamlining this process so the waiver is automatic would facilitate the goal of having retired judges become retired members, and consequently take on pro bono work. The Committee requests that the Credentials Committee consider streamlining the process so the fee waiver is automatic and requires less administrative steps.

The Committee would be happy to send a delegate to a Credentials Committee meeting to discuss the issue, if you think that would be helpful.

/DM

LAW SOCIETY RULES

PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

Division 2 – Admission and Reinstatement

Reinstatement

Reinstatement of former lawyer

- 2-85** (1) A former lawyer may apply for reinstatement as a member of the Society by delivering the following to the Executive Director:
- (a) an application for reinstatement in a form approved by the Credentials Committee, including written consent for the release of relevant information to the Society;
 - (b) the appropriate application fee specified in Schedule 1.
- (2) An applicant for reinstatement may apply for the following status on reinstatement:
- (a) practising lawyer, only if the applicant has met the conditions for practising law under Rule 2-89 [*Returning to practice after an absence*];
 - (b) non-practising member on compliance with Rule 2-3 [*Non-practising members*];
 - (c) retired member if the lawyer is qualified under Rule 2-4 (1) [*Retired members*] and on compliance with Rule 2-4 (2) and (3).
- (3) On an application under subrule (2) (c), the ~~Credentials Committee~~Executive Director may waive payment of all or part of the application fee on any conditions that the Executive Director~~Committee~~ considers appropriate.

LAW SOCIETY RULES

PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

Division 2 – Admission and Reinstatement

Reinstatement

Reinstatement of former lawyer

- 2-85** (1) A former lawyer may apply for reinstatement as a member of the Society by delivering the following to the Executive Director:
- (a) an application for reinstatement in a form approved by the Credentials Committee, including written consent for the release of relevant information to the Society;
 - (b) the appropriate application fee specified in Schedule 1.
- (2) An applicant for reinstatement may apply for the following status on reinstatement:
- (a) practising lawyer, only if the applicant has met the conditions for practising law under Rule 2-89 [*Returning to practice after an absence*];
 - (b) non-practising member on compliance with Rule 2-3 [*Non-practising members*];
 - (c) retired member if the lawyer is qualified under Rule 2-4 (1) [*Retired members*] and on compliance with Rule 2-4 (2) and (3).
- (3) On an application under subrule (2) (c), the Executive Director may waive payment of all or part of the application fee on any conditions that the Executive Director considers appropriate.



Memo

To: The Benchers
 From: The Ethics Committee
 Date: January 20, 2017
 Subject: ***Code of Professional Conduct for British Columbia (“BC Code”)*** –
Rule 3.7-9 and 5.1-2 – lawyers’ duty to approve orders

Upon request by a lawyer, the Ethics Committee has revisited its published opinion of March 2012 that in the absence of a valid objection, there is ample authority to support the proposition that lawyers have a positive duty to sign court orders that have been granted or agreed to, notwithstanding subsequent instructions of the client to the contrary. The lawyer’s suggestion was that the point is of sufficient importance to warrant promoting it into the language of the *BC Code*. On reviewing the matter, the Committee agreed that the point is of sufficient importance and that it would be advantageous to incorporate it into the *BC Code* so that it is more readily apparent for anyone seeking such guidance.

The Committee requested that appropriate commentary be drafted. The Committee has since reviewed and edited that draft commentary and now recommends it to the Benchers for adoption and addition to the *BC Code*. Redlined versions of the rules 3.7-9 and 5.1-2 of the *BC Code*, showing the proposed amendments in place, are attached below.

Resolution: Be it resolved to amend the *Code of Professional Conduct for British Columbia* by inserting into the commentary for Rules 3.7-9 and 5.1-2 additional paragraphs as follows:

To be added to the commentary on Rule 3.7-9:

[6] In the absence of a reasonable objection, a lawyer who is discharged or withdraws continues to have a duty to promptly sign appropriately drafted court orders that have been granted or agreed to while the lawyer was counsel. This duty continues, notwithstanding subsequent instructions of the client.

To be added to the commentary on Rule 5.1-2:

[5] In the absence of a reasonable objection, lawyers have a duty to promptly sign appropriately drafted court orders that have been granted or agreed to. This duty continues, notwithstanding subsequent instructions of the client.

Attachment 1

BC Code rules 3.7-9 and 5.1-2 with redlining showing proposed additions

3.7-9 On discharge or withdrawal, a lawyer must, as soon as practicable:

- (a) notify the client in writing, stating:
 - (i) the fact that the lawyer is no longer acting;
 - (ii) the reasons, if any, for the withdrawal; and
 - (iii) in the case of litigation, that the client should expect that the hearing or trial will proceed on the date scheduled and that the client should retain new counsel promptly;
- (a.1) notify in writing all other parties, including the Crown where appropriate, that the lawyer is no longer acting;
- (b) subject to the lawyer's right to a lien, deliver to or to the order of the client all papers and property to which the client is entitled;
- (c) subject to any applicable trust conditions, give the client all relevant information in connection with the case or matter;
- (d) account for all funds of the client then held or previously dealt with, including the refunding of any remuneration not earned during the representation;
- (e) promptly render an account for outstanding fees and disbursements;
- (f) co-operate with the successor lawyer in the transfer of the file so as to minimize expense and avoid prejudice to the client; and
- (g) notify in writing the court registry where the lawyer's name appears as counsel for the client that the lawyer is no longer acting and comply with the applicable rules of court and any other requirements of the tribunal.

Commentary

[1] If the lawyer who is discharged or withdraws is a member of a firm, the client should be notified that the lawyer and the firm are no longer acting for the client.

[3] The obligation to deliver papers and property is subject to a lawyer's right of lien. In the event of conflicting claims to such papers or property, the lawyer should make every effort to have the claimants settle the dispute.

[4] Co-operation with the successor lawyer will normally include providing any memoranda of fact and law that have been prepared by the lawyer in connection with the matter, but confidential information not clearly related to the matter should not be divulged without the written consent of the client.

[5] A lawyer acting for several clients in a case or matter who ceases to act for one or more of them should co-operate with the successor lawyer or lawyers to the extent required by the rules and should seek to avoid any unseemly rivalry, whether real or apparent.

[6] In the absence of a reasonable objection, a lawyer who is discharged or withdraws continues to have a duty to promptly sign appropriately drafted court orders that have been granted or agreed to while the lawyer was counsel. This duty continues, notwithstanding subsequent instructions of the client.

5.1-2 When acting as an advocate, a lawyer must not:

- (a) abuse the process of the tribunal by instituting or prosecuting proceedings that, although legal in themselves, are clearly motivated by malice on the part of the client and are brought solely for the purpose of injuring the other party;
- (b) knowingly assist or permit a client to do anything that the lawyer considers to be dishonest or dishonourable;
- (c) appear before a judicial officer when the lawyer, the lawyer's associates or the client have business or personal relationships with the officer that give rise to or might reasonably appear to give rise to pressure, influence or inducement affecting the impartiality of the officer, unless all parties consent and it is in the interests of justice;
- (d) endeavour or allow anyone else to endeavour, directly or indirectly, to influence the decision or action of a tribunal or any of its officials in any case or matter by any means other than open persuasion as an advocate;
- (e) knowingly attempt to deceive a tribunal or influence the course of justice by offering false evidence, misstating facts or law, presenting or relying upon a false or deceptive affidavit, suppressing what ought to be disclosed or otherwise assisting in any fraud, crime or illegal conduct;
- (f) knowingly misstate the contents of a document, the testimony of a witness, the substance of an argument or the provisions of a statute or like authority;
- (g) knowingly assert as fact that which cannot reasonably be supported by the evidence or taken on judicial notice by the tribunal;
- (h) make suggestions to a witness recklessly or knowing them to be false;
- (i) deliberately refrain from informing a tribunal of any binding authority that the lawyer considers to be directly on point and that has not been mentioned by another party;
- (j) improperly dissuade a witness from giving evidence or advise a witness to be absent;
- (k) knowingly permit a witness or party to be presented in a false or misleading way or to impersonate another;
- (l) knowingly misrepresent the client's position in the litigation or the issues to be determined in the litigation
- (m) abuse, hector or harass a witness;
- (n) when representing a complainant or potential complainant, attempt to gain a benefit for the complainant by threatening the laying of a criminal charge or by offering to seek or to procure the withdrawal of a criminal charge;

- (o) needlessly inconvenience a witness; or
- (p) appear before a tribunal while under the influence of alcohol or a drug.

Commentary

[1] In civil proceedings, a lawyer has a duty not to mislead the tribunal about the position of the client in the adversarial process. Thus, a lawyer representing a party to litigation who has made or is party to an agreement made before or during the trial by which a plaintiff is guaranteed recovery by one or more parties, notwithstanding the judgment of the court, should immediately reveal the existence and particulars of the agreement to the court and to all parties to the proceedings.

[2] A lawyer representing an accused or potential accused may communicate with a complainant or potential complainant, for example, to obtain factual information, to arrange for restitution or an apology from the accused, or to defend or settle any civil claims between the accused and the complainant. However, when the complainant or potential complainant is vulnerable, the lawyer must take care not to take unfair or improper advantage of the circumstances. If the complainant or potential complainant is unrepresented, the lawyer should be governed by the rules about unrepresented persons and make it clear that the lawyer is acting exclusively in the interests of the accused or potential accused. When communicating with an unrepresented complainant or potential complainant, it is prudent to have a witness present.

[3] It is an abuse of the court's process to threaten to bring an action or to offer to seek withdrawal of a criminal charge in order to gain a benefit. See also rules 3.2-5 and 3.2-6 and accompanying commentary.

[4] When examining a witness, a lawyer may pursue any hypothesis that is honestly advanced on the strength of reasonable inference, experience or intuition.

[5] In the absence of a reasonable objection, lawyers have a duty to promptly sign appropriately drafted court orders that have been granted or agreed to. This duty continues, notwithstanding subsequent instructions of the client.



A Vision for Publicly Funded Legal Aid in British Columbia

Legal Aid Task Force:

Nancy Merrill, QC (Chair)
Richard Peck, QC (Vice-Chair)
Pinder Cheema, QC
David Crossin, QC (Life-Bencher)
Tom Christensen, QC
Lance Finch, QC
Linda Thomas
Sarah Westwood
Janet Winteringham, QC

Date: March 3, 2017

Prepared for: The Benchers

Prepared by: The Legal Aid Task Force

Purpose: Discussion and Decision

Introduction¹

It is in Justice that the ordering of society is centred

Man perfected by society is the best of all animals; he is the most terrible of all when he lives without law, and without justice

- Aristotle

1. A democratic society requires law. It therefore also requires the ability of its citizens to access the law to ensure that their rights can be upheld and, where necessary, their responsibilities can be enforced so that justice can be achieved. But justice is not free. There is a cost associated with accessing justice. Because there is no equality of resources within society, some citizens will require aid to be able to enforce their rights or understand their responsibilities. Legal aid is thus an integral part of an ordered society.
2. This report recommends a vision, which forms Appendix 1 to this report, for the Law Society of British Columbia concerning publicly funded legal aid in British Columbia. The report outlines the rationale for the proposed vision, and explains the efforts that the Task Force has undertaken to reach it.
3. The focus of the report differs from other papers, reports and articles on the state of legal aid that have been prepared over the years. It has not been prepared to tell other organizations what they should do. Rather the purpose is to determine what the Law Society's principled policy position – or vision - should be concerning publicly funded legal aid. By adopting a Law Society vision, the Benchers will be better able to engage in discussions and work to promote legal aid in a principled manner. The recommendations in this report aim to establish principles for what legal aid ought to encompass with the view that, should the government adopt similar principles, it will be better able to identify what constitutes an appropriate level of funding to give effect to the objects of legal aid.
4. The report also addresses matters regarding how the vision could be realised, and what role the Law Society might take in leading that discussion.

A Brief History of Legal Aid in BC

5. The Law Society has a long history of involvement with legal aid. The Law Society and the Canadian Bar Association BC Branch participated in establishing organized legal aid in British

¹ Prior to being called to the Bench, The Honourable Judge Patricia Stark was a member of the Task Force and contributed to its deliberations. Judge Stark did not participate in drafting the final report. The Task Force wishes to express its gratitude to Judge Stark for her contributions to its work on this important issue.

Columbia in the 1950s.² Through to the end of the 1990s, legal aid was a common topic for discussion at Bencher meetings. Historically, the Benchers were more vocal about legal aid, and the culmination of this public advocacy is seen in the report of the Access to Justice Committee published in 2000.³

6. In the 1950s and 1960s in British Columbia legal aid operated largely as a volunteer system of lawyers. By the end of the 1960s the limits on volunteerism were tested due to growing demand. In the early 1970s the Legal Aid Society was incorporated. It provided legal representation in civil and criminal matters for people who could not afford a lawyer. The Legal Aid Society received funding from the provincial and federal government for tariffs in criminal and family matters. In 1974 the provincial government formed the Legal Services Commission. The Commission assisted people not covered by the legal aid tariff. In 1979 the Legal Aid Society and the Legal Services Commission were merged by legislation to form the Legal Services Society.
7. In the 1980s legal aid faced several funding cuts and growing demand. Over the decade and into the 1990s costs rose, and in the 1990s government provided unbudgeted funding so the Legal Services Society could meet its financial obligations. In 1997 the government froze funding, requiring the Legal Services Society to eliminate its \$18 million deficit by 2001. By 2001 the deficit was \$6.6 million. In 2002, the unbudgeted funding and open-ended mandate of the Legal Services Society ended.⁴ The provincial government reduced funding to the Legal Services Society by nearly 40%. Poverty law services were eliminated. Family law services were curtailed. This led to the Legal Services Society having to reduce its workforce by 74% and replace its 60 branch offices with seven regional centres.⁵
8. The Legal Services Society categorizes the years since 2002 in three distinct periods. From 2002-2006 the Legal Service Society developed a new vision for the society in light of its new mandate and the reduced funding. This period marked a shift of focus to client needs rather than the needs of the justice system or of legal professionals (such as lawyers). From 2007-2012 the Legal Services Society advanced legal aid renewal. During this period the Society worked to develop greater emphasis on outcomes rather than outputs, as well as to develop evaluations of services based on empirical evidence. Since 2012 the focus has been on making justice work,

² See, Leonard T. Doust, QC, *Foundation for Change: Report of the Public Commission on Legal Aid in British Columbia* (March 2011) at pp. 39-40.

³ Vicky Trerise, Final Report of the Access to Justice Committee, “Where the Axe Falls: the real cost of government cutbacks to legal aid” (July 2000).

⁴ Summarized from materials provided during consultations with the Legal Services Society.

⁵ Information provided in consultations with Legal Services Society. Further regional office closures occurred in the years that followed.

which includes an emphasis on justice reform and innovative new initiatives to improve the justice and legal aid system.⁶

9. Funding has always been, and remains, a critical issue for sustainable legal aid. Since the mid-1990s there has been a reduction in both provincial and federal spending on legal aid. It has been observed that:

The reduction in federal spending overall, increased complexity in the substantive law and growing demands for criminal legal aid have placed pressure on legal aid providers to ration services – in a way often inconsistent with the general public policy values of the underlying program. In some places, people qualify only if they are living at subsistence levels (social assistance), leaving out the working poor. Eligibility rates do not keep pace with inflation and budgetary targets are often met by offering legal aid for fewer matters, to fewer people, or only partial assistance or repayment requirements.⁷

10. Over the years, legal aid has in British Columbia evolved from a system that focused on how lawyers and judges perceived legal problems to one that focuses on the perspectives of the people experiencing the problems. This has involved a shift from focusing on litigation to problem solving, where litigation is just a means to an end, and the system moves from focusing on court processes to broader, justice system outcomes.⁸ The Task Force uses the term “legal aid” in this modern, more expansive sense.
11. The cuts to legal aid funding in the province required the Legal Services Society to re-envision how it could provide effective legal aid services to the people of the province in the face of financial constraint. The most recent government increases in funding to Legal Services Society came with the requirement to fund new initiatives from the funds provided rather than existing

⁶ *Ibid.*

⁷ Canadian Bar Association, *Reaching equal justice: an invitation to envision and act* (August 2013). Note that this report is referring to legal aid at the national level, so not all observations are salient to the British Columbia situation, such as repayment requirements. But the general problem of reduced funding from historical levels and increased demand are relevant to the British Columbian experience.

⁸ Legal Services Society, *Making Justice Work: Improving Access and Outcomes for British Columbians* (July 1, 2012) at pp. 10-11.

services⁹ In addition to these initiatives, the Legal Services Society has launched MyLawBC, an interactive web tool designed to help people with everyday legal problems.¹⁰

The Need for a Principled Vision

12. The statutory object and duty of the Law Society is to uphold and protect the public interest in the administration of justice by, among other things, preserving and protecting the rights and freedoms of all persons. Where “all persons” do not have equal access to the law due to the associated costs, some form of legal aid is required. Equality of access to justice is a necessary condition for a democratic society that is subject to the rule of law. Inequality of power creates impediments to equal access to justice, and risks undermining the rule of law. Legal aid is a means to counter some of the inequalities that exist in society, and ultimately to better uphold the rule of law and the ideals of our society. While the Law Society has been an integral part of the development of legal aid in British Columbia, it currently has no articulated vision for publicly funded legal aid in this province. To properly discharge its statutory object and duty, this must change.
13. In order to develop a vision for the Law Society, it is necessary to consider the proper role of legal aid. Doing so requires the consideration of a range of factors, including understanding the barriers people face to enjoying equal access to justice, the challenges the Legal Services Society faces regarding fulfilling its mandate, the challenges the government faces regarding prioritizing public interest objectives, and the challenges lawyers face in trying to provide access to justice through the current legal aid system. Any effort to reduce the broad nature of the access to justice challenge to a simple summary will exclude valid issues and perspectives. What follows are *some* of the key concerns that informed the Task Force’s efforts to develop a principled vision for publicly funded legal aid.¹¹
14. The laws that govern our lives are numerous and complex. Gaining knowledge of the law and how it applies is the first barrier to access to justice. It takes years for people to learn how to read, understand, and apply the law to everyday life, and even with years of training, understanding the law and its application to particular facts can be difficult. Achieving a measure of capacity takes time labour and the development of analytical and language skills. The reality

⁹ The government is providing \$2 million a year until 2017 to fund five pilot projects: 1) an expanded family duty counsel role at the Victoria Justice Access Centre; 2) expanded family law telephone advice line; 3) a joint project with Mediate BC to provide mediation services to people with family law problems; 4) The Parents Legal Centre at Robson Square to deal with child protection cases; 5) expanded criminal duty counsel at the Port Coquitlam courthouse (Presentation by Tom Christensen, QC and Suzette Narbonne to the Law Society Benchers, September 25, 2015).

¹⁰ See <http://www.mylawbc.com/>.

¹¹ This report does not seek to reiterate or comment on the findings of the numerous detailed reports on the topic of legal aid. Readers interested in a broader (including historical) perspective are encouraged to review the materials in the “Selected References” list at the end of this report.

is that the vast majority of people will not have the luxury of dedicating themselves to the study of law to acquire this knowledge, nor does everyone have the interest in doing so. And, for a variety of reasons, some people lack the capacity to develop such competencies despite their best efforts. Assuming that they even recognize the problems they face have a legal aspect, people face two choices two choices: 1) struggle to make sense of the law alone, or 2) seek the assistance of a learned intermediary.

15. The struggle that people have to make sense of the law on their own is becoming better understood, at least in the litigation context. The phenomenon of the self-represented litigant is now a common part of the justice system parlance and not merely an esoteric branch of academic study.¹² Self-representation places strains on the efficient operation of our justice system, but equally importantly it places tremendous strains on the self-represented litigants and their families. It is almost impossible to be dispassionate, analytical and objective when your life is falling apart, and yet that is often the burden placed on those who must navigate the justice system alone. The net effect is a system of justice that works less effectively than it should, adds to the stress and hardship of the self-represented, and leads to results that are less likely to be consistent with the values of a democratic society subject to the rule of law. In addition to leading to inequality of justice, this leads to disillusionment in our systems of justice and laws. When these problems become endemic, public faith in our society and the rule of law is eroded. Legal aid is a necessary bulwark against such erosion.
16. Access to justice is about more than access to courts and tribunals though. Justice can be achieved when people have access to knowledge that allows them to manage their affairs in a fashion consistent with their rights and obligations, to allocate risks appropriately, and to resolve those disputes that do arise in a fair and efficient manner, such that those involved can get on with their lives with minimal disruption. The rule of law and the promise of a just society are also supported by helping people live lives in a manner that reduces the need to interact with the formal civil and criminal justice systems. Legal aid can help to accomplish those objectives.
17. When people seek out the assistance of a learned intermediary, they are confronted by the second great barrier to equal access to justice: cost. Money dictates the nature of justice most people will realize in their lives. Governments, corporations and the very wealthy enjoy relatively unimpeded access to justice. These powerful forces in society have access to the full arsenal of means to manage risk and resolve disputes that implicate legal rights and responsibilities. The vast majority of people do not, however, have the economic means to enjoy a similar quality of justice. Our systems of justice cost money to access and the professionals who provide services within the system to the public operate in a free market. Legal aid is a balm that soothes some

¹² See for example the work of Dr. Julie Macfarlane at the National Self-Represented Litigants Project <https://representingyourselfcanada.com/>, and The Unbundling of Legal Services Task Force, *Limited Retainers: Professionalism and Practice* (Law Society of British Columbia: 2008).

of the hardship caused by the role of money in our justice system, but falls far short of addressing the unmet legal needs in society.

18. The fact that healthcare and education are publicly funded systems masks the true costs of those systems from its users. By contrast, with the exception of legal aid, the provision of *pro bono* legal services, and some funded community and charitable services, the cost of accessing justice is borne by the individual with no assistance from the collective. When one accounts for all the necessary expenses of life, most people will have little money left to afford traditional systems of justice or access to many of the services lawyers provide when addressing a legal issue. If our healthcare system was not publicly funded, most people would not be able to afford the cost of accessing hospitals, walk-in clinics, or the services of doctors. Similarly with education, many people would not be able to send their children to school if the systems of education were governed by free market principles. The distinction is that as a society we have recognized that healthcare and education foster not only the well-being of the individual, they are necessary for the well-being of society. Given the role that law plays in defining all of our daily interactions, our rights and responsibilities, the smooth operation of commerce, and peace, order and good government, it is essential to also recognize that when individuals enjoy equal access to justice, the welfare of society is enriched and its core values are secured. Legal aid can help us better realize these goals, but doing so costs money.
19. Because access to justice costs money, the problem of legal aid requires arriving at a shared understanding of the role of legal aid in society. What services should legal aid entail and why? What are the proper objects of legal aid? Only then can we have a meaningful discussion about how to properly fund legal aid.
20. Developing a principled, sustainable basis for funding legal aid is essential for not merely preserving legal aid, but improving it. It is also essential because it removes linking funding levels from arbitrary benchmarks. Part of that task involves developing a principled articulation of what services legal aid should include and why it is necessary to direct public funds for those purposes. Arriving at consensus requires collaborative, good-faith dialogue among all the stakeholders in our justice system and in the related systems that impact, and are impacted by, the health and effectiveness of our civil and criminal justice systems.
21. Consequently, articulating a Law Society vision of what publicly funded legal aid means in our society is an important element to ensure that it can meaningfully participate, and perhaps lead, the debate surrounding these important elements.

The Legal Aid Task Force

22. In December 2014, the Access to Legal Services Advisory Committee recommended to the Benchers that the Law Society create a task force to explore what the Law Society can do to improve the delivery of legal aid in British Columbia. After considering the issue of legal aid,

the Committee was of the view that the Law Society needs to take a more proactive role in championing legal aid, but this first required developing the Law Society's vision for publicly funded legal aid.

23. The Benchers established the Legal Aid Task Force ("Task Force") in September 2015 with the following mandate:
 - a. Develop a principled vision for the Law Society concerning publicly funded legal aid;
 - b. Identify ways the Law Society could promote and improve lawyer involvement in delivering legal services through legal aid plans;
 - c. Identify ways to enhance Law Society leadership concerning legal aid; and
 - d. Develop the best methods for engagement with other organizations to coordinate the efficient use of resources in improving publicly funded legal aid.
24. Although not part of the core mandate, the Task Force was also authorized to "identify what sources of funding for legal aid programs might exist apart from government." This item was part of the original draft mandate but was made optional out of a concern that it might be seen as relieving government from its duty to properly fund legal aid.
25. The Task Force held 12 meetings, a half-day retreat and a full day colloquium. It reviewed an extensive amount of material on legal aid in British Columbia, including reports of the Canadian Bar Association, information generated by the government, the Legal Services Society and academic papers as well as policy opinions from staff lawyers. The Task Force supplemented this review by holding several meetings at which guests were invited to provide information and perspectives on legal aid. To that end, it met with representatives of the Courts, Legal Services Society, the Law Foundation and government.
26. The Task Force analyzed the materials it read and discussed the input it received from guest speakers. In addition, Task Force members shared their own perspectives on the topic. The Task Force then distilled its consideration into a draft vision addressing the mandate items it was asked to consider.
27. On the recommendation of the Task Force, the Law Society retained Sentis Research to survey practising and insured lawyers regarding their views on legal aid. A summary of the survey findings forms **Appendix 2**. One key message from the survey is that most lawyers who take on legal aid work do so at a financial loss. They do the work primarily to advance social justice. The necessity of adequately funding legal aid is addressed in greater detail later in this report.
28. The information gathered allowed the Task Force to prepare a draft vision and a draft report on its activities. The Task Force wanted to "test" its vision and to that end organised a Colloquium on Legal Aid, which was held on November 26, 2016 at the Wosk Centre in Vancouver. The

Task Force invited over 40 justice system stakeholders, ranging from government representatives, the Chief Justice of British Columbia, the Chief Judge of the Provincial Court, justices of the British Columbia Supreme Court, CEOs and counsel for numerous social justice organizations, representatives of the Legal Services Society, the Law Foundation, legal aid lawyers and a representative of Native Court Workers, to name a few.

The Colloquium on Legal Aid

29. While no single event can purport to be inclusive of all voices in British Columbia, the Colloquium was conceived to bring together a range of stakeholders and to ensure that representatives of many organizations that provide advocacy services were present as a proxy for the numerous people who are without a voice to affect change in government policy, and who face systemic barriers to enjoying equal access to justice. The Task Force took some comfort in the fact that it had access to the report of the Public Commission on Legal Aid, which travelled the province hearing from stakeholder groups and members of the public, as well as access to resources such as the work of Dr. Julie Macfarlane, which has helped profile the voices of self-represented litigants in our justice system. The Task Force determined it was not necessary to duplicate those efforts.
30. Taken collectively, the feedback from the Colloquium, combined with the other materials the Task Force considered together with knowledge drawn from its members' experiences, provides some comfort that the vision contained in this report touches on the key issues. The Task Force observes, however, that in the hard work that lies ahead the Law Society will need to be receptive to the voices that may have gone unheard and to ensure that its processes are flexible enough to also accommodate unidentified and emerging needs.
31. The Colloquium was moderated by the Honourable Bruce Cohen, QC and involved three panel sessions at which participants discussed the draft work of the Task Force, providing insights as to what the Task Force "got right" and where opportunities for improvement exist. The Colloquium operated under a "no attribution" framework, so concepts summarized in this report are not linked back to any individual or individuals who advocated for them. Also, while the Task Force considered all of the input it received at the Colloquium, not every observation is reflected in this report or in the revisions it made to its draft work.
32. The feedback received on the draft vision that the Task Force presented to the Colloquium participants was positive. In fact, the majority of the feedback was not so much on the vision as presented, but on the other mandate items the Task Force was tasked with addressing. To that end, there was a general consensus that much of the feedback received was better suited for commentary in the body of this report or in the commentary to the vision, rather than altering the language of the vision itself. This approach allows the vision to be a concise, principled policy statement for the Law Society regarding legal aid. The feedback that was received that addressed how legal aid should be funded, what the eligibility levels should be, and what types

of services should be included (to name a few examples) identifying some of the work that lies ahead for the Law Society after it adopts the vision is better suited to be included in specific recommendations rather than to be included in a general policy statement. Instead, the Task Force chose to focus on the vision that it believes are immutable, and highlight areas of need that are likely to require a robust legal aid system for years to come.

33. Legal aid is about more than systems and services, funding and programs – it is a public good. This point was made forcefully at the Colloquium and the Task Force reiterates it as a statement of policy that informs its thinking. The presence of a strong legal aid system can transform lives and communities for the better. The success of legal aid cannot be assessed solely on a utilitarian measure of outputs, but should instead be measured by our core values inherent in the rule of law and in developing systems that create enduring outcomes that allow people to enjoy the equal benefit of the law in a free and democratic society.
34. In order to better realize legal aid as a public good, society needs to understand its economic, social, and philosophical value. Some of its values will not be easy to quantify, and many of our most cherished values cannot be reduced to a line item in a provincial budget. At the same time, we must recognize the limited resources society has to direct to a wide range of public goods, and strive not to treat the justice system or legal aid as black-boxes that are immune from scrutiny. Efficiency and cost-savings must therefore be balanced with essential hallmarks of justice such as fairness and due process. Calls for greater funding will be ignored until the case for such funding can be made—so we have to learn from the past and find new and more effective forms of advocacy.
35. The participants at the Colloquium reiterated what is well known – our legal aid system needs more funding. Exactly how much funding is required, and for what types of programs, will form part of the difficult work that lies ahead. It is essential for the Law Society to undertake that work with government, the Legal Services Society and other justice system participants in the spirit of constructive dialogue. It is the Task Force’s contention that adopting the vision it proposes for legal aid will better enable the Law Society to engage in such work. If the Law Society is able to articulate clearly the essential services that are comprised in legal aid to government, one should be able to better identify the quantum of funding necessary to provide those services to the public.
36. The continued under-funding of legal aid creates a situation where the tariff rates are inadequate. The majority of defense counsel who take on legal aid work do so at an economic loss. No-one is getting rich doing legal aid work. The court, the Crown, and defence counsel form three equally important legs of the access to justice platform. Our present system of funding has created a platform that is listing perilously close to the tipping point. The increased cost to the system by rising self-representation before the courts, accused persons making inappropriate guilty pleas, delay – to name but a few factors – is apparent, if not yet measured in dollars. The greater cost to the public good is manifested in an erosion in public confidence in our system of

justice, in those who have been elected to govern in the public interest, and in fractured lives that cannot be made whole by a system that fails to adequately serve their needs.

37. The feedback from the Colloquium suggested it was very important that, as stewards of our system of justice – of which a strong legal aid system forms an essential part – those in the justice system must ensure legal aid is adequately funded to meet our present needs, and that it can also endure for future generations. It was expressed at the Colloquium that this will require a considerable amount of education and explanation concerning the value (not simply the cost) and importance that legal aid plays in the larger society in order that those who have access to the necessary capital will more eagerly prioritise spending on it. This difficult work is not the responsibility of one political party, or one organization or profession; it is a collective responsibility. This difficult work must be done, and the Task Force heard the calls from those at the Colloquium that there is a considerable role that can be undertaken by the Law Society to assist or lead that work.

Task Force Findings

38. In the course of its discussions, the Task Force addressed each of the mandate items. Its conclusions or findings on each item are set out below. These conclusions or findings have been informed by the research, discussions, meetings and, importantly, the Colloquium that the Task Force has undertaken.

Mandate Item 1: *Develop a principled vision for the Law Society concerning publicly funded legal aid.*

39. The vision the Task Force has developed is set out in **Appendix 1** to this Report.

40. This vision is founded on the premise that the rule of law is a fundamental precept of a democratic society, and that legal aid is an essential service needed to ensure all members of society enjoy the benefits of, and are subject to, the rule of law.¹³ The Task Force uses the rule of law in a manner that contemplates the flexibility of evolving to meet the current and emerging needs of society. To the extent segments of our society experience barriers when seeking to access justice, the rule of law by definition must evolve to ensure their inclusion in our democratic society.

¹³ The Task Force did not attempt to define “the rule of law” but was guided by the definitions contained in Bingham, *The Rule of Law* Penguin Group (Canada) (2011) as well as the concept that the rule of law – much like our concept of justice – evolves. In this respect, the essential elements of legal aid that are highlighted in the draft vision can be seen to support a necessary evolution of our understanding of the rule of law.

41. The Task Force did not start its inquiry by asking questions such as *how much will it cost?* or *is there political will to give effect to the vision?* Instead, it proceeded from the question, *what is the purpose of publicly funded legal aid?* And from that, *what should legal aid entail and why?* The resulting vision is thus one created for ***the Law Society*** concerning publicly funded legal aid. The Task Force grounded the vision in the public interest mandate of the Law Society, as stated in s. 3 of the *Legal Profession Act*¹⁴. The Task Force recognizes that the vision it proposes is perhaps somewhat different than the current vision and scope of legal aid in British Columbia. The vision is not meant to prescribe to government, the Legal Services Society, or any other bodies as to what their vision of legal aid needs to be. Rather, the purpose is to arrive at a vision that is consistent with the Law Society's mandate and that is defensible on the basis of public policy. If the Benchers ultimately adopt the vision proposed by the Task Force, it will serve the purpose of allowing the Law Society to speak publicly on matters relating to legal aid from a position of stated principles. This will assist the Law Society both when seeking to applaud efforts to improve legal aid and when it is incumbent on the Law Society to express concerns about matters involving the state of legal aid in British Columbia.
42. The Task Force was also alive to the central importance adequate funding plays to the justice system in general, and legal aid in particular. The Task Force is of the view that before the proper quantum of funding for legal aid can be quantified, there must first be some agreement on what aspects of legal aid constitute essential services and what scope of coverage those services must entail. How the services are to be delivered will require collaborative work of all stakeholders who must remain open to innovation where appropriate, but also recognize the value our traditional systems of justice play in upholding the rule of law. In short, calls for innovation must be linked to principles that can be clearly identified.
43. The Task Force observes that while the government is to be commended for providing funding for innovative new legal aid initiatives, the success or failure of those initiatives does not obviate the need to properly fund legal aid's core functions.

¹⁴ S.B.C. 1998 c. 9. The section follows:

Object and duty of society

- 3** It is the object and duty of the society to uphold and protect the public interest in the administration of justice by
- (a) preserving and protecting the rights and freedoms of all persons,
 - (b) ensuring the independence, integrity, honour and competence of lawyers,
 - (c) establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission,
 - (d) regulating the practice of law, and
 - (e) supporting and assisting lawyers, articled students and lawyers of other jurisdictions who are permitted to practise law in British Columbia in fulfilling their duties in the practice of law.

44. In crafting a vision the Task Force also grappled with the question of how the vision ought to reflect the need for improving access to justice for Indigenous peoples. In early iterations of the vision the Task Force included access to justice for Indigenous peoples along with areas of coverage such as family law, and legal aid for children. The Task Force decided that the more appropriate location within the vision was in the Articles of the vision and its over-arching statement of principles. The main reason for this decision is that Indigenous peoples in Canada face – and throughout the history of colonization by Europeans, and to Confederation and beyond have faced – systemic barriers to enjoying equal benefit of the rule of law and access to justice.
 45. This report cannot catalogue the extensive history of injustice Indigenous peoples have faced and continue to face in their daily lives and when they come into contact with our systems of justice – from policing, to the courts, to corrections. Indigenous peoples have disproportionate interaction with the law in our society, and with legal aid. Our systems were built without consultation or understanding of Indigenous traditions, laws, and socio-economic realities. If we are to develop a justice system and system of legal aid founded on the principles articulated in the appended vision for legal aid, then that must change. This belief led the Task Force to conclude that the vision must first acknowledge the systemic injustice that Indigenous peoples face and recognize the need for consultation and collaboration in developing new systems of legal aid to better ensure Indigenous peoples, as with all British Columbians, enjoy the equal benefits of the rule of law and access to justice. The Task Force recognizes that the Law Society of British Columbia’s Truth and Reconciliation Advisory Committee will better situate the Society to ensure that these principles are more than mere words or invocations that are spoken once, then fade into silence.
- Mandate Item 2:** *Identify ways the Law Society could promote and improve lawyer involvement in delivering legal services through legal aid plans.*
46. To a certain extent, the answers to each of mandate items 2 through 4 are contingent on how mandate item 1 is answered. Once the Law Society has adopted a principled vision, it will be better situated to explore what it can do to foster lawyer engagement in legal aid, enhance Law Society leadership regarding legal aid, and collaborate with other stakeholders. In light of this, the Task Force has focused most of its attention on mandate item 1.
 47. The Law Society has regulatory authority over lawyers practising law in British Columbia, which could be used to encourage, or even require, improvements to lawyer involvement in delivering legal services through legal aid plans. Such powers must however obviously be used responsibly, carefully and sparingly. Short of using its regulatory powers, the Law Society may be able to engage lawyers through exhorting them about their professional responsibilities, and the Task Force gave some thought to how that might happen.
 48. The following ideas were specifically considered by the Task Force during its meetings:

- Reducing insurance costs and practice fees for young lawyers and for criminal and immigration legal aid lawyers.

The Task Force consulted with staff at the Lawyers Insurance Fund to explore the idea of providing reduced insurance fees to lawyers who engaged in a threshold level of criminal and immigration legal aid work, as well as to newly called lawyers who undertake legal aid work. The Task Force's preliminary conclusion is that this concept was not worth pursuing for several reasons. Lawyer insurance is not risk-rated by category. The concept of graded insurance premiums has been explored by the Benchers in the past and rejected. In reducing the premiums in one area would require increasing the premiums for other lawyers to cover the missing premiums. The Task Force was concerned that doing so could have harmful and unintended consequences to lawyers who have economically marginal practices. In addition, in a firm model, cost saving might accrue to the firm but not to the lawyer who is performing the legal aid work. Lastly, the insurance premiums in British Columbia are low and quite stable and relative to the other operating expenses lawyers face are not particularly onerous. The Task Force does believe the Benchers may wish to explore the possibility of establishing additional payment schemes for insurance however, such as quarterly payments and/or monthly payments. Such options would require policy analyses to determine the pros and cons of such changes, and whether the potential benefit outweighs the administrative costs associated with the changes.

- Offer free training for lawyers in how to navigate LSS systems, tariff and billing. Whether this is something the Law Society is best suited to achieve is, however, debatable. The Law Society may have some ability to encourage other organisations to do so.
- Survey lawyers to ask what would get them to engage in undertaking legal aid retainers. To this end, the Task Force conducted a survey between October 31 and November 15, 2016 to obtain information from the profession in connection with the delivery of legal aid services. The survey included questions about what the Law Society might do to improve lawyer participation in legal aid. The survey is summarized in **Appendix 2**.
- Recognising that legal aid must be economically feasible for the lawyers who engage in it, the Law Society could examine ways to reduce the cost of practice. The Task Force considered, in a preliminary manner, whether technology could be leveraged to reduce cost of practice. This is an area where the Law Society would benefit from input from practising lawyers, particularly sole practitioners and lawyers in smaller firms that might lack IT support and bear a disproportionate cost for staying current with technological advances. Realistically the Task Force recognised that it was underqualified to make a definitive conclusion on this subject and that it would require input from the profession and people with knowledge of business systems.

- Reach out to the bar to encourage more lawyers to practise criminal law. The Task Force discussed this concept in a preliminary way, including how the Law Society might encourage more articling in the criminal bar. As part of this discussion the Task Force considered the demographic imbalance between men and women practising criminal law. The general decline in lawyers practising criminal law is a concern, as is the demographic imbalance in that area of practice. The Law Society would benefit from input from practitioners, particularly in the criminal bar, as to how to turn the tide.
- Consider legal aid as a vehicle for CPD credit. This is something that the Task Force understands is on a list for review by the Law Society's Lawyer Education Advisory Committee. There is no guarantee it will be accepted, however.
- Consider recommendations to add education modules to PLTC to reflect the findings of the Task Force and to teach students entering the profession directly about the value of legal aid both to the development of their practices and to society generally. The Task Force favours adding modules and training in PLTC to help young lawyers undertake legal aid work and to encourage their participation in legal aid.
- Promote greater use of limited scope retainers. This could allow targeted services to be provided through legal aid plans. The Task Force understands that this is something the Access to Legal Services Advisory Committee is considering at present.
- The Law Society could create legal aid participation awards to encourage and acknowledge those who provide legal aid service. The Task Force discussed this concept in a very preliminary manner, concluding it was worth discussion.

49. The considerations listed above are only some examples of what the Law Society might do.

50. The primary feedback from the Colloquium on this item related to the need for lawyers who undertake legal aid to receive sufficient remuneration and that, absent achieving that end, the Law Society has limited capacity to increase lawyer participation. The other key theme that emerged from the discussion related to impressions concerning a diminishment of the quality of advocacy skills of the junior Bar. A number of participants observed that the next generation of lawyers are getting fewer opportunities to appear in court with senior counsel who they can learn from. While legal aid does allow junior lawyers to take retainers, there is a considerable danger that inexperienced junior lawyers acting on their own do not benefit from the opportunity to learn good advocacy skills from experienced barristers. Mentorship is very important to developing good barristers. While the lack of good mentoring opportunities is not solely related to legal aid, it has links to the extent legal aid will not cover the costs of having a junior lawyer attend at many proceedings. If this trend continues it presents two threats to the public interest in the administration of justice. First, those lawyers who are currently representing clients ineffectively reduce the quality of justice the client can achieve and also make the court process slower and

more costly. Second, when the experienced legal aid bar starts to retire there will be a dearth of skilled counsel to take their place.

51. Without identifying particular solutions, the participants invoked the need for the Law Society to find ways to improve the advocacy opportunities, training and mentoring for young lawyers.

Mandate Item 3: *Identify ways to enhance Law Society leadership concerning legal aid.*

Mandate item 4: *Develop the best methods for engagement with other organizations to coordinate the efficient use of resources in improving publicly funded legal aid.*

52. Due to their similar nature, the Task Force has decided to link Mandate Items 3 and 4 under one discussion. Mandate Item 4 speaks more to efficient collaboration and recognizes that all of the justice system stakeholders need to make difficult decisions regarding the allocation of scarce resources.
53. There are arguably two ways to look at Mandate Item 3, and each might inform how the Law Society wishes ultimately to address the concepts under this item. The first is to focus on actions the Law Society ought to undertake. This might include setting up regular meetings with the government, Legal Services Society and the Courts (for example) to work toward developing a shared understanding of what legal aid needs to be in order to best serve the public. The second would be to develop some action points that the Law Society ought to profile, both through its own work and in working with others.
54. The question asked by Mandate Item 4 is about identifying ways for the Law Society to engage with others to improve legal aid. This is an important aspect of the work of the Task Force, because the Law Society is simply one of a number of organizations that have a role to play. Continued participation in the BC Access to Justice Committee is highly important, as it is acting largely as a coordinating body. Participation in the Justice Summits is also important as it also coordinates discussion on issues. The Law Society already is involved in both groups. What is missing, however, is a centralized process for getting information to justice system stakeholders on relevant topics, and for receiving feedback from such stakeholders. Knowing what the Law Society can contribute to the discussion will help. Where are the limits of what the Law Society can do? Are they merely regulatory, or is there a broader policy base that can be brought to our participation?
55. As discussed elsewhere, the main way for the Law Society to enhance its leadership concerning legal aid derives from establishing its principled vision for legal aid and then standing behind those principles. This requires the vision to become part of the Law Society's "DNA". The Task Force believes that the Law Society has not taken a leadership role in the debate over legal aid for the last number of years and that as a consequence the voice of an important part of the justice system in the province has been lost. It considers that a recommendation to the Benchers to change that reality is important. Development of a principled vision (Mandate item 1) will

assist. The Task Force also believes that a recommendation to inculcate new Benchers in the vision and what it represents, such that as they carry out their governance duties they have the policy in the forefront of their decision making, is paramount. Beyond that, it is important to carry on the tradition of maintaining an open dialogue with the Legal Services Society about the state of legal aid in British Columbia, and to receive input generally as to what the Law Society can do to champion legal aid.

56. Moving forward, the Task Force recommends that the Law Society should:

- work with government, the courts and the profession about ways to reduce the time and cost associated with mega-trials.
- work with the courts to determine how active case management might be used to support a more efficient and cost effective litigation system, thereby making legal aid more sustainable.

57. The Task Force also identified the prospect of “creating legal aid champions among the profession.” The idea developed from the theme that because currently so few MLAs are lawyers, it is essential that the Law Society and the profession educate MLAs about the justice system and the vital importance of legal aid. The Task Force discussed recommending that the Law Society engage in meetings with government and the civil service, while bolstering that effort by having lawyers in each riding reach out to their local MLA to discuss legal aid and the justice system, and why it is vital to the well-being of the local community and the MLA’s constituents. Are there other ways for the Law Society to enhance its leadership role in the legal aid debate?

58. With respect to Mandate Item #4 participants at the colloquium noted a range of concepts that the Task Force flags for further consideration by the Law Society as it moves forward on its work with legal aid. It was suggested that the Law Society needs to be a vocal advocate for a more client-centred model of legal aid, which recognizes that legal aid is a public good. Collaboration with other stakeholders is critical, and in particular there is a need to collaborate with Indigenous peoples to explore culturally sensitive systems of justice and legal aid delivery models. Participants also suggested that the Law Society lead efforts to develop methods to measure the outcomes of legal aid more effectively. Lastly, the need to educate the public and politicians about the value of legal aid was stressed. Many of these concepts echoed the preliminary findings the Task Force brought to the colloquium, or refined them in subtle yet important ways. The colloquium highlighted the important role collaboration and open dialogue will play as we work towards realizing a sustainable legal aid system for British Columbians.

59. The Task Force is of the view that education must form a critical part of the Law Society’s strategy moving forward. A long-term education strategy must be developed, but its three key outcomes ought to be: 1) educating MLAs about the importance of legal aid to not only the smooth operation of the justice system, but society more broadly (e.g. families, health care, Indigenous Peoples, economic prosperity, etc.); 2) educating the public about the role of legal

- aid in society and the Law Society's vision for legal aid; and 3) educating the profession about the importance of legal aid and the need for all lawyers to be champions for proper legal aid funding.
60. An adjunct to education is research. The Task Force heard on more than one occasion that the business case has to be made for legal aid, and that what gets measured gets done. Leaving aside the numerous principled arguments against requiring a business case to justify the need for fostering access to justice in a democratic society, if such materials are what is required to convert politicians into champions for legal aid then the Law Society should reach out to the Law Foundation of British Columbia and the Legal Services Society to explore research opportunities to better demonstrate the economic and social benefits that accrue to society from legal aid. The Task Force is aware of studies in other jurisdictions to that effect, but caution is required with such studies to ensure the assumptions contained in the models are defensible. A made-in-BC model is what is required if such research is to be persuasive.
61. The Task Force also recognized that in order to transform principles into action, the Law Society needs to establish a structure to keep the vision alive as well as the remaining work. There are several ways this can be accomplished, but the Task Force favours the creation of a Legal Aid Advisory Committee within the Law Society that would be tasked with the ongoing work that flows from this report. In addition to this, the Benchers will need to be educated on the vision statement and its underlying rationale, and this will need to be reinforced from time to time so it becomes "part of the Society's DNA."
62. In order to properly discharge its mandate, the Society must set up systems to ensure it does not remain silent when legal aid is under assault and needs the Society to champion its cause. This requires systems that survive changes at the Bencher table, and changes amongst staff and management. The vision cannot be part of a culture of shifting values and priorities, such that it loses prominence. Until the problem is solved, it must remain a concern for the Law Society.

Conclusion

63. The Law Society was instrumental in the creation of legal aid, but has largely been silent on key matters for almost 15 years. The public interest mandate set out in s. 3 of the *Legal Profession Act* requires that the Society take a leadership role once again. In order to do so in a principled manner, it is essential that the Law Society adopt a vision for legal aid. That is only the first step, however. The Law Society must also establish internal systems to ensure its commitment to legal aid does not waver, and that it can be an effective advocate for legal aid in the future.

Recommendations

64. The Task Force makes the following recommendations

Recommendation #1: The Legal Aid Task Force recommends that the Benchers adopt the vision for legal aid set out in **Appendix 1** to this report.

Recommendation #2: The Legal Aid Task Force recommends that the Benchers establish a Legal Aid Advisory Committee within the Society, informed by the findings in this report, with a mandate to:

- a. Assist and advise the Benchers in helping the Law Society realize the vision set out in **Appendix 1**;
- b. Assist and advise the Benchers concerning how best to advance mandate Items 2-4, with particular consideration of, *inter alia*, the following:
 - i. Developing and/or promoting research into the benefits of legal aid to society and the justice system;
 - ii. Developing and/or promoting the creation of proper data analytics systems within the justice system and legal aid in order to better support analysis of the importance of legal aid in society and the justice system. Such systems should help support not only a business case for properly funded legal aid, but the social justice case as well;
 - iii. Developing and/or promoting the creation of education materials and resources to help lawyers, politicians and the public better understand the importance of a strong legal aid system;
 - iv. Meeting with other stakeholder groups, including lawyers and law firms, to ensure that the Law Society's efforts to champion legal aid occur collaboratively. Consideration should be given to hosting future colloquia to ensure efforts to advance legal aid revitalization continue to progress;
 - v. Working with government, the courts and the profession about ways to reduce the time and cost associated with mega-trials;
 - vi. Working with the courts to determine how active case management might be used to support a more efficient and cost effective litigation system, thereby making legal aid more sustainable;

- vii. Developing proposals for how to improve the advocacy skills of junior lawyers and facilitate their involvement in undertaking legal aid work to better ensure the current quality of advocacy as well as the future of the legal aid defense Bar;
- viii. Liaising with the Law Society's Truth and Reconciliation Advisory Committee and the Access to Legal Services Advisory Committee to ensure the Law Society has a consistent approach to improving access to justice for Indigenous Peoples;
- ix. Working with the Law Society's Communications Department and, if necessary, external experts, to ensure social media as well as traditional methods of communication are used to maximize the reach of the Law Society's efforts to educate, inspire and lead on legal aid reform in British Columbia.

Appendix 1:

The Law Society's Vision for Public Legal Aid in British Columbia

WHEREAS

The rule of law is the foundation of our democratic society. Every person must have the opportunity to understand how the rule of law affects their daily lives. Legal Aid is an essential service necessary to ensure all persons have that opportunity and understand its effect and to access our justice system.

RECOGNIZING

Access to justice is a fundamental human right, and:

- (a) Our democratic society cannot exist without the rule of law, and the rule of law depends on all people having meaningful and effective access to justice,
- (b) not all people in society have the ability or means to access justice,
- (c) Indigenous people are uniquely and historically disadvantaged in their access to the legal system and legal aid, and
- (d) publicly funded legal aid plays an essential role in achieving the goal of access to justice,

the Law Society of British Columbia's vision for publicly funded legal aid is as follows:

The purpose of legal aid should be to:

- a) support the ability of all people to access justice and specifically to protect the rights of the most disadvantaged and vulnerable members of society;
- b) assist people in the exercise of those rights, to obtain appropriate remedies, and to enjoy the benefits of professional legal advice concerning those remedies,
- c) advise people about the obligations and responsibilities imposed on them as members of a democratic society, subject to the rule of law. [Commentary 1 below]

All people, regardless of their means and without discrimination, should have access to legal information and publicly funded professional legal advice to assist them in understanding whether their situation attracts rights and remedies or subjects them to obligations or responsibilities.

In particular, the most disadvantaged and vulnerable people in our society are entitled to additional publicly funded legal services, up to and including legal representation before courts, tribunals, and alternative dispute resolution methods inclusive of the legal advice necessary for proper access to justice. Provision of these services may also need to take into consideration the financial means of the individual and the nature of the matter. [Commentary 2 below]

The access to these additional services should seek to balance the ability of the person to access similar services in the free market with due consideration of the potential impact of the situation on the person's life, liberty or security. [Commentary 3 below]

It is essential that consultation with Indigenous Communities develop culturally appropriate systems for the delivery of professional legal services and legal aid. Consultation and collaboration with Indigenous Communities, the courts, social and other government services is necessary. The Federal Government has a heightened responsibility to ensure such services are adequately supported with both policies and funding.

Legal Aid should provide professional legal services that cover the following:

- (a) Matters that involve the state against the individual where the liberty or security of the individual is at risk; [Commentary 4 below]
- (b) Children whose security of the person is at risk; [Commentary 5 below]
- (c) People with mental or intellectual disabilities that impair their liberty, safety, or access to government or community services; [Commentary 6 below]
- (d) Family law in circumstances where the physical, economic, or emotional security of a family member is at risk; [Commentary 7 below]
- (e) Persons disadvantaged due to circumstances of poverty; [Commentary 8 below]
- (f) Immigrants and refugees. [Commentary 9 below]

2. Commentary

Commentary 1: DIAGNOSIS / ISSUE IDENTIFICATION

These publicly funded professional legal services should enable the individual to be aware of the relevant services, whether within the formal institutional justice system or within the alternative dispute resolution systems. These services should include information about both in-person assistance and technological platforms for in-person or remote access. This diagnostic service should be universal.

Commentary 2: REPRESENTATION AND ADVICE

For the enumerated categories of subject matter, individuals who qualify based on a financial means test should have access to the services of a lawyer or a non-lawyer legal service provider who is able to provide legal advice and/or representation as may be appropriate.

Commentary 3: ELIGIBILITY

The public must have confidence in the legal system and delivery of legal aid. The limits of funding will, of necessity, limit the scope of the services that can be provided. Any financial means test or limit on the provision of legal services must balance principles and pragmatism. The principles that guide eligibility must not be governed solely by budgetary considerations. This may require consideration of sliding scales of eligibility based on the nature of the issue.

Commentary 4: GOVERNMENT ACTION AGAINST THE INDIVIDUAL

It is fundamental to the rule of law that government and its agents are subject to laws. To ensure this, it is necessary that individuals whose life, liberty or security of the person is at stake as a result of state action have access to a certified, regulated and independent legal professional in order to defend any action brought by the state. In order for the justice system to work, it is necessary for those facing a criminal charge to have access to a full answer and defence and that requires that the professionals who provide the defence receive fair compensation for their services.

Commentary 5: CHILDREN AT RISK

Children are among the most vulnerable members of our society and in circumstances where children's safety, survival or development is at risk it is essential that adequate legal and social services be available. Canada has ratified the United Nations Convention on the Rights of the Child, which requires that "State Parties shall ensure to the maximum extent possible the survival and development of the child."¹⁵ The provision of professional legal services is critical when a child requires access to the services directly and not through the intermediation of a parent or guardian.

Commentary 6: MENTAL OR INTELLECTUAL DISABILITIES

People with mental or intellectual disabilities are among the most neglected and vulnerable members of the community in need of the provision of professional legal services when they face matters dealing with their liberty, safety, or access to government or community services. It is essential such services operate in an appropriate mental health network that treats the underlying cause and not merely the particular symptom or manifestation of the illness or disability. As with other areas that merit coverage, this is first and foremost a social problem. Where legal issues intersect with social problems it is essential that there be cooperation between the legal and social work communities and

¹⁵ Article 6.2.

DM1442171

also between the Ministry of Justice and the various other government ministries that have oversight of health and social portfolios.

Commentary 7: FAMILY LAW

Matrimonial discord and separation can trigger family violence, emotional and financial crises. Family members have a right to be protected from physical and emotional harm. Vulnerable family members have a right to financial support. Family members in need must be able to access legal assistance in order to obtain such protection and financial support. Without legal assistance there may be no meaningful access to justice, with the consequence that vulnerable family members, particularly children, are at risk of physical harm, emotional trauma and economic insecurity. This in turn can lead to additional draws on already scarce community resources such as police, healthcare, mental health services, social assistance, women's shelters, housing subsidies and homeless shelters. As well, the slide into poverty that often accompanies family separation is difficult to overcome.

Legal aid coverage for family law services should provide the necessary assistance for vulnerable family members in obtaining protection for them from family violence, obtaining basic necessities of life through enforceable support orders and agreements, and in achieving some degree of stability in housing, schooling and employment.

Commentary 8: FINANCIALLY DISADVANTAGED PERSONS

Poverty law services should be included in legal aid and developed to address current needs in society. The purpose of the services should be to facilitate access to essential legal and social services for people who are living in poverty and are unable to access such services. This should include coverage for matters that will reduce the likelihood of the individual becoming, or remaining, trapped in a cycle of poverty.

Commentary 9: IMMIGRANTS AND REFUGEES

Legal aid services should be available for immigrants and refugees in need. It is particularly important to provide legal assistance for immigrants and refugees at risk of deportation or involuntary return to a country where such a return places the individual's life or security of the person at risk.

Appendix 2: Summary of Lawyer Survey

The Law Society retained Sentis Research to survey practising and insured lawyers regarding their views on legal aid. The purpose of the survey was to learn more about lawyers who are undertaking legal aid work, as well as lawyers who no longer do so or who have never undertaken such work. The survey asked questions to determine what motivates lawyers to do, or not do, legal aid work. The survey also asked questions about the economics of practising legal aid and the areas of law legal aid ought to cover. In addition, the survey asked questions about what the Law Society, the Legal Services Society, and government might do to encourage greater lawyer engagement, as well as asking general policy questions about what legal aid should entail.

The online survey ran from October 31st to November 15th. In total, 845 lawyers answered the survey. Respondents identified as follows: male 58%, female 41% and other 1%. There was a fairly even distribution in the age categories of ≤34, 35-44, 45-54, 55-64, ≥65. Location questions revealed that 46% of respondents were from Vancouver, 19% in the Lower Mainland outside Vancouver, 10% Victoria, 9% Vancouver Island outside Victoria, 13% Okanagan/Interior, and 4% Northern BC. Breakdown of respondents by firm size was: sole practitioner 36%, 2-5 lawyers 29%, 6-10 lawyers 11%, 11-25 lawyers 12%, and ≥25 lawyers 11%.

Overall, 32% of respondents had taken at least one legal aid referral in the past 12 months, 26% of lawyers did so prior to the past 12 months, and 42% have never taken legal aid referrals. The survey results indicated that the primary motivation of the respondents for doing legal aid work is a commitment to social justice, although the responses also indicate that the professional responsibility to do the work and the interesting nature of the work are also motivating factors. The primary reason not to do legal aid work was the tariff rate. Respondents also noted the administrative challenges with the legal aid billing system as a deterrent.

The survey sought to obtain a better understanding of the economics of practising legal aid. 40% of lawyers indicated that they operate at a loss by providing legal aid, 46% break even, and 12% manage to make a profit. On average lawyers reported that they would need to make \$150 an hour to break even on a legal aid retainer. Sole practitioners were more likely to be able to break even or turn a profit than lawyers who operate in firms with other lawyers. The average hourly rate that would be required for new lawyers to take on legal aid referrals is \$175.

The survey indicated that the low tariff rate is the main reason lawyers who currently take on legal aid matters may take on fewer matters in the future. The main reason given by those who have never taken on legal aid retainers from doing so in the future is that legal aid does not cover

their area of practice. Of those lawyers who had never done legal aid, 46% would consider taking such retainers if legal aid covered areas of law they practise.¹⁶

The survey asked what areas of coverage lawyers would like legal aid to include. The highest response rates were: custody/guardianship 49%, mental health reviews 47%, child support 46%, access/parenting time 46% and child abuse 45%.

Virtually all lawyers surveyed thought the government should provide increased, stable funding for legal aid and the government ought to view legal aid as an essential public service.

The main concept lawyers identified for the Law Society to encourage greater participation by lawyers was to establish continuing professional education credits to lawyers who do legal aid. Lawyers also think that the Legal Services Society should establish systems to reduce administrative time spent dealing with legal aid and provide free training and continued professional development to encourage greater lawyer participation.

¹⁶ This needs to be considered in concert with the observation of what the required hourly rate would need to be to take on legal aid.

Selected References

1. [*Legal Services Society Act, SBC 2002, c 30*](#)
2. [*Memorandum of Understanding between the Province of British Columbia and the Legal Services Society \(April 1, 2014\)*](#)
3. [*Legal Services Society, 2015 Client Satisfaction Survey \(Sentis Market Research Inc.: July 27, 2015\)*](#)
4. [*Legal Services Society, Justice System Solutions \(April 2016\)*](#)
5. [*Legal Services Society, Background and Statistics \(April 2016\)*](#)
6. [*Leonard T. Doust, QC, Foundation for Change: Report of the Public Commission on Legal Aid in British Columbia \(March 2011\)*](#)
7. [*Legal Services Society, Submission to the Public Commission on Legal Aid \(September 1, 2010\)*](#)
8. [*Canadian Bar Association/Association of Legal Aid Plans, What Do We Want? Canada's Future Legal Aid System \(2015\)*](#)
9. Task Force on Public Legal Services in British Columbia, *Report to the Attorney General* (August 1984)
10. E.N. Hughes, QC, *Access to Justice: Report of the Justice Reform Committee* (1988)
11. [*The Honourable M. Anne Rowles and Connor Bildfell, "The Case for Replacing the 2002 Legal Services Society Act, Part 1: Tracking the Trajectory of Legal Aid in British Columbia" \(2016\) 74 Advocate 355*](#)
12. [*The Honourable M. Anne Rowles and Connor Bildfell, "The Case for Replacing the 2002 Legal Services Society Act, Part II: A Call to Action" \(2016\) 74 Advocate 529*](#)
13. Yvon Dandurand and Michael Maschek, *Assessing the Economic Impact of Legal Aid in British Columbia: Promising Areas for Future Research* (July 2014)
14. [*British Columbia \(Attorney General\) v. Christie, \[2007\] 1 S.C.R. 873*](#)
15. [*Canadian Bar Association v. British Columbia, 2008 BCCA 92*](#)
16. [*P.D. v. British Columbia, 2010, BCSC 290*](#)
17. [*Truth And Reconciliation Commission of Canada, Calls to Action \(2015\)*](#)
18. [*Law Foundation of British Columbia, Poverty Law Needs Assessment and Gap/Overlap Analysis \(2005\)*](#)

19. The Joint Working Group of the Canadian Bar Association and the Legal Aid Plains of Canada, “Proposed National Benchmarks for Public Legal Assistance Services” (August 2016)



Memo

To: Benchers
 From: Governance Committee
 Date: February 7, 2017
 Subject: 2016 Bencher and Committee Evaluations

Background

1. The 2012 governance review recommended that the Benchers ensure there is a process in place for an annual evaluation of the Benchers, committees, task forces and working groups. In 2013, the Governance Committee recommended forms of evaluations to be conducted annually in December and that evaluations should be delivered and completed online.
2. The Committee has responsibility for reviewing and compiling an annual report for the Benchers.

Responses

3. In early December 2016, all of the Benchers and all the members of the 2016 committees and task forces were provided with links to online evaluation forms and asked to complete the forms by December 16, 2016.
4. In total, 26 of 30 possible Bencher respondents (87%) completed their evaluations. Last year, 83% of the Benchers responded. The Bencher responses are attached as Appendix A.
5. In total, 99 of 136 possible respondent members of committees and task forces completed their evaluations, giving a response rate of 73%. Last year the response rate was 63% (79/125). Responses from each of the committees and task forces are attached as Appendix B.

Analysis

Benchers

6. Looking at the Bencher evaluations, there was considerable agreement from most respondents on the 25 statements included in the evaluation form. Overall, 79% of the

statements elicited agreement and strong agreement, while 17% were ranked as neutral. Just under 4% resulted in disagreement and in only 0.3% of the responses was there strong disagreement.

7. Of the 25 Bencher evaluation statements, the 6 with the most agreement in 2016 were:

Statement	2016	2015	2014
<i>The Benchers respect the CEO's role in managing the organization.</i>	96%	92%	88%
<i>The Benchers receive sufficient information on financial performance.</i>	96%	92%	71%
<i>The Benchers know what is expected of them.</i>	92%	92%	94%
<i>The Benchers receive adequate briefings on the principal risks of the organization, and on its systems for identifying, managing and monitoring such risks.</i>	92%	75%	71%
<i>The Benchers are actively engaged with each other and with management on issues.</i>	92%	67%	75%
<i>The roles of the Benchers and the CEO are well understood.</i>	92%	79%	N/A

8. Of the top six statements, the most significant change over 2015 was the increase in the number of Benchers who agreed with the statement “*The Benchers are actively engaged with each other and with management on issues.*” with 92% agreement this year compared with 67% last year.
9. The statement “*The Benchers receive adequate briefings on the principal risks of the organization, and on its systems for identifying, managing and monitoring such risks.*” also saw a considerable increase in agreement this year, moving from 75% last year to 92% this year. Benchers may recall that in response to the 2014 survey results, the Governance Committee recommended more frequent reporting on enterprise risks and the Finance and Audit Committee presented comprehensive reports to the Benchers in 2015 and 2016.
10. It is also worth noting the continuing increase in the number of Benchers who agreed and strongly agreed with the statement “*The Benchers receive sufficient information on financial performance.*” In 2014, only 71% of the Benchers agreed with this statement and it ranked 21st in terms of agreement. In 2015, the statement garnered 92% agreement. In the 2016 survey, 96% of the Benchers agreed with this statement, with 13 Benchers strongly agreeing. As oversight of the financial affairs of the Law Society is one of the important governance obligations of the Benchers, the continued increase in agreement with this statement likely

reflects the efforts of the Finance and Audit Committee and the CEO and CFO to engage the Benchers in the Law Society finances.

11. At the other end of the range of agreement, the 6 statements that elicited the lowest level of agreement were:

Statements	2016	2015	2014
<i>The Benchers are up to date with latest developments in the market for legal services.</i>	46%	29%	59%
<i>Benchers have no hesitation raising issues in Bencher meetings.</i>	52%	74%	65%
<i>Bencher meetings allow for candid, constructive discussion and critical questioning.</i>	65%	71%	71%
<i>Evaluation of the CEO's performance is appropriate.¹</i>	65%	54%	35%
<i>The Benchers provide adequate direction and support to the CEO.</i>	69%	71%	63%
<i>Benchers use the meeting time effectively and efficiently.</i>	69%	79%	63%

12. The statement “*The Benchers are up to date with latest developments in the market for legal services.*” received the lowest level of agreement of the 26 statements and the highest level of neutrals, with only 46% of Benchers agreeing with this statement. The Committee spent some considerable time discussing the implications of the continuing low level of agreement with this statement. The Committee was of the view that information about the market for legal services was information that the Benchers should have, in light of the Law Society’s role in that market. In particular, there was a sense that the Benchers did need information about the supply and demand for legal services, about the cost of delivering legal services and about how the Law Society’s role can impact that market.
13. The two statements “Benchers have no hesitation raising issues in Bencher meetings.” and “*Bencher meetings allow for candid, constructive discussion and critical questioning.*” both saw a year-over-year decline in agreement. The first statement elicited only 52% agreement compared with 74% last year. The second statement achieved only 65% agreement, with two disagrees and one strongly disagree. Last year, in its report to the Benchers the Committee noted two comments about dissent (or the lack thereof) at the Bencher table and observed that the comments suggested an emphasis on consensus constrained the expression of contrary views and that the table did not always seem to embrace dissent. The Committee

¹ In 2014, the statement was “*Evaluation of the CEO's performance is appropriate and well understood.*”

also noted that reports and presentations from committees tend come to the Benchers with the issues and considerations largely mapped out and addressed, leaving less for the Benchers as a whole to consider. The Committee observed that the structure of Bencher meetings does not necessarily foster the opportunity to raise issues or encourage critical questioning. Both of these may factor into the responses to these statements

14. Although agreement with the statement "*Evaluation of the CEO's performance is appropriate*" continues to place this statement in the 4th quartile, the extent of agreement has increased markedly over the last three years. As in previous years, the relatively high neutral response may indicate that the evaluation of the CEO's performance remains not well understood by a number of Benchers. The Committee discussed this issue at some length, noting that other organizations take the evaluation of the CEO away from board chair and give it to others so there is less opportunity for single view to drive the process. The Committee recognized that the 2012 governance review considered this issue but thought it might useful revisit some of the decisions arising from that governance review during the course of the coming year.

Committees/Task Forces

15. As noted above, in total there were 99 individual responses to the committee and task force evaluations.
16. Of the nearly 1200 individual responses to the evaluation statements, there were only 14 instances (or just under 2%) where respondents disagreed with the statements and only one instance where anyone strongly disagreed with any of the statements.
17. The statement with the highest level of agreement across all committees was "*The Chair ensures that all agenda items are covered during the meetings.*" followed by "*Members understand and act within the mandate of the committee.*" And "*The Chair ensures that meeting time is used effectively and efficiently.*"
18. Overall, the most common disagreement was with the statement "*Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.*", a view that was expressed by one respondent on each of the Credentials Committee, the Executive Committee and the Law Firm Regulation Task Force.
19. Given the overwhelming level of agreement with the statements in the committee and task force surveys, the Committee spent some time considering whether the year-end committee and task force evaluations prove to be very useful. The Committee discussed some alternatives, such as conducting the surveys mid-year and replacing them with briefings for the incoming chairs. Overall, the Committee agreed that this year it would consider the

current statements and process for committee and task force evaluation with a view to making the process more useful.

Recommendations

20. The Committee is of the view that the Benchers ought to be more informed about the market for legal services in British Columbia and recommends that the Benchers give some thought in the near future to obtaining this information on an ongoing basis.
21. The Committee is of the view that the Benchers should review our process for and participation in decision making at the Bencher table with the goal of fostering good decision-making after the expression of any contrary or dissenting views on the matter at hand.
22. The Committee believes that, after five years, a review of the recommendations from the 2012 governance review is appropriate and that, as part of that review, the role of Benchers in the overall governance of the Law Society and in specific issues considered in 2012, such as executive performance review, will be evaluated to determine if any changes should be recommended.
23. The Committee also believes that an overall review of our current governance model, which retains elements of the Carver policy governance model, is appropriate and intends to undertake such work during the course of this year.

Appendix A

The Benchers have an effective role in the strategic planning process.

26 Responses

Answer	Count	Percent
Strongly Agree	5	19.23%
Agree	15	57.69%
Neutral	5	19.23%
Disagree	1	3.85%

The Benchers are up to date with latest developments in the regulatory environment.

26 Responses

Answer	Count	Percent
Strongly Agree	4	15.38%
Agree	15	57.69%
Neutral	6	23.08%
Disagree	1	3.85%

The Benchers are up to date with latest developments in the market for legal services.

26 Responses

Answer	Count	Percent
Strongly Agree	1	3.85%
Agree	11	42.31%
Neutral	8	30.77%
Disagree	6	23.08%

The Benchers receive sufficient information on organizational performance.

26 Responses

Answer	Count	Percent
Strongly Agree	9	34.62%
Agree	11	42.31%
Neutral	6	23.08%

The Benchers receive sufficient information on financial performance.

26 Responses

Answer	Count	Percent
Strongly Agree	13	50.00%
Agree	12	46.15%
Neutral	1	3.85%

As part of the discussion around every major decision, the Benchers analyze the potential risks arising from the decision.

26 Responses

Answer	Count	Percent
Strongly Agree	6	23.08%
Agree	15	57.69%
Neutral	4	15.38%
Disagree	1	3.85%

The Benchers receive adequate briefings on the principal risks of the organization, and on its systems for identifying, managing and monitoring such risks.

26 Responses

Answer	Count	Percent
Strongly Agree	4	15.38%
Agree	20	76.92%
Neutral	2	7.69%

Meeting materials are received in sufficient time to allow for adequate preparation.

26 Responses

Answer	Count	Percent
Strongly Agree	5	19.23%
Agree	17	65.38%
Neutral	3	11.54%
Disagree	1	3.85%

Meeting materials provide appropriate context and background information to support informed decision-making.

26 Responses

Answer	Count	Percent
Strongly Agree	5	19.23%
Agree	18	69.23%
Neutral	3	11.54%

Presentations to the Benchers are generally of appropriate length and content.

26 Responses

Answer	Count	Percent
Strongly Agree	4	15.38%
Agree	18	69.23%
Neutral	3	11.54%
Disagree	1	3.85%

Bencher meetings allow for candid, constructive discussion and critical questioning.

26 Responses

Answer	Count	Percent
Strongly Agree	5	19.23%
Agree	12	46.15%
Neutral	6	23.08%
Disagree	2	7.69%
Strongly Disagree	1	3.85%

The right things are placed on the agenda.

26 Responses

Answer	Count	Percent
Strongly Agree	4	15.38%
Agree	17	65.38%
Neutral	5	19.23%

There is adequate time for discussion of agenda items during Bencher meetings.

26 Responses

Answer	Count	Percent
Strongly Agree	4	15.38%
Agree	15	57.69%
Neutral	4	15.38%
Disagree	3	11.54%

Benchers use the meeting time effectively and efficiently.

25 Responses

Answer	Count	Percent
Strongly Agree	6	24.00%
Agree	12	48.00%
Neutral	7	28.00%

The Benchers know what is expected of them.
26 Responses

Answer	Count	Percent
Strongly Agree	7	26.92%
Agree	17	65.38%
Neutral	2	7.69%

Bencher discussions are open, meaningful and respectful.
26 Responses

Answer	Count	Percent
Strongly Agree	9	34.62%
Agree	13	50.00%
Neutral	3	11.54%
Disagree	1	3.85%

Benchers have no hesitation raising issues in Bencher meetings.
25 Responses

Answer	Count	Percent
Strongly Agree	6	24.00%
Agree	7	28.00%
Neutral	8	32.00%
Disagree	3	12.00%
Strongly Disagree	1	4.00%

The Benchers are actively engaged with each other and with management on issues.
26 Responses

Answer	Count	Percent
Strongly Agree	6	23.08%
Agree	18	69.23%
Neutral	2	7.69%

The Benchers spend sufficient time to get to know each other and build trust in one another.

26 Responses

Answer	Count	Percent
Strongly Agree	8	30.77%
Agree	13	50.00%
Neutral	5	19.23%

The Benchers take advantage of education/developmental opportunities to improve governance capabilities.

26 Responses

Answer	Count	Percent
Strongly Agree	5	19.23%
Agree	15	57.69%
Neutral	6	23.08%

The roles of the Benchers and the CEO are well understood.

26 Responses

Answer	Count	Percent
Strongly Agree	6	23.08%
Agree	18	69.23%
Neutral	2	7.69%

The Benchers respect the CEO's role in managing the organization.
26 Responses

Answer	Count	Percent
Strongly Agree	9	34.62%
Agree	16	61.54%
Neutral	1	3.85%

Evaluation of the CEO's performance is appropriate.
26 Responses

Answer	Count	Percent
Strongly Agree	5	19.23%
Agree	12	46.15%
Neutral	6	23.08%
Disagree	3	11.54%

The Benchers provide adequate direction and support to the CEO.
26 Responses

Answer	Count	Percent
Strongly Agree	2	7.69%
Agree	16	61.54%
Neutral	6	23.08%
Disagree	2	7.69%

The Benchers seek and obtain sufficient input from management and staff to support effective decision-making.
26 Responses

Answer	Count	Percent
Strongly Agree	6	23.08%
Agree	17	65.38%
Neutral	3	11.54%

Which Committee or Task Force Are You Evaluating?
5 Responses

Answer	Count	Percent
Access to Legal Services Advisory Committee	5	100.00%

Members understand and act within the mandate of the committee.
5 Responses

Answer	Count	Percent
Strongly Agree	3	60.00%
Agree	2	40.00%

Members are aware of what is expected of them.
5 Responses

Answer	Count	Percent
Strongly Agree	1	20.00%
Agree	3	60.00%
Disagree	1	20.00%

The right things are placed on the agenda.
5 Responses

Answer	Count	Percent
Strongly Agree	2	40.00%
Agree	3	60.00%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

5 Responses

Answer	Count	Percent
Strongly Agree	4	80.00%
Agree	1	20.00%

The Chair ensures that all agenda items are covered during the meetings.

5 Responses

Answer	Count	Percent
Strongly Agree	3	60.00%
Agree	2	40.00%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

5 Responses

Answer	Count	Percent
Strongly Agree	2	40.00%
Agree	3	60.00%

The Chair ensures that meeting time is used effectively and efficiently.

5 Responses

Answer	Count	Percent
Strongly Agree	4	80.00%
Agree	1	20.00%

Everyone comes to meetings prepared.

5 Responses

Answer	Count	Percent
Strongly Agree	3	60.00%
Agree	2	40.00%

Meetings allow for candid, constructive discussion and critical questioning.

5 Responses

Answer	Count	Percent
Strongly Agree	3	60.00%
Agree	2	40.00%

Presentations are generally of the appropriate length and content.

5 Responses

Answer	Count	Percent
Strongly Agree	3	60.00%
Agree	2	40.00%

Discussion is open, meaningful and respectful.

5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

Which Committee or Task Force Are You Evaluating?
4 Responses

Answer	Count	Percent
Act and Rules Committee	4	100.00%

Members understand and act within the mandate of the committee.
4 Responses

Answer	Count	Percent
Strongly Agree	4	100.00%

Members are aware of what is expected of them.
4 Responses

Answer	Count	Percent
Strongly Agree	4	100.00%

The right things are placed on the agenda.
4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Agree	1	25.00%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

The Chair ensures that all agenda items are covered during the meetings.

4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Agree	1	25.00%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Agree	1	25.00%

The Chair ensures that meeting time is used effectively and efficiently.

4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Agree	1	25.00%

Everyone comes to meetings prepared.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

Meetings allow for candid, constructive discussion and critical questioning.

4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

Presentations are generally of the appropriate length and content.

4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

Discussion is open, meaningful and respectful.

4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

Which Committee or Task Force Are You Evaluating?
4 Responses

Answer	Count	Percent
Complainants' Review Committee	4	100.00%

Members understand and act within the mandate of the committee.
4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

Members are aware of what is expected of them.
4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

The right things are placed on the agenda.
4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Neutral	1	25.00%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

3 Responses

Answer	Count	Percent
Strongly Agree	2	66.67%
Agree	1	33.33%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

4 Responses

Answer	Count	Percent
Strongly Agree	4	100.00%

The Chair ensures that all agenda items are covered during the meetings.

4 Responses

Answer	Count	Percent
Strongly Agree	4	100.00%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

The Chair ensures that meeting time is used effectively and efficiently.

4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

Everyone comes to meetings prepared.

4 Responses

Answer	Count	Percent
Strongly Agree	4	100.00%

Meetings allow for candid, constructive discussion and critical questioning.

4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Agree	1	25.00%

Presentations are generally of the appropriate length and content.

4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Neutral	1	25.00%

Discussion is open, meaningful and respectful.

4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Agree	1	25.00%

Which Committee or Task Force Are You Evaluating?
9 Responses

Answer	Count	Percent
Credentials Committee	9	100.00%

Members understand and act within the mandate of the committee.
9 Responses

Answer	Count	Percent
Strongly Agree	5	55.56%
Agree	3	33.33%
Neutral	1	11.11%

Members are aware of what is expected of them.
9 Responses

Answer	Count	Percent
Strongly Agree	3	33.33%
Agree	5	55.56%
Neutral	1	11.11%

The right things are placed on the agenda.

9 Responses

Answer	Count	Percent
Strongly Agree	3	33.33%
Agree	6	66.67%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

9 Responses

Answer	Count	Percent
Strongly Agree	2	22.22%
Agree	2	22.22%
Neutral	4	44.44%
Disagree	1	11.11%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

9 Responses

Answer	Count	Percent
Strongly Agree	5	55.56%
Agree	3	33.33%
Neutral	1	11.11%

The Chair ensures that all agenda items are covered during the meetings.

9 Responses

Answer	Count	Percent
Strongly Agree	7	77.78%
Agree	2	22.22%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

9 Responses

Answer	Count	Percent
Strongly Agree	7	77.78%
Neutral	2	22.22%

The Chair ensures that meeting time is used effectively and efficiently.

9 Responses

Answer	Count	Percent
Strongly Agree	5	55.56%
Agree	3	33.33%
Neutral	1	11.11%

Everyone comes to meetings prepared.

9 Responses

Answer	Count	Percent
Strongly Agree	2	22.22%
Agree	5	55.56%
Neutral	2	22.22%

Meetings allow for candid, constructive discussion and critical questioning.

9 Responses

Answer	Count	Percent
Strongly Agree	5	55.56%
Agree	3	33.33%
Disagree	1	11.11%

Presentations are generally of the appropriate length and content.

9 Responses

Answer	Count	Percent
Strongly Agree	4	44.44%
Agree	5	55.56%

Discussion is open, meaningful and respectful.

9 Responses

Answer	Count	Percent
Strongly Agree	4	44.44%
Agree	4	44.44%
Disagree	1	11.11%

Which Committee or Task Force Are You Evaluating?
4 Responses

Answer	Count	Percent
Discipline Committee	4	100.00%

Members understand and act within the mandate of the committee.
4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

Members are aware of what is expected of them.
4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

The right things are placed on the agenda.
4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

The Chair ensures that all agenda items are covered during the meetings.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

4 Responses

Answer	Count	Percent
Agree	3	75.00%
Neutral	1	25.00%

The Chair ensures that meeting time is used effectively and efficiently.

4 Responses

The Chair ensures that meeting time is used effectively and efficiently.

4 Responses

Answer	Count	Percent
Agree	3	75.00%
Neutral	1	25.00%

Everyone comes to meetings prepared.

3 Responses

Answer	Count	Percent
Strongly Agree	1	33.33%
Agree	2	66.67%

Meetings allow for candid, constructive discussion and critical questioning.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

Presentations are generally of the appropriate length and content.

4 Responses

Answer	Count	Percent
Agree	3	75.00%
Disagree	1	25.00%

Discussion is open, meaningful and respectful.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

Which Committee or Task Force Are You Evaluating?
7 Responses

Answer	Count	Percent
Equity and Diversity Advisory Committee	7	100.00%

Members understand and act within the mandate of the committee.
7 Responses

Answer	Count	Percent
Strongly Agree	2	28.57%
Agree	4	57.14%
Neutral	1	14.29%

Members are aware of what is expected of them.
7 Responses

Answer	Count	Percent
Strongly Agree	3	42.86%
Agree	4	57.14%

The right things are placed on the agenda.
7 Responses

Answer	Count	Percent
Strongly Agree	4	57.14%
Agree	3	42.86%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

7 Responses

Answer	Count	Percent
Strongly Agree	6	85.71%
Agree	1	14.29%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

7 Responses

Answer	Count	Percent
Strongly Agree	6	85.71%
Agree	1	14.29%

The Chair ensures that all agenda items are covered during the meetings.

7 Responses

Answer	Count	Percent
Strongly Agree	5	71.43%
Agree	2	28.57%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

7 Responses

Answer	Count	Percent
Strongly Agree	4	57.14%
Agree	3	42.86%

The Chair ensures that meeting time is used effectively and efficiently.

7 Responses

Answer	Count	Percent
Strongly Agree	4	57.14%
Agree	3	42.86%

Everyone comes to meetings prepared.

7 Responses

Answer	Count	Percent
Strongly Agree	2	28.57%
Agree	4	57.14%
Neutral	1	14.29%

Meetings allow for candid, constructive discussion and critical questioning.

7 Responses

Answer	Count	Percent
Strongly Agree	5	71.43%
Agree	2	28.57%

Presentations are generally of the appropriate length and content.

7 Responses

Answer	Count	Percent
Strongly Agree	6	85.71%
Agree	1	14.29%

Discussion is open, meaningful and respectful.**7 Responses**

Answer	Count	Percent
Strongly Agree	5	71.43%
Agree	1	14.29%
Neutral	1	14.29%

Which Committee or Task Force Are You Evaluating?
9 Responses

Answer	Count	Percent
Ethics Committee	9	100.00%

Members understand and act within the mandate of the committee.
9 Responses

Answer	Count	Percent
Strongly Agree	5	55.56%
Agree	4	44.44%

Members are aware of what is expected of them.
9 Responses

Answer	Count	Percent
Strongly Agree	5	55.56%
Agree	4	44.44%

The right things are placed on the agenda.
9 Responses

Answer	Count	Percent
Strongly Agree	3	33.33%
Agree	5	55.56%
Neutral	1	11.11%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

9 Responses

Answer	Count	Percent
Strongly Agree	4	44.44%
Agree	4	44.44%
Neutral	1	11.11%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

9 Responses

Answer	Count	Percent
Strongly Agree	5	55.56%
Agree	3	33.33%
Neutral	1	11.11%

The Chair ensures that all agenda items are covered during the meetings.

9 Responses

Answer	Count	Percent
Strongly Agree	5	55.56%
Agree	4	44.44%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

9 Responses

Answer	Count	Percent
Strongly Agree	5	55.56%
Agree	3	33.33%
Neutral	1	11.11%

The Chair ensures that meeting time is used effectively and efficiently.

9 Responses

Answer	Count	Percent
Strongly Agree	4	44.44%
Agree	4	44.44%
Neutral	1	11.11%

Everyone comes to meetings prepared.

9 Responses

Answer	Count	Percent
Strongly Agree	3	33.33%
Agree	5	55.56%
Neutral	1	11.11%

Meetings allow for candid, constructive discussion and critical questioning.

9 Responses

Answer	Count	Percent
Strongly Agree	5	55.56%
Agree	3	33.33%
Neutral	1	11.11%

Presentations are generally of the appropriate length and content.

9 Responses

Answer	Count	Percent
Strongly Agree	4	44.44%
Agree	4	44.44%
Neutral	1	11.11%

Discussion is open, meaningful and respectful.

9 Responses

Answer	Count	Percent
Strongly Agree	5	55.56%
Agree	3	33.33%
Neutral	1	11.11%

Which Committee or Task Force Are You Evaluating?
5 Responses

Answer	Count	Percent
Executive Committee	5	100.00%

Members understand and act within the mandate of the committee.
5 Responses

Answer	Count	Percent
Strongly Agree	4	80.00%
Agree	1	20.00%

Members are aware of what is expected of them.
5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

The right things are placed on the agenda.
5 Responses

Answer	Count	Percent
Strongly Agree	2	40.00%
Agree	3	60.00%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

5 Responses

Answer	Count	Percent
Strongly Agree	2	40.00%
Agree	2	40.00%
Disagree	1	20.00%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

5 Responses

Answer	Count	Percent
Strongly Agree	2	40.00%
Agree	2	40.00%
Neutral	1	20.00%

The Chair ensures that all agenda items are covered during the meetings.

5 Responses

Answer	Count	Percent
Strongly Agree	2	40.00%
Agree	3	60.00%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

The Chair ensures that meeting time is used effectively and efficiently.

5 Responses

Answer	Count	Percent
Strongly Agree	4	80.00%
Agree	1	20.00%

Everyone comes to meetings prepared.

5 Responses

Answer	Count	Percent
Strongly Agree	4	80.00%
Agree	1	20.00%

Meetings allow for candid, constructive discussion and critical questioning.

5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

Presentations are generally of the appropriate length and content.

5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

Discussion is open, meaningful and respectful.

5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

Discussion is open, meaningful and respectful.

5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

Which Committee or Task Force Are You Evaluating?
6 Responses

Answer	Count	Percent
Finance and Audit Committee	6	100.00%

Members understand and act within the mandate of the committee.
6 Responses

Answer	Count	Percent
Strongly Agree	3	50.00%
Agree	3	50.00%

Members are aware of what is expected of them.
6 Responses

Answer	Count	Percent
Strongly Agree	3	50.00%
Agree	2	33.33%
Neutral	1	16.67%

The right things are placed on the agenda.
6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Agree	1	16.67%
Neutral	1	16.67%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.
6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Neutral	2	33.33%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Neutral	2	33.33%

The Chair ensures that all agenda items are covered during the meetings.
6 Responses

Answer	Count	Percent
Strongly Agree	3	50.00%
Agree	3	50.00%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

6 Responses

Answer	Count	Percent
Strongly Agree	3	50.00%
Agree	1	16.67%
Neutral	1	16.67%
Disagree	1	16.67%

The Chair ensures that meeting time is used effectively and efficiently.

6 Responses

Answer	Count	Percent
Strongly Agree	3	50.00%
Agree	2	33.33%
Neutral	1	16.67%

Everyone comes to meetings prepared.

6 Responses

Answer	Count	Percent
Strongly Agree	2	33.33%
Agree	2	33.33%
Neutral	2	33.33%

Meetings allow for candid, constructive discussion and critical questioning.

6 Responses

Answer	Count	Percent
Strongly Agree	2	33.33%
Agree	2	33.33%
Neutral	2	33.33%

Presentations are generally of the appropriate length and content.

5 Responses

Answer	Count	Percent
Strongly Agree	2	40.00%
Agree	2	40.00%
Neutral	1	20.00%

Discussion is open, meaningful and respectful.

6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Neutral	2	33.33%

Which Committee or Task Force Are You Evaluating?
5 Responses

Answer	Count	Percent
Governance Committee	5	100.00%

Members understand and act within the mandate of the committee.
5 Responses

Answer	Count	Percent
Strongly Agree	2	40.00%
Agree	3	60.00%

Members are aware of what is expected of them.
5 Responses

Answer	Count	Percent
Strongly Agree	2	40.00%
Agree	3	60.00%

The right things are placed on the agenda.
5 Responses

Answer	Count	Percent
Strongly Agree	1	20.00%
Agree	3	60.00%
Neutral	1	20.00%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

5 Responses

Answer	Count	Percent
Strongly Agree	1	20.00%
Agree	4	80.00%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

5 Responses

Answer	Count	Percent
Strongly Agree	1	20.00%
Agree	3	60.00%
Neutral	1	20.00%

The Chair ensures that all agenda items are covered during the meetings.

5 Responses

Answer	Count	Percent
Strongly Agree	1	20.00%
Agree	4	80.00%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

5 Responses

Answer	Count	Percent
Strongly Agree	1	20.00%
Agree	2	40.00%
Neutral	2	40.00%

The Chair ensures that meeting time is used effectively and efficiently.

5 Responses

Answer	Count	Percent
Strongly Agree	1	20.00%
Agree	3	60.00%
Neutral	1	20.00%

Everyone comes to meetings prepared.

5 Responses

Answer	Count	Percent
Agree	5	100.00%

Meetings allow for candid, constructive discussion and critical questioning.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	2	50.00%
Neutral	1	25.00%

Presentations are generally of the appropriate length and content.

5 Responses

Answer	Count	Percent
Agree	5	100.00%

Discussion is open, meaningful and respectful.

5 Responses

Answer	Count	Percent
Strongly Agree	1	20.00%
Agree	3	60.00%
Neutral	1	20.00%

Which Committee or Task Force Are You Evaluating?
6 Responses

Answer	Count	Percent
Law Firm Regulation Task Force	6	100.00%

Members understand and act within the mandate of the committee.
6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Agree	2	33.33%

Members are aware of what is expected of them.
6 Responses

Answer	Count	Percent
Strongly Agree	5	83.33%
Agree	1	16.67%

The right things are placed on the agenda.
6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Agree	2	33.33%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

6 Responses

Answer	Count	Percent
Strongly Agree	3	50.00%
Agree	2	33.33%
Disagree	1	16.67%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Agree	1	16.67%
Neutral	1	16.67%

The Chair ensures that all agenda items are covered during the meetings.

5 Responses

Answer	Count	Percent
Strongly Agree	4	80.00%
Agree	1	20.00%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Agree	2	33.33%

The Chair ensures that meeting time is used effectively and efficiently.

6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Agree	2	33.33%

Everyone comes to meetings prepared.

5 Responses

Answer	Count	Percent
Strongly Agree	4	80.00%
Neutral	1	20.00%

Meetings allow for candid, constructive discussion and critical questioning.

6 Responses

Answer	Count	Percent
Strongly Agree	2	33.33%
Agree	4	66.67%

Presentations are generally of the appropriate length and content.

6 Responses

Answer	Count	Percent
Strongly Agree	3	50.00%
Agree	3	50.00%

Discussion is open, meaningful and respectful.

6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Agree	2	33.33%

Which Committee or Task Force Are You Evaluating?
8 Responses

Answer	Count	Percent
Lawyer Education Advisory Committee	8	100.00%

Members understand and act within the mandate of the committee.
8 Responses

Answer	Count	Percent
Strongly Agree	5	62.50%
Agree	3	37.50%

Members are aware of what is expected of them.
8 Responses

Answer	Count	Percent
Strongly Agree	5	62.50%
Agree	3	37.50%

The right things are placed on the agenda.
8 Responses

Answer	Count	Percent
Strongly Agree	5	62.50%
Agree	3	37.50%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

8 Responses

Answer	Count	Percent
Strongly Agree	5	62.50%
Agree	3	37.50%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

8 Responses

Answer	Count	Percent
Strongly Agree	5	62.50%
Agree	3	37.50%

The Chair ensures that all agenda items are covered during the meetings.

8 Responses

Answer	Count	Percent
Strongly Agree	4	50.00%
Agree	3	37.50%
Neutral	1	12.50%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

8 Responses

Answer	Count	Percent
Strongly Agree	4	50.00%
Agree	1	12.50%
Neutral	2	25.00%
Strongly Disagree	1	12.50%

The Chair ensures that meeting time is used effectively and efficiently.

8 Responses

Answer	Count	Percent
Strongly Agree	4	50.00%
Agree	3	37.50%
Disagree	1	12.50%

Everyone comes to meetings prepared.

8 Responses

Answer	Count	Percent
Strongly Agree	2	25.00%
Agree	5	62.50%
Neutral	1	12.50%

Meetings allow for candid, constructive discussion and critical questioning.

8 Responses

Answer	Count	Percent
Strongly Agree	3	37.50%
Agree	3	37.50%
Neutral	1	12.50%
Disagree	1	12.50%

Presentations are generally of the appropriate length and content.

8 Responses

Answer	Count	Percent
Strongly Agree	3	37.50%
Agree	5	62.50%

Discussion is open, meaningful and respectful.
8 Responses

Answer	Count	Percent
Strongly Agree	3	37.50%
Agree	2	25.00%
Neutral	2	25.00%
Disagree	1	12.50%

Which Committee or Task Force Are You Evaluating?
5 Responses

Answer	Count	Percent
Legal Aid Task Force	5	100.00%

Members understand and act within the mandate of the committee.
5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

Members are aware of what is expected of them.
5 Responses

Answer	Count	Percent
Strongly Agree	4	80.00%
Agree	1	20.00%

The right things are placed on the agenda.
5 Responses

Answer	Count	Percent
Strongly Agree	4	80.00%
Agree	1	20.00%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

5 Responses

Answer	Count	Percent
Strongly Agree	3	60.00%
Agree	2	40.00%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

5 Responses

Answer	Count	Percent
Strongly Agree	4	80.00%
Agree	1	20.00%

The Chair ensures that all agenda items are covered during the meetings.

5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

The Chair ensures that meeting time is used effectively and efficiently.

5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

Everyone comes to meetings prepared.
5 Responses

Answer	Count	Percent
Strongly Agree	3	60.00%
Agree	2	40.00%

Meetings allow for candid, constructive discussion and critical questioning.
5 Responses

Answer	Count	Percent
Strongly Agree	4	80.00%
Agree	1	20.00%

Presentations are generally of the appropriate length and content.
5 Responses

Answer	Count	Percent
Strongly Agree	2	40.00%
Agree	3	60.00%

Discussion is open, meaningful and respectful.
5 Responses

Answer	Count	Percent
Strongly Agree	4	80.00%
Agree	1	20.00%

Which Committee or Task Force Are You Evaluating?

8 Responses

Answer	Count	Percent
Practice Standards Committee	8	100.00%

Members understand and act within the mandate of the committee.

7 Responses

Answer	Count	Percent
Strongly Agree	3	42.86%
Agree	4	57.14%

Members are aware of what is expected of them.

8 Responses

Answer	Count	Percent
Strongly Agree	3	37.50%
Agree	4	50.00%
Neutral	1	12.50%

The right things are placed on the agenda.
8 Responses

Answer	Count	Percent
Strongly Agree	3	37.50%
Agree	3	37.50%
Neutral	2	25.00%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.
8 Responses

Answer	Count	Percent
Strongly Agree	5	62.50%
Agree	3	37.50%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

7 Responses

Answer	Count	Percent
Strongly Agree	5	71.43%
Agree	2	28.57%

The Chair ensures that all agenda items are covered during the meetings.
8 Responses

Answer	Count	Percent
Strongly Agree	3	37.50%
Agree	5	62.50%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

8 Responses

Answer	Count	Percent
Strongly Agree	3	37.50%
Agree	5	62.50%

The Chair ensures that meeting time is used effectively and efficiently.

8 Responses

Answer	Count	Percent
Strongly Agree	4	50.00%
Agree	4	50.00%

Everyone comes to meetings prepared.

8 Responses

Answer	Count	Percent
Strongly Agree	3	37.50%
Agree	5	62.50%

Meetings allow for candid, constructive discussion and critical questioning.

8 Responses

Answer	Count	Percent
Strongly Agree	3	37.50%
Agree	4	50.00%
Neutral	1	12.50%

Presentations are generally of the appropriate length and content.
8 Responses

Answer	Count	Percent
Strongly Agree	4	50.00%
Agree	3	37.50%
Neutral	1	12.50%

Discussion is open, meaningful and respectful.
8 Responses

Answer	Count	Percent
Strongly Agree	3	37.50%
Agree	5	62.50%

Which Committee or Task Force Are You Evaluating?
6 Responses

Answer	Count	Percent
Rule of Law and Lawyer Independence Advisory Committee	6	100.00%

Members understand and act within the mandate of the committee.
6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Agree	2	33.33%

Members are aware of what is expected of them.
6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Agree	2	33.33%

The right things are placed on the agenda.
6 Responses

Answer	Count	Percent
Strongly Agree	5	83.33%
Agree	1	16.67%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

6 Responses

Answer	Count	Percent
Strongly Agree	5	83.33%
Agree	1	16.67%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

6 Responses

Answer	Count	Percent
Strongly Agree	5	83.33%
Agree	1	16.67%

The Chair ensures that all agenda items are covered during the meetings.

5 Responses

Answer	Count	Percent
Strongly Agree	5	100.00%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

6 Responses

Answer	Count	Percent
Strongly Agree	6	100.00%

The Chair ensures that meeting time is used effectively and efficiently.

6 Responses

Answer	Count	Percent
Strongly Agree	6	100.00%

Everyone comes to meetings prepared.
6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Agree	2	33.33%

Meetings allow for candid, constructive discussion and critical questioning.
6 Responses

Answer	Count	Percent
Strongly Agree	5	83.33%
Agree	1	16.67%

Presentations are generally of the appropriate length and content.
6 Responses

Answer	Count	Percent
Strongly Agree	4	66.67%
Agree	1	16.67%
Neutral	1	16.67%

Discussion is open, meaningful and respectful.
6 Responses

Answer	Count	Percent
Strongly Agree	5	83.33%
Agree	1	16.67%

Which Committee or Task Force Are You Evaluating?
4 Responses

Answer	Count	Percent
Truth and Reconciliation Advisory Committee	4	100.00%

Members understand and act within the mandate of the committee.
3 Responses

Answer	Count	Percent
Strongly Agree	1	33.33%
Agree	2	66.67%

Members are aware of what is expected of them.
4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	1	25.00%
Neutral	2	50.00%

The right things are placed on the agenda.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	2	50.00%
Disagree	1	25.00%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	2	50.00%
Disagree	1	25.00%

The Chair ensures that all agenda items are covered during the meetings.

4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Agree	1	25.00%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Agree	1	25.00%

The Chair ensures that meeting time is used effectively and efficiently.

4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Agree	1	25.00%

Everyone comes to meetings prepared.

4 Responses

Answer	Count	Percent
Strongly Agree	2	50.00%
Agree	2	50.00%

Meetings allow for candid, constructive discussion and critical questioning.

4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Agree	1	25.00%

Presentations are generally of the appropriate length and content.

3 Responses

Answer	Count	Percent
Strongly Agree	1	33.33%
Agree	1	33.33%
Neutral	1	33.33%

Discussion is open, meaningful and respectful.

4 Responses

Answer	Count	Percent
Strongly Agree	3	75.00%
Agree	1	25.00%

Which Committee or Task Force Are You Evaluating?
4 Responses

Answer	Count	Percent
Unauthorized Practice Committee	4	100.00%

Members understand and act within the mandate of the committee.
4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

Members are aware of what is expected of them.
4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

The right things are placed on the agenda.
3 Responses

Answer	Count	Percent
Agree	1	33.33%
Neutral	1	33.33%
Disagree	1	33.33%

Meeting agendas and supporting materials are received in sufficient time to allow for adequate preparation.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

Pre-meeting materials provide appropriate context and background information to support informed discussion and decision-making.

3 Responses

Answer	Count	Percent
Strongly Agree	1	33.33%
Agree	2	66.67%

The Chair ensures that all agenda items are covered during the meetings.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

The Chair effectively manages dissent and works constructively towards arriving at decisions and achieving consensus.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	1	25.00%
Neutral	2	50.00%

The Chair ensures that meeting time is used effectively and efficiently.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

Everyone comes to meetings prepared.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

Meetings allow for candid, constructive discussion and critical questioning.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	1	25.00%
Neutral	2	50.00%

Presentations are generally of the appropriate length and content.

4 Responses

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

Discussion is open, meaningful and respectful.**4 Responses**

Answer	Count	Percent
Strongly Agree	1	25.00%
Agree	3	75.00%

The Law Society *of British Columbia*



Financial Report

December 31, 2016

Prepared for: Finance and Audit Committee Meeting – February 20, 2017
Bencher Meeting - March 3, 2017

Presented by: Jeanette McPhee, CFO & Director, Trust Regulation

Financial Report – To December 31, 2016

Attached are the draft 2016 financial results to budget for the year ended December 31, 2016.

The final 2016 audited financial statements will be reviewed at the February 20, 2017 Finance and Audit Committee meeting and presented for approval by the Benchers at the March 3, 2017 Bencher meeting.

General Fund

General Fund (excluding capital and TAF)

The 2016 General Fund financial results were \$1.7 million better than the 2016 budget, with higher than expected revenue being earned in member fees, recoveries and electronic filing revenues and lower than expected expenses in several areas.

Revenue

Total revenue was \$23,118,000, \$742,000 (3%) more than projected in our 2016 budget. The principal areas where revenue exceeded budget were:

1. We projected 11,500 practising members in 2016 and the actual number was 11,619, which is 119 more members than projected, resulting in additional fee revenue of \$221,000.
2. We projected 2016 budget revenue from our Juricert electronic filing fees to be \$665,000. Real estate unit sales in 2016 were much higher than anyone expected which resulted in revenue of \$976,000 from electronic filing fees, \$311,000 in excess of our expectations. 2016 was the highest level of transactions fees since the start of the Juricert program.
3. Discipline fines/recoveries exceeded our budget projection by \$149,000. Revenue from fines and recoveries has generally been difficult to predict due to significant variability year-over-year.
4. Interest income of \$85,000 was greater than projected due to higher cash balances held during the year.
5. There were 30 fewer PLTC students than the budget projection of 500 students, resulting in \$61,000 less revenue from enrollment fees than expected.

Operating Expenses

Operating expenses were \$21,409,000, \$967,000 (4%) less than projected in our 2016 budget arising from a number of areas:

1. Credentials external counsel fees were \$200,000 less than projected as no large credentials files were sent out in 2016, which is not typical of our experience in recent years. Credentials has had a number of very difficult and expensive files over the last few years and our budget for 2016 expected this to continue.
2. External forensic accounting fees were \$190,000 less than projected. Although there were a number of new forensic accounting files opened in 2016, the work was assigned to in-house staff.

3. Human Resources professional fees were \$125,000 less than expected due to greater level of insourcing by our new HR manager for consulting services and less than expected legal fees for other HR related matters.
4. Expenditures on our professional and skills development programs were \$125,000 less than expected due partly to the success of our technical skills enrichment program launched in 2016, in which over 80% of our staff participated in, and less uptake in professional development due to workload issues.
5. Total external counsel fees were \$78,000 less than the budget of \$1.6 million. During 2016 there was a significant focus on concluding files that had been sent to external counsel, but some of this work was not completed in 2016 and we expect the cost of completing these files will be incurred in the 2017 year.
6. There were additional cost savings of \$195,000 arising from efficiencies and reductions, including a \$40,000 reduction in library subscriptions due to electronic substitution and obsolescence and \$55,000 reduction in online course consulting fees. Other expenses were not incurred during fiscal 2016, including travel cost savings of \$60,000 and building maintenance cost savings of \$40,000.

Both the 2016 revenue and expenses varied from our projections for the year and much of the variation only became apparent in Q4. Membership numbers increased more than expected in the Q4, when we generally see the number of new members tapering off and the extent of the increase in electronic filing revenue only became apparent late in the year when the amount for the second half of the year was received from the Land Title and Survey Authority. Much of the reduction in total expenses related to the timing of external fees, particularly in the area of regulation, credentials and forensics, which became apparent towards the end of year. There were a number of external IME files that were expected to complete before year end, but this work will fall into 2017. There were additional savings than projected in credentials and forensic fees as new files were not generated before year end.

Net Assets

The General Fund net asset balance, without capital funding and TAF reserve, is \$12.4 million, consisting of \$11.1 million invested in capital assets (mainly the 845 building), and \$1.4 million in working capital.

The net assets also includes \$2.65 million in capital funding for scheduled capital projects related to the 845 Cambie building and workspace improvements for Law Society operations. These include post tension repair work, balcony waterproofing and office renovations.

TAF-related Revenue and Expenses

With the large increase in real estate market activity and related TAF transactions, 2016 TAF revenue totaled \$4.5 million, a 12% increase over 2015. BC real estate unit sales increased 9.5% from 2015.

Trust assurance expenses were \$2.4 million, \$140,000 under budget due to staff vacancies and travel savings.

With the large increase in TAF transactions, the TAF-related net assets balance has increased to \$4.8 million at December 2016. This reserve is higher than the recommended 12 month reserve level of \$2.6 million. As per the TAF reserve policy, the Finance and Audit Committee will be

reviewing the excess reserve in 2017, which is to be transferred to the Lawyers Insurance Fund for Part B insurance. The TAF revenue levels will continue to be monitored closely as the BC real estate market has decreased dramatically in recent months and unit sales are projected to decrease 14% in 2017.

Special Compensation Fund

The Special Compensation Fund net assets are \$1.36 million at December 2016. The Special Compensation Fund net assets balance will be transferred to the Lawyers Insurance Fund as required by the Legal Profession Amendment Act, 2012, once any remaining file recoveries are resolved.

Lawyers Insurance Fund (LIF)

LIF assessment revenues were \$14.7 million, \$321,000 (2.2%) over budget, with more insured members than projected. Operating expenses (excluding the claims provision) were \$6.7 million, \$169,000 (2.4%) below budget. The expense savings are a result of staff vacancies, lower travel and administrative expenses, offset by higher investment management fees.

The actuarially determined claims provision liability is \$67.2 million, an increase of \$7.7 million from 2015. The claims provision on the income statement was \$22.9 million, an increase of \$7 million over 2015. The increase in the provision is due to an actuarial projection of greater severity for claims in recent years.

At the end of 2016, the LIF long term investment portfolio was \$158 million, up \$10 million from 2015. The LIF investment portfolio earned a 7.1% return in 2016, higher than the benchmark of 6.0%, but slightly below the investment manager's targeted return which should be approximately 7.3%, 1.3% over the benchmark.

In 2016, the net deficiency of revenue over expenses was \$5.5 million. At December 2016, LIF net assets were \$70.4 million, including \$17.5 million internally restricted for Part B claims.

Summary of Financial Highlights - December 2016
(\$000's)

<i>2016 General Fund Results - YTD December 2016 (Excluding Capital Allocation & Depreciation)</i>				
	Actual*	Budget	\$ Var	% Var
Revenue (excluding Capital)				
Membership fees	17,849	17,628	221	1%
PLTC and enrolment fees	1,314	1,380	(66)	-5%
Electronic filing revenue	976	665	311	47%
Interest income	435	350	85	24%
Credentials & membership services	565	590	(25)	-4%
Fines, penalties & recoveries	554	405	149	37%
Other revenue	262	190	72	38%
Building revenue & tenant cost recoveries	1,163	1,168	(5)	0%
	23,118	22,376	742	3%
Expenses (excl. dep'n)	21,409	22,376	967	4%
Results before spending on reserve items	1,709	-	1,709	
Approved spending from Reserves	68	-	68	
	1,641	-	1,641	

* Note: Actuals include \$68,000 in costs related to Bencher approved items to be funded from the reserve

<i>2016 General Fund Year End (Excluding Capital Allocation & Depreciation)</i>		
	Avg # of Members	Actual Variance
Practice Fee Revenue		
2011 Actual	10,564	
2012 Actual	10,746	
2013 Actual	10,985	
2014 Actual	11,114	
2015 Actual	11,378	
2016 Budget	11,500	
2016 Actual	11,619	
Revenue Increases		
Membership revenue - 11,619 members, 119 over budget		221
PLTC - 470 students, 30 below budget of 500		(61)
Electronic Filing Revenue - large increase in real estate transactions		311
Interest Income - higher cash balances		85
Fines, Penalties & Recoveries - higher discipline fines/recoveries		149
Miscellaneous		37
		742
Expense Savings		
External Counsel Fees Regulation/Legal Defense - savings on \$1.6 million budget		78
Credentials External Counsel Fees - no new files sent out in year		200
External Forensic Accounting Fees - no new file sent out in year		190
HR Professional Fees - not required - external counsel/consulting projects		125
Staff Professional Development - not used		75
Skills Training - focus on technical skills training		50
Online Courses Consulting - reduced costs		55
Library Subscriptions - savings project		40
Building Maintenance - timing of maintenance projects		40
Travel - reduced travel		60
Other miscellaneous cost reductions		54
		967
2016 General Fund Variance (excl. reserve funded items)		1,709

Reserve funded amounts (Bencher approved):	Approved	Spent
2016 - Proactive practice standards project (\$55K approved) - remaining deferred	55	44
2015 - Year 2 - Articling student (\$28K approved & remaining)	28	24
	83	68

<i>Trust Assurance Program Actual</i>					
	2016 Actual	2016 Budget	Variance	% Var	Reason
TAF Revenue	4,548	3,497	1,051	30.1%	Real estate tx in
Trust Assurance Department	2,432	2,572	140	5.4%	Vacancies/travel
Net Trust Assurance Program	2,116	925	1,191		

2016 Lawyers Insurance Fund Long Term Investments - YTD December 2016 Before investment management fees

Performance	7.1%
Benchmark Performance	6.0%

***The Law Society of British Columbia
General Fund
Results for the 12 Months ended December 31, 2016***
(\$000's)

	2016 Actual	2016 Budget	\$ Variance	% Variance
Revenue				
Membership fees (1)	19,894	19,652		
PLTC and enrolment fees	1,314	1,380		
Electronic filing revenue	976	665		
Interest income	435	350		
Other revenue	1,382	1,184		
Building Revenue & Recoveries	1,163	1,168		
Total Revenues	25,164	24,399	765	3.1%
Expenses				
Regulation	8,112	8,378		
Education and Practice	3,542	3,682		
Corporate Services	2,741	3,059		
Bencher Governance	983	822		
Communications and Information Services	2,122	2,161		
Policy and Legal Services	2,129	2,388		
Occupancy Costs	2,406	2,571		
Depreciation	368	281		
Total Expenses	22,403	23,341	938	4.0%
General Fund Results before TAP	2,761	1,058	1,703	
Trust Administration Program (TAP)				
TAF revenues	4,548	3,497	1,051	0%
TAP expenses	2,432	2,572	140	5%
TAP Results	2,116	925	1,191	
General Fund Results including TAP	4,877	1,984	2,893	

(1) Membership fees include capital allocation of \$2.04m (Capital allocation budget = \$2.02m)

The Law Society of British Columbia
General Fund - Balance Sheet
As at December 31, 2016
(\$000's)

	Dec 31 2016	Dec 31 2015
Assets		
Current assets		
Cash and cash equivalents	283	82
Unclaimed trust funds	1,813	1,709
Accounts receivable and prepaid expenses	1,982	1,711
B.C. Courthouse Library Fund	729	676
Due from Lawyers Insurance Fund	<u>34,170</u>	<u>28,065</u>
	<u>38,977</u>	<u>32,243</u>
Property, plant and equipment		
Cambie Street property	12,448	12,810
Other - net	<u>1,197</u>	<u>1,221</u>
	<u>52,622</u>	<u>46,273</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	6,282	5,657
Liability for unclaimed trust funds	1,813	1,709
Current portion of building loan payable	500	500
Deferred revenue	<u>21,345</u>	<u>20,142</u>
Deferred capital contributions	12	23
B.C. Courthouse Library Grant	729	676
Deposits	<u>25</u>	<u>27</u>
	<u>30,706</u>	<u>28,734</u>
Building loan payable	<u>2,100</u>	<u>2,600</u>
	<u>32,806</u>	<u>31,334</u>
Net assets		
Capital Allocation	2,647	2,011
Unrestricted Net Assets	<u>17,169</u>	<u>12,928</u>
	<u>19,816</u>	<u>14,939</u>
	<u>52,622</u>	<u>46,273</u>

***The Law Society of British Columbia
General Fund - Statement of Changes in Net Assets
Results for the 12 Months ended December 31, 2016
(\$000's)***

	<i>Invested in Capital</i> \$	<i>Working Capital</i> \$	<i>Unrestricted Net Assets</i> \$	<i>Trust Assurance</i> \$	<i>Capital Allocation</i> \$	2016 Total \$	2015 Total \$
Net assets - At Beginning of Year	10,930	(652)	10,278	2,650	2,011	14,939	11,614
Net (deficiency) excess of revenue over expense for the period	(1,294)	2,010	716	2,116	2,045	4,877	3,325
Repayment of building loan	500	-	500	-	(500)	-	-
Purchase of capital assets:						-	-
LSBC Operations	473	-	473	-	(473)	-	-
845 Cambie	436	-	436	-	(436)	-	-
Net assets - At End of Period	11,045	1,358	12,403	4,766	2,647	19,816	14,939

***The Law Society of British Columbia
Special Compensation Fund
Results for the 12 Months ended December 31, 2016
(\$000's)***

	2016 Actual	2016 Budget	\$ Variance
Revenue			
Annual assessment	-	-	-
Recoveries	75	-	-
Interest income	-	-	-
Other income	-	-	-
Total Revenues	75	-	75
Expenses			
Claims and costs, net of recoveries	90	-	-
Administrative and general costs	1	-	-
Loan interest expense	(29)	-	-
Total Expenses	63	-	63
Special Compensation Fund Results	12	-	12

***The Law Society of British Columbia
Special Compensation Fund - Balance Sheet
As at December 31, 2016
(\$000's)***

	Dec 31 2016	Dec 31 2015
Assets		
Current assets		
Cash and cash equivalents	1	1
Accounts receivable		
Due from General Fund		
Due from Lawyers Insurance Fund	1,363	1,351
	<u>1,364</u>	<u>1,352</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities		
Deferred revenue		
	<hr/> <hr/>	<hr/> <hr/>
Net assets		
Unrestricted net assets	1,364	1,352
	<u>1,364</u>	<u>1,352</u>
	<u>1,364</u>	<u>1,352</u>

The Law Society of British Columbia
Special Compensation Fund - Statement of Changes in Net Assets
Results for the 12 Months ended December 31, 2016
 (\$000's)

	Actual \$	Budget \$
Unrestricted Net assets - At Beginning of Year	1,352	1,335
Net excess of revenue over expense for the period	12	17
Unrestricted Net assets - At End of Period	1,364	1,352

***The Law Society of British Columbia
Lawyers Insurance Fund
Results for the 12 Months ended December 31, 2016***
(\$000's)

	2016 Actual	2016 Budget	\$ Variance	% Variance
Revenue				
Annual assessment	14,681	14,361		
Investment income	10,181	6,640		
Other income	77	60		
Total Revenues	24,939	21,061	3,878	18.4%
Expenses				
Insurance Expense				
Provision for settlement of claims	22,941	14,702		
Salaries and benefits	2,544	2,985		
Contribution to program and administrative costs of General Fund	1,292	1,250		
Provision for ULAЕ	770	-		
Insurance	407	459		
Office	534	500		
Actuaries, consultants and investment brokers' fees	802	523		
Allocated office rent	291	291		
Premium taxes	9	9		
Income taxes	6	6		
	29,596	20,725		
Loss Prevention Expense				
Contribution to co-sponsored program costs of General Fund	862	893		
Total Expenses	30,458	21,618	(8,840)	-40.9%
Lawyers Insurance Fund Results	(5,519)	(557)	(4,962)	

***The Law Society of British Columbia
Lawyers Insurance Fund - Balance Sheet
As at December 31, 2016
(\$000's)***

	Dec 31 2016	Dec 31 2015
Assets		
Cash and cash equivalents	32,863	28,216
Accounts receivable and prepaid expenses	91	169
Prepaid Taxes	31	4,131
Due from members	164	159
General Fund building loan	2,600	3,100
Investments	154,268	144,174
	190,017	179,949
Liabilities		
Accounts payable and accrued liabilities	1,826	1,154
Deferred revenue	7,461	7,331
Due to General Fund	34,170	28,065
Due to Special Compensation Fund	1,364	1,352
Provision for claims	66,136	58,240
Provision for ULAE	8,690	7,920
	119,648	104,060
Net assets		
Unrestricted net assets	17,500	17,500
Internally restricted net assets	61,870	58,388
	70,369	75,888
	190,017	179,949

***The Law Society of British Columbia
Lawyers Insurance Fund - Statement of Changes in Net Assets
Results for the 12 Months ended December 31, 2016***
(\$000's)

	Unrestricted \$	Internally Restricted \$	2016 Total \$	2015 Total \$
Net assets - At Beginning of Year	58,388	17,500	75,888	65,811
Net excess of revenue over expense for the period	(5,519)	-	(5,519)	10,078
Net assets - At End of Period	52,869	17,500	70,369	75,889

Memo

The Law Society
of British Columbia



149

To Benchers
From Finance and Audit Committee
Date February 20, 2017
Subject **Bencher Approval of the 2016 Audited Financial Statements**

The annual audited financial statements are to be reviewed and recommended for approval by the Finance and Audit Committee, and approved by the Benchers.

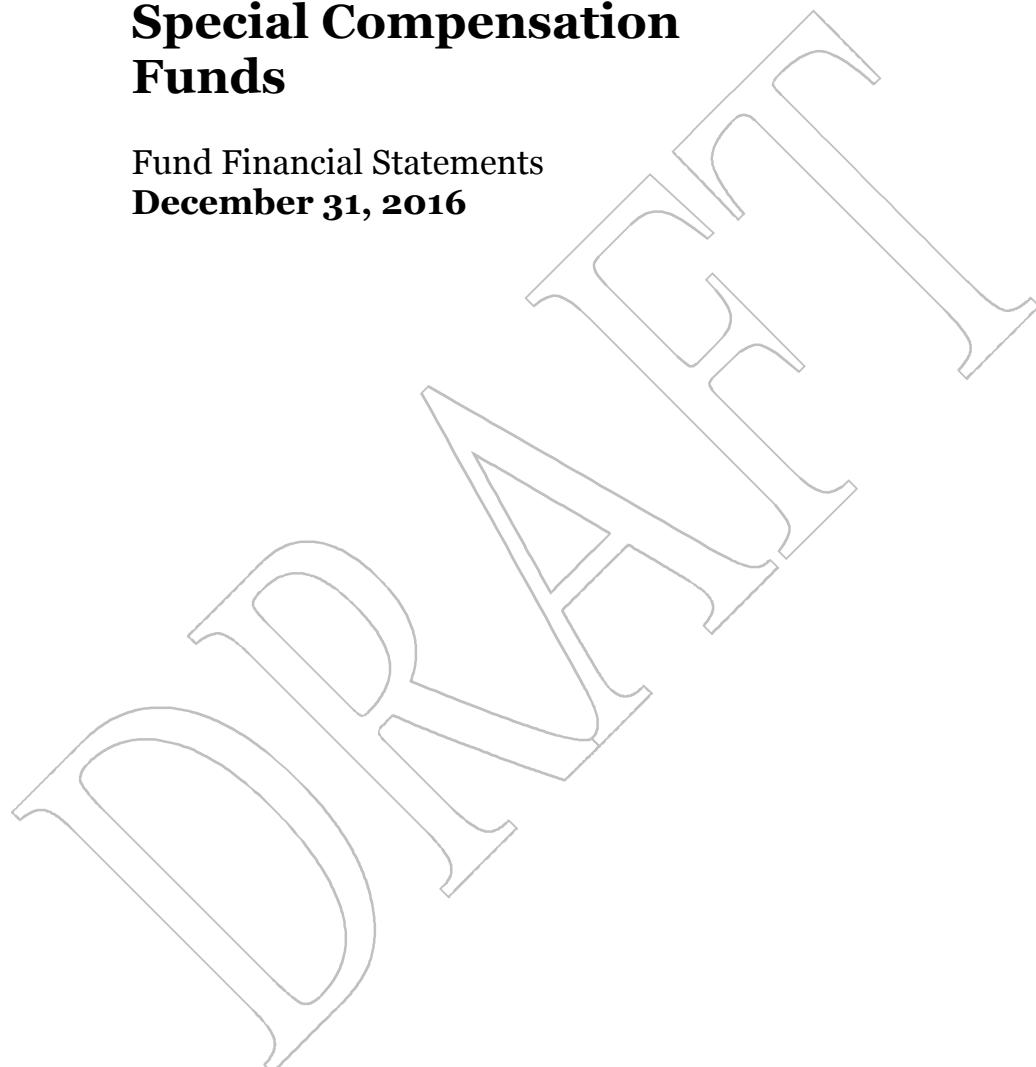
Attached are the 2016 audited financial statements for the General and Special Compensation Funds, and the consolidated Lawyers Insurance Fund. These statements were reviewed by the Finance and Audit Committee at their February 20, 2016 meeting.

The Finance and Audit Committee recommends the following resolution for approval by the Benchers:

BE IT RESOLVED to approve the Law Society's 2016 Combined Financial Statements for the General & Special Compensation Funds, and the 2016 Consolidated Financial Statements for the Lawyers Insurance Fund.

The Law Society of British Columbia - General and Special Compensation Funds

Fund Financial Statements
December 31, 2016



**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

<https://wpo.pwcinternal.com/BC/60010550-Law-Society/2016/FS060447/Official Documents/The Law Society of British Columbia General and Special Compensation Funds Dec 2016.docx> February 21, 2017 12:08 PM

March____, 2017

Independent Auditor's Report

To the Members of The Law Society of British Columbia

We have audited the accompanying fund financial statements of The Law Society of British Columbia - General and Special Compensation Funds, which comprise the fund statement of financial position as at December 31, 2016 and the fund statements of revenue and expenses, changes in net assets, and cash flows for the year then ended, and the related notes, which comprise a summary of significant accounting policies and other explanatory information.

Management's responsibility for the fund financial statements

Management is responsible for the preparation and fair presentation of these fund financial statements in accordance with Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of fund financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on these fund financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the fund financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the fund financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the fund financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the fund financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the fund financial statements.

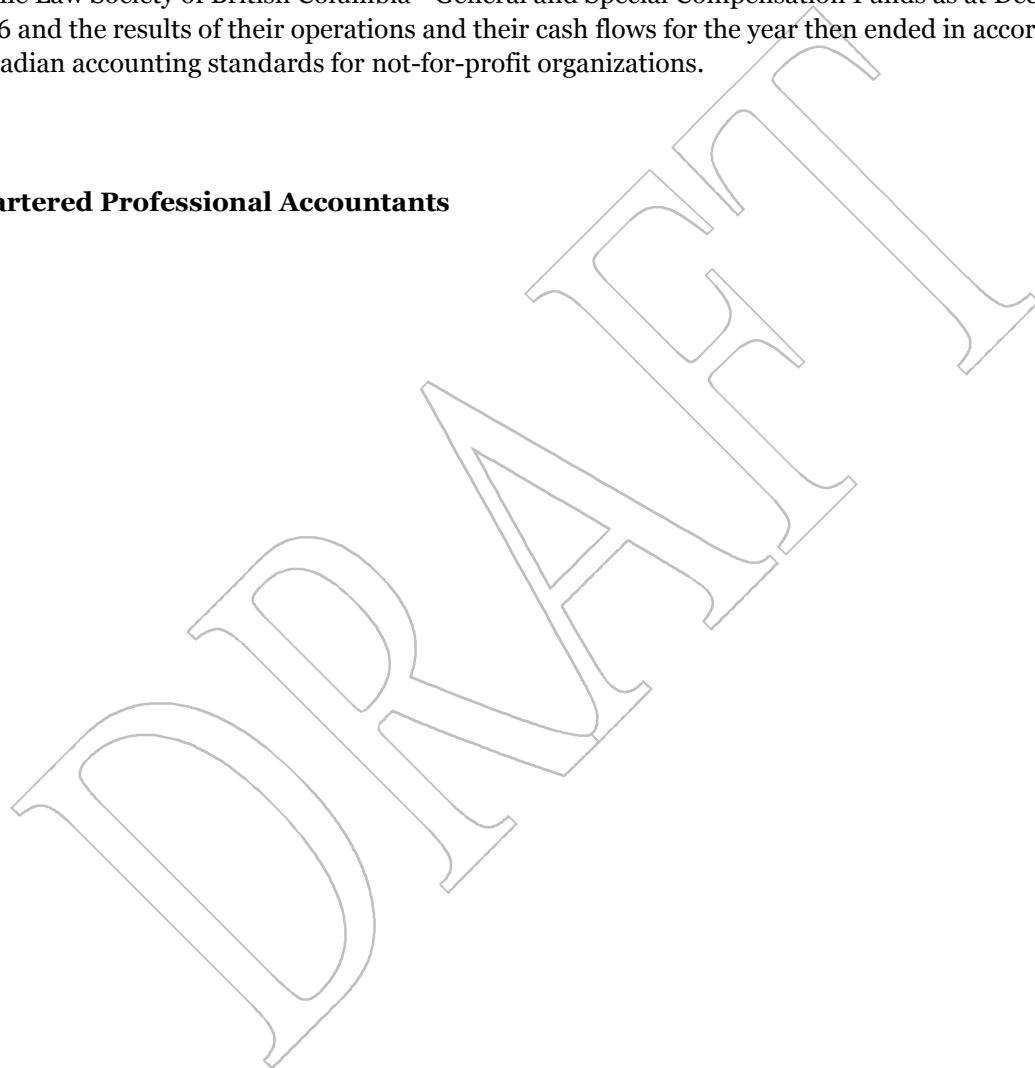
We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

Opinion

In our opinion, the fund financial statements present fairly, in all material respects, the financial position of The Law Society of British Columbia - General and Special Compensation Funds as at December 31, 2016 and the results of their operations and their cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations.

Chartered Professional Accountants



**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - General and Special Compensation Funds

Fund Statement of Financial Position

As at December 31, 2016

		2016	2015
	General Fund \$	Special Compensation Fund \$	Total \$
Assets			
Current assets			
Cash (note 2)	283,310	500	283,810
Unclaimed trust funds (note 2)	1,813,319	-	1,813,319
Accounts receivable and prepaid expenses (note 3)	1,981,603	-	1,981,603
Courthouse Libraries BC Fund (note 2)	728,535	-	728,535
Due from Lawyers Insurance Fund (note 8)	34,170,251	1,363,844	35,534,095
	<hr/> 38,977,018	<hr/> 1,364,344	<hr/> 40,341,362
			33,595,175
Non-current assets			
Cambie Street property - net (note 4(a))	12,447,990	-	12,447,990
Other property and equipment - net (note 4(b))	784,659	-	784,659
Intangible assets - net (note 4(c))	412,701	-	412,701
	<hr/> 52,622,368	<hr/> 1,364,344	<hr/> 53,986,712
			47,625,587
Liabilities			
Current liabilities			
Accounts payable and accrued liabilities (note 5)	6,251,515	-	6,251,515
Liability for unclaimed trust funds (note 2)	1,813,319	-	1,813,319
Current portion of building loan payable (note 7)	500,000	-	500,000
Deferred revenue (note 2)	21,344,505	-	21,344,505
Deferred capital contributions	12,452	-	12,452
Courthouse Libraries BC Fund (note 2)	728,535	-	728,535
Deposits	55,605	-	55,605
	<hr/> 30,705,931	<hr/> -	<hr/> 30,705,931
			28,734,104
Building loan payable (notes 7 and 8)	<hr/> 2,100,000	<hr/> -	<hr/> 2,100,000
			2,600,000
Net assets	<hr/> 32,805,931	<hr/> -	<hr/> 32,805,931
Unrestricted (note 6)	<hr/> 19,816,437	<hr/> 1,364,344	<hr/> 21,180,781
			16,291,483
Commitments (note 13)	<hr/> 52,622,368	<hr/> 1,364,344	<hr/> 53,986,712
			47,625,587

Approved by

President _____ Chair of Finance and Audit Committee

The accompanying notes are an integral part of these fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - General and Special Compensation Funds

Fund Statement of Changes in Net Assets

For the year ended December 31, 2016

	2016	2015		
	General Fund - Unrestricted \$	Special Compensation Fund - Unrestricted \$	Total \$	Total \$
Net assets - Beginning of year	14,939,196	1,352,287	16,291,483	12,949,359
Net excess of revenue over expenses for the year	4,877,241	12,057	4,889,298	3,342,124
Net assets - End of year (note 6)	19,816,437	1,364,344	21,180,781	16,291,483

The accompanying notes are an integral part of these fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

[https://wpo.pwcintral.com/BC/60010550-Law-Society/2016/FS060447/Official Documents/The Law Society of British Columbia General and Special Compensation Funds Dec 2016.docx](https://wpo.pwcintral.com/BC/60010550-Law-Society/2016/FS060447/Official%20Documents/The%20Law%20Society%20of%20British%20Columbia%20General%20and%20Special%20Compensation%20Funds%20Dec%202016.docx) February 21, 2017 12:08 PM

The Law Society of British Columbia - General and Special Compensation Funds

Fund Statement of Revenue and Expenses

For the year ended December 31, 2016

		2016	2015 (note 14)
	General Fund \$	Special Compensation Fund \$	Total \$
Revenue			
Practice fees	19,894,479	-	19,894,479
Trust administration fees	4,548,052	-	4,548,052
Enrolment fees	1,297,850	-	1,297,850
E-filing revenue	975,923	-	975,923
Fines, penalties and recoveries	495,076	75,000	570,076
Application fees	491,930	-	491,930
Investment income (note 8)	434,776	28,516	463,292
Other income	410,482	-	410,482
Rental revenue	885,328	-	885,328
	<hr/> 29,433,896	<hr/> 103,516	<hr/> 29,537,412
			27,549,924
Expenses			
Bencher governance			
Bencher, AGM and other committees	1,095,105	-	1,095,105
Executive and Bencher support	313,176	-	313,176
Communications, publications and information services	-	-	-
Communications and publications	779,090	-	779,090
Information services	1,384,297	-	1,384,297
Education and practice	-	-	-
Credentials	507,112	-	507,112
Member services	780,135	-	780,135
Membership assistance programs	238,750	-	238,750
Practice advice	621,051	-	621,051
Practice standards	647,772	-	647,772
Professional legal training course and education	1,737,835	-	1,737,835
General and administrative	-	-	-
Finance	1,002,955	-	1,002,955
Amortization of other property and equipment	447,316	-	447,316
General administration	1,396,463	-	1,396,463
Human resources	522,479	-	522,479
Records management and library	280,237	-	280,237
Policy and legal services	-	-	-
Policy, ethics and tribunal counsel	1,714,282	-	1,714,282
External litigation and interventions	477,435	-	477,435
Unauthorized practice	300,506	-	300,506
Regulation	-	-	-
Custodianship costs	1,466,532	-	1,466,532
Discipline	1,519,116	-	1,519,116
Professional conduct - intake and investigations	4,477,166	-	4,477,166
Forensic accounting	648,993	-	648,993
Trust assurance	2,130,578	-	2,130,578
Occupancy costs, net of tenant recoveries	2,220,927	-	2,220,927
Carried forward	26,709,308	-	26,709,308
			26,470,081

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - General and Special Compensation Funds

Fund Statement of Revenue and Expenses ...continued

For the year ended December 31, 2016

	General Fund \$	Special Compensation Fund \$	Total \$	2016	2015 (note 14)
Brought forward	26,709,308	-	26,709,308	26,470,081	
Special Compensation Fund General and administrative costs	-	91,459	91,459	10,628	
	<u>26,709,308</u>	<u>91,459</u>	<u>26,800,767</u>	<u>26,480,709</u>	
Costs recovered from Special Compensation and Lawyers Insurance Funds					
Co-sponsored program costs	(862,284)	-	(862,284)	(925,039)	
Program and administrative costs	(1,290,369)	-	(1,290,369)	(1,347,870)	
	<u>(2,152,653)</u>	<u>-</u>	<u>(2,152,653)</u>	<u>(2,272,909)</u>	
	<u>24,556,655</u>	<u>91,459</u>	<u>24,648,114</u>	<u>24,207,800</u>	
Net excess of revenue over expenses for the year					
	<u>4,877,241</u>	<u>12,057</u>	<u>4,889,298</u>	<u>3,342,124</u>	

The accompanying notes are an integral part of these fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - General and Special Compensation Funds

Fund Statement of Cash Flows

For the year ended December 31, 2016

		2016	2015 (note 14)
	General Fund \$	Special Compensation Fund \$	Total \$
Cash flows from operating activities			
Net excess of revenue over expenses for the year	4,877,241	12,057	4,889,298
Items not affecting cash			
Amortization of Cambie Street building and tenant improvements	833,522	-	833,522
Amortization of other property and equipment	243,220	-	243,220
Amortization of intangible assets	204,096	-	204,096
Amortization of deferred capital contributions	(10,970)	-	(10,970)
Loss on disposal of other property and equipment	13,363	-	13,363
	6,160,472	12,057	6,172,529
(Increase) decrease in current assets			
Unclaimed trust funds	(104,658)	-	(104,658)
Accounts receivable and prepaid expenses	(270,856)	-	(270,856)
Courthouse Libraries BC Fund	(52,120)	-	(52,120)
Increase (decrease) in current liabilities			
Accounts payable and accrued liabilities	625,402	-	625,402
Liability for unclaimed trust funds	104,658	-	104,658
Deferred revenue	1,202,617	-	1,202,617
Courthouse Libraries BC Fund	52,120	-	52,120
Deposits	(2,000)	-	(2,000)
	7,715,635	12,057	7,727,692
Cash flows from financing activities			
Decrease in building loan payable	(500,000)	-	(500,000)
Cash flows from investing activities			
Purchase of property and equipment	(698,087)	-	(698,087)
Purchase of intangible assets	(211,052)	-	(211,052)
	(909,139)	-	(909,139)
Interfund transfers			
Increase (decrease) in cash	(6,105,540)	(12,057)	(6,117,597)
Cash - Beginning of year	200,956	-	200,956
Cash - End of year	82,354	500	82,854
	283,310	500	283,810
Supplementary cash flow information			
Interest paid	54,902	-	54,902
Interest income received	427,221	28,516	455,737

The accompanying notes are an integral part of these fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - General and Special Compensation Funds

Notes to Fund Financial Statements

December 31, 2016

1 Nature of operations

The Law Society of British Columbia (the Society) regulates the legal profession in British Columbia, protecting public interest in the administration of justice by setting and enforcing standards of professional conduct for lawyers. The Society is a not-for-profit organization.

The funds covered in these fund financial statements are for the Society's General Fund and Special Compensation Fund with the following activities:

The General Fund comprises the assets, liabilities, net assets, revenue and expenses of the operations of the Society other than those designated to the statutory Special Compensation Fund and the Lawyers Insurance Fund (including its wholly owned subsidiary, LSBC Captive Insurance Company Ltd.). This includes collecting revenues associated with practice fees, trust administration fees, enrollment fees, and various other administrative fees and penalties used to cover the costs of the Society to regulate the legal profession and educate and enforce adherence of its members to act within the rules of professional conduct for lawyers.

The Special Compensation Fund was maintained by the Society pursuant to Section 31 of the Legal Profession Act (the LPA). The Special Compensation Fund claims were recorded net of recoveries from the Special Compensation Fund's insurers when they have been approved for payment by the Special Compensation Fund Committee as delegated by the Benchers and the settlement has been accepted by the claimant. The LPA provides that the assets of the Special Compensation Fund are not subject to process of seizure or attachment by creditors of the Society.

Effective January 1, 2013, the Legal Profession Amendment Act, 2012 repealed Section 31 of the LPA. The legislation was changed pursuant to Section 50 of the Legal Profession Amendment Act, 2012 (SBC 2012, C16), to initiate the transfer of unused reserves that remain within the Special Compensation Fund, after all recoveries are received and expenses and claims are paid, to be used in the Lawyers Insurance Fund. Additionally, Section 23 of the LPA was amended to remove the requirement that practising lawyers pay the Special Compensation Fund assessment. Accordingly, for 2016, the per member Special Compensation Fund assessment remained at \$nil (2015 - \$nil).

Effective May 1, 2004, Part B to the B.C. Lawyers' Compulsory Professional Liability Insurance Policy provides defined insurance coverage for dishonest appropriation of money or other property entrusted to and received by insured lawyers in their capacity as barrister and solicitor and in relation to the provision of professional services. Part B (Trust Protection Coverage) is recorded in the Lawyers Insurance Fund.

The Society's Lawyers Insurance Fund is presented separately in consolidated fund financial statements, including the Society's wholly owned LSBC Captive Insurance Company Ltd. (the Captive). The Lawyers Insurance Fund underwrites the program by which errors and omissions insurance is provided to members of the Society. The Lawyers Insurance Fund's consolidated fund financial statements provide further detail on the various insurance coverages provided.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(1)

The Law Society of British Columbia - General and Special Compensation Funds

Notes to Fund Financial Statements

December 31, 2016

2 Significant accounting policies

These Fund Financial Statements are prepared in accordance with Canadian accounting standards for not-for-profit organizations (ASNPO) as issued by the Canadian Accounting Standards Board.

Allocated administrative expenses

Administrative expenses are recovered by the General Fund from both the Lawyers Insurance and Special Compensation Funds. Recoveries are based on amounts derived either on percentage of use, the proportion of the Lawyers Insurance Fund's staff compared to the Society's total staff costs, or a set amount.

Courthouse Libraries BC Fund

The Society administers funds held on behalf of the Courthouse Libraries BC. Such funds are held in trust and the use of the funds is not recorded in the fund statement of revenue and expenses of the General Fund. The Society collects fees for the Courthouse Libraries BC through its fees per lawyer assessments.

Cash

Cash comprises cash on hand and held with a Canadian chartered bank.

Claims liabilities

In accordance with the absolute discretionary nature of the Special Compensation Fund arrangements, the claims become a liability only when approved by the Special Compensation Fund Committee and accepted by the claimant.

Deferred capital contributions

Contributions restricted for the purchase of capital assets are deferred and recognized as revenue on the same basis as the capital assets are amortized.

Fair value of financial instruments

The fair values of cash, accounts receivable and accounts payable and accrued liabilities correspond to their carrying values due to their short-term nature.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(2)

The Law Society of British Columbia - General and Special Compensation Funds

Notes to Fund Financial Statements

December 31, 2016

Intangible assets

Intangible assets comprise computer software. Software is recorded at cost and amortized on a straight-line basis at 10% - 20% per annum.

Property and equipment

Property and equipment, including leasehold improvements, are recorded at cost less accumulated amortization.

The Society provides for amortization on a straight-line basis as follows:

Buildings	40 years from purchase date
Computer hardware	10% - 20% per annum
Furniture and fixtures	10% per annum
Leasehold improvements	10% per annum
Building improvements and equipment	10% per annum
Tenant improvements	over lease period

10% - 20% per annum
10% per annum
10% per annum
10% per annum
over lease period

The Society recognizes a full year's amortization expense in the year of acquisition, with the exception of building improvements and equipment and leasehold improvements which are amortized from their date of completion.

Revenue recognition

The Society follows the deferral method of accounting for annual fees and assessments. Fees and assessments are billed and received in advance on a calendar-year basis. Accordingly, fees and assessments for the next fiscal year received prior to December 31 have been recorded as deferred revenue for financial reporting purposes and will be recognized as revenue in the next calendar year. Revenue will be recognized on a monthly basis as earned. Surplus funds are invested in the Lawyers Insurance Fund's investment portfolio.

All other revenues are recognized when earned if the amount to be received can be reasonably estimated and collection is reasonably assured.

Unclaimed trust funds

The General Fund recognizes unclaimed trust funds as an asset as well as a corresponding liability on the fund statement of financial position. If these funds are claimed, the owner of the trust fund balance is entitled to the principal balance plus interest at prime rate minus 2%. Due to the historically low collection rates on these balances, the General Fund does not accrue for any interest owing on the trust fund amounts held and recognizes income earned from the unclaimed trust fund investments in the fund statement of revenue and expenses. Unclaimed funds outstanding for more than five years are transferred to the Law Foundation of British Columbia.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - General and Special Compensation Funds

Notes to Fund Financial Statements

December 31, 2016

Use of estimates

The preparation of Fund Financial Statements in accordance with ASNPO requires management to make estimates and assumptions that affect the reported amounts of certain assets and liabilities and disclosure of contingent assets and liabilities at the date of the Fund Financial Statements and the reported amounts of certain revenues and expenses during the year. Actual results could differ from these estimates.

3 Accounts receivable and prepaid expenses

Accounts receivable are presented net of the allowance for doubtful accounts of \$904,036 (2015 - \$827,024).

4 Property, equipment and intangible assets

a) 845 Cambie Street property

	2016		
	Cost \$	Accumulated amortization \$	Net \$
Land	4,189,450	-	4,189,450
Buildings and equipment	15,005,200	8,092,997	6,912,203
Leasehold improvements	6,729,908	5,641,706	1,088,202
Tenant improvements	826,619	568,484	258,135
	26,751,177	14,303,187	12,447,990

	2015		
	Cost \$	Accumulated amortization \$	Net \$
Land	4,189,450	-	4,189,450
Buildings and equipment	14,702,890	7,511,650	7,191,240
Leasehold improvements	6,559,576	5,456,422	1,103,154
Tenant improvements	826,619	500,830	325,789
	26,278,535	13,468,902	12,809,633

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - General and Special Compensation Funds

Notes to Fund Financial Statements

December 31, 2016

b) Other property and equipment

	2016		
	Cost \$	Accumulated amortization \$	Net \$
Furniture and fixtures	2,639,295	2,120,809	518,486
Computer hardware	1,180,036	917,619	262,417
Artwork and collectibles	49,160	45,405	3,755
Law libraries - at nominal value	1	-	1
	3,868,492	3,083,833	784,659
	2015		
	Cost \$	Accumulated amortization \$	Net \$
Furniture and fixtures	2,576,056	2,018,612	557,444
Computer hardware	1,210,609	956,775	253,834
Artwork and collectibles	49,160	45,405	3,755
Law libraries - at nominal value	1	-	1
	3,835,826	3,020,792	815,034

c) Intangible assets

	2016		
	Cost \$	Accumulated amortization \$	Net \$
Computer software	1,636,970	1,304,847	332,123
Website development	80,578	-	80,578
	1,717,548	1,304,847	412,701

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(5)

The Law Society of British Columbia - General and Special Compensation Funds

Notes to Fund Financial Statements

December 31, 2016

	2015		
	Cost \$	Accumulated amortization \$	Net \$
Computer software	1,506,496	1,100,751	405,745
Website development	-	-	-
	1,506,496	1,100,751	405,745

In 2016, intangible assets with an aggregate amount of \$211,053 (2015 - \$48,999) were purchased.

5 Accounts payable and accrued liabilities

Accounts payable and accrued liabilities include the following amounts collected on behalf of external organizations, but not yet paid:

	2016 \$	2015 \$
Advocate	399,077	378,066
Courthouse Libraries BC	2,139,174	2,206,527
Lawyers Assistance Program	788,829	769,215
Pro bono	339,795	336,731
CanLII	578,197	449,474
Federation of Law Societies	502,745	277,435
Rural Education and Access to Lawyers	69,663	49,228

6 Unrestricted net assets

The General Fund unrestricted net assets include \$2,647,035 (2015 - \$2,011,184) which has been allocated to capital expenditures in accordance with the capital plan.

The General Fund unrestricted net assets also include \$4,766,120 (2015 - \$2,650,024) which has been appropriated for future trust assurance expenses. During the year, \$4,548,052 (2015 - \$4,048,565) in trust administration fee revenue was collected, and \$2,431,956 (2015 - \$2,436,344) in trust assurance expenses were incurred.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(6)

The Law Society of British Columbia - General and Special Compensation Funds

Notes to Fund Financial Statements

December 31, 2016

The remaining General Fund net assets represent \$11,045,351 (2015 - \$10,930,412) invested in capital assets, and working capital of \$1,357,933 (2015 - (\$652,426)), combining for a total unrestricted net asset amount of \$12,403,284 (2015 - \$10,277,986).

	(in 000s)				2016	2015
	Invested in capital \$	Working capital \$	Unrestricted \$	Trust assurance \$	Capital plan \$	Total \$
Net assets - Beginning of year	10,930	(652)	10,278	2,650	2,011	14,939
Net (deficiency) excess of revenue over expenses	(1,294)	2,010	716	2,116	2,045	4,877
Repayment of building payable (note 7)	500	-	500	-	(500)	-
Purchase of capital assets (note 4)	909	-	909	-	(909)	-
Net assets - End of year	11,045	1,358	12,403	4,766	2,647	19,816
						14,939

7 Building loan payable

In 1992, the Benchers authorized the borrowing of monies from the Lawyers Insurance Fund to fund the capital development of the Society's buildings at 845 Cambie Street, Vancouver, B.C. The loan is secured by the buildings, has no fixed repayment terms and bears interest calculated monthly at a rate equal to the stated monthly bond yield to maturity earned on the Lawyers Insurance Fund investment portfolio. Interest paid on the building loan is disclosed in note 8. The outstanding building loan balance at year-end is \$2.6 million (2015 - \$3.1 million). It is the intention of the Benchers to require the General Fund to repay a minimum of \$500,000 of the principal each year. During 2016, principal of \$500,000 (2015 - \$500,000) was repaid. The loan will be paid off in total by 2022.

	2016 %	2015 %
Weighted average rate of interest	2.09	2.07

8 Interfund transactions

The operations of the General, Lawyers Insurance and Special Compensation Funds are controlled by the management of the Society. Balances between the funds generally arise from transactions of an operating nature and are recorded at the exchange amount at the dates of the transactions. Surplus funds are invested in the Lawyers Insurance Fund investment portfolio.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - General and Special Compensation Funds

Notes to Fund Financial Statements

December 31, 2016

Amounts due to and from the Lawyers Insurance Fund are due on demand and have no fixed terms of repayment. The Lawyers Insurance Fund has authorized a loan facility of up to \$1 million, of which \$nil has been drawn down at December 31, 2016 (2015 - \$nil), to the General Fund to fund capital expenditures in accordance with the capital plan. The Lawyers Insurance Fund has also authorized a loan facility of up to \$8 million, of which \$nil has been drawn down at December 31, 2016 (2015 - \$nil), to the Special Compensation Fund.

Monthly interest on the Lawyers Insurance Fund's net loan position with the General and Special Compensation Funds is earned at the rate equal to the stated monthly bond yield to maturity earned on the Lawyers Insurance Fund investment portfolio. The average bond yield for 2016 was 2.09% (2015 - 2.07%). The General Fund's net loan position includes the General Fund's building loan and other operating balances with the Lawyers Insurance Fund. The net loan position fluctuates during the year as amounts are transferred between the General Fund, the Special Compensation Fund and the Lawyers Insurance Fund to finance ongoing operations.

During 2016, interest of \$54,902 was paid on the building loan and interest revenue of \$427,221 was received from General Fund cash balances held by the Lawyers Insurance Fund and \$28,512 was received from Special Compensation Fund cash balances held by the Lawyers Insurance Fund for a net interest income of \$400,831.

During 2015, interest of \$64,900 was paid on the building loan and interest revenue of \$309,540 was received from General Fund cash balances held by the Lawyers Insurance Fund and \$27,864 was received from Special Compensation Fund cash balances held by the Lawyers Insurance Fund for a net interest income of \$272,504.

Other interfund transactions are disclosed elsewhere in these Fund Financial Statements.

9 Special Compensation Fund claims and program changes

a) Outstanding claims

Pursuant to section 31(6) of the Legal Profession Act, the payment of Special Compensation Fund claims is at the discretion of the Special Compensation Fund Committee as delegated by the Benchers. As at December 31, 2016, there were no remaining claims for which statutory declarations had been received. All claims for which statutory declarations were received have been reviewed by the Special Compensation Fund Committee.

For claims reported prior to May 1, 2004, the insurance bond provided that total claims attributable to the period in excess of \$2,500,000 were 100% reimbursed by a commercial insurer up to a maximum of \$15,000,000 for claims against one lawyer and in total, other than as noted in note 9(b). As set out in note 1, claims reported after May 1, 2004 are subject to Part B coverage by the Lawyers Insurance Fund.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(8)

The Law Society of British Columbia - General and Special Compensation Funds

Notes to Fund Financial Statements

December 31, 2016

b) Wirick case

In May 2002, the Discipline Committee ordered an audit investigation, pursuant to Rule 4-43, of Martin Keith Wirick's practice.

At December 31, 2016, there were no remaining claims still under consideration.

Until May 1, 2004, the Special Compensation Fund carried insurance of \$15,000,000 for each bond period (\$17,500,000 total coverage with a deductible of \$2,500,000). The bond period is defined as the year in which the Society becomes aware of evidence indicating a member may have been guilty of an act or acts of misappropriation or wrongful conversion. All claims concerning Mr. Wirick fell into the 2002 bond period and, as such, the Special Compensation Fund had claims greater than its level of insurance. In early 2005, the final proof of loss that reached this limit was filed. In 2002, the Benchers agreed to allow the Special Compensation Fund Committee to exceed the \$17,500,000 cap they had imposed in the Society rules.

In 2006, the Benchers approved a payment of \$7,543,528 to be paid to claimants over four years commencing in fiscal 2007 at \$1,885,882 per year. The final payment was made in 2010.

In December 2012, the Benchers approved a further payment of \$162,399 that was paid to claimants in 2013.

In 2016, the Special Compensation Fund recovered \$nil (2015 - \$nil) related to the Wirick case.

10 Related parties

The elected Benchers include members drawn from law firms across the province. These law firms may at times be engaged by the Society in the normal course of business. During the year ended December 31, 2016, expenses of \$223,616 (2015 - \$232,515) recorded at carrying amount were incurred by the General Fund during the normal course of business with these law firms.

11 Capital management

The Society defines its capital as the amounts included in its unrestricted net assets. Its objective when managing capital is to safeguard its ability to continue as a going concern so that it can continue to fulfill its objectives and meet its requirements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(9)

The Law Society of British Columbia - General and Special Compensation Funds

Notes to Fund Financial Statements

December 31, 2016

12 Financial instruments

The General and Special Compensation Funds' financial instruments consist of cash, accounts receivable and accounts payable and accrued liabilities.

The significant financial risks to which the Society is exposed are credit risk and liquidity risk.

a) Credit risk

Cash and accounts receivable expose the Funds to credit risk.

The maximum exposure to credit risk arising from the above-noted items is \$2,063,503 (2015 - \$1,575,255). Credit risk arises from the possibility that a counterparty to an instrument fails to meet its obligations.

b) Liquidity risk

Liquidity risk is the risk that the Funds will not be able to meet all cash outflow requirements. Financial instruments held by the Society are limited to cash, accounts receivable and accounts payable and accrued liabilities and, therefore, bear no significant liquidity risk.

13 Obligations and commitments under operating leases

The Society has committed to payments under certain operating leases relating to vehicle costs. Future minimum lease payments required in each of the next four fiscal years and thereafter are:

For the year ending December 31	\$
2017	8,715
2018	6,804
2019	3,402
2020	-
Total future minimum lease payments	18,921

For the year ended December 31, 2016, an amount of \$24,236 representing payments under operating leases was expensed (2015 - \$24,927).

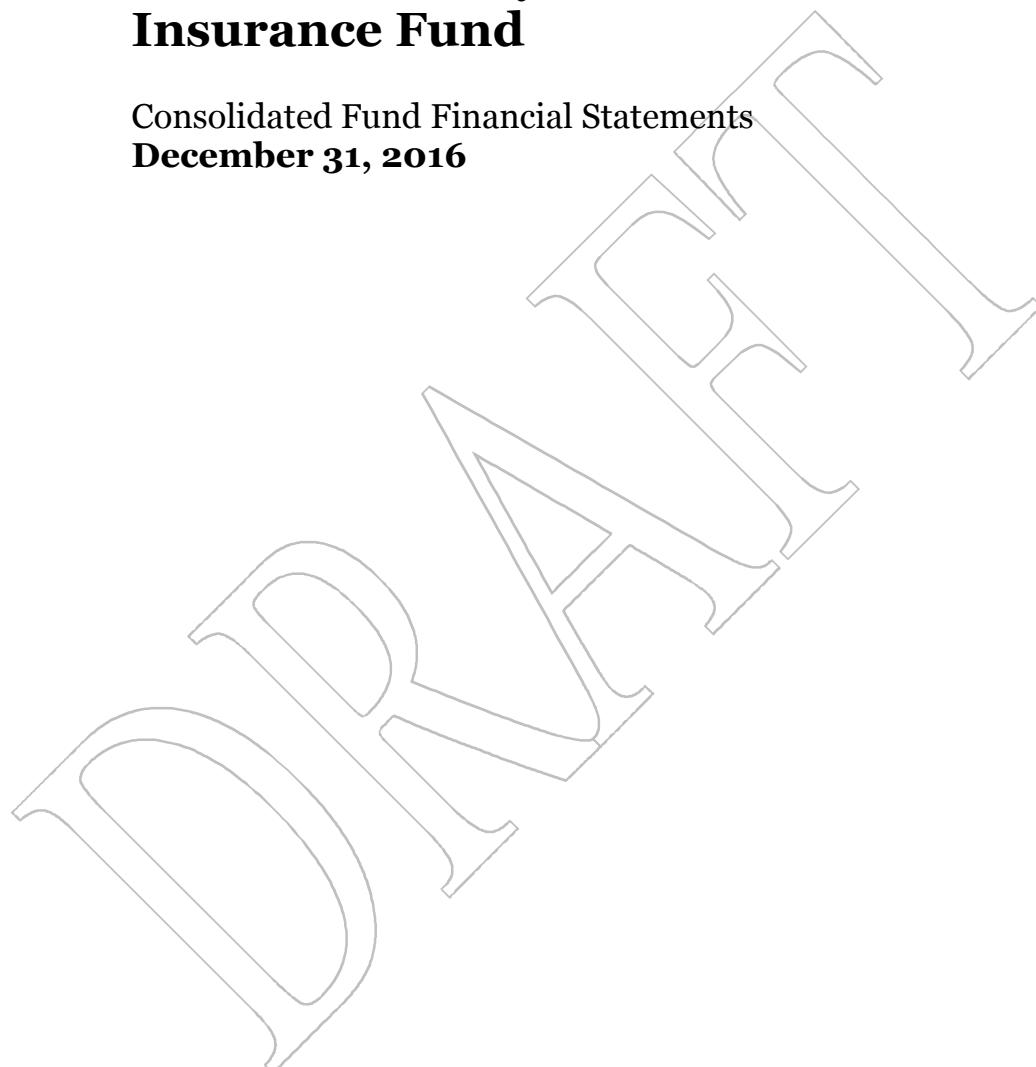
14 Comparative information

Comparative figures have been reclassified to conform to the current year's presentation.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

**The Law Society of British
Columbia - Lawyers
Insurance Fund**

Consolidated Fund Financial Statements
December 31, 2016



**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

March_____, 2017

Independent Auditor's Report

**To the Members of
The Law Society of British Columbia**

We have audited the accompanying consolidated fund financial statements of The Law Society of British Columbia - Lawyers Insurance Fund, and its subsidiary, which comprise the consolidated fund statement of financial position as at December 31, 2016 and the consolidated fund statements of revenue and expenses, changes in net assets, and cash flows for the year then ended, and the related notes, which comprise a summary of significant accounting policies and other explanatory information.

Management's responsibility for the consolidated fund financial statements

Management is responsible for the preparation and fair presentation of these consolidated fund financial statements in accordance with Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of consolidated fund financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on these consolidated fund financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the consolidated fund financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated fund financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated fund financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated fund financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the consolidated fund financial statements.

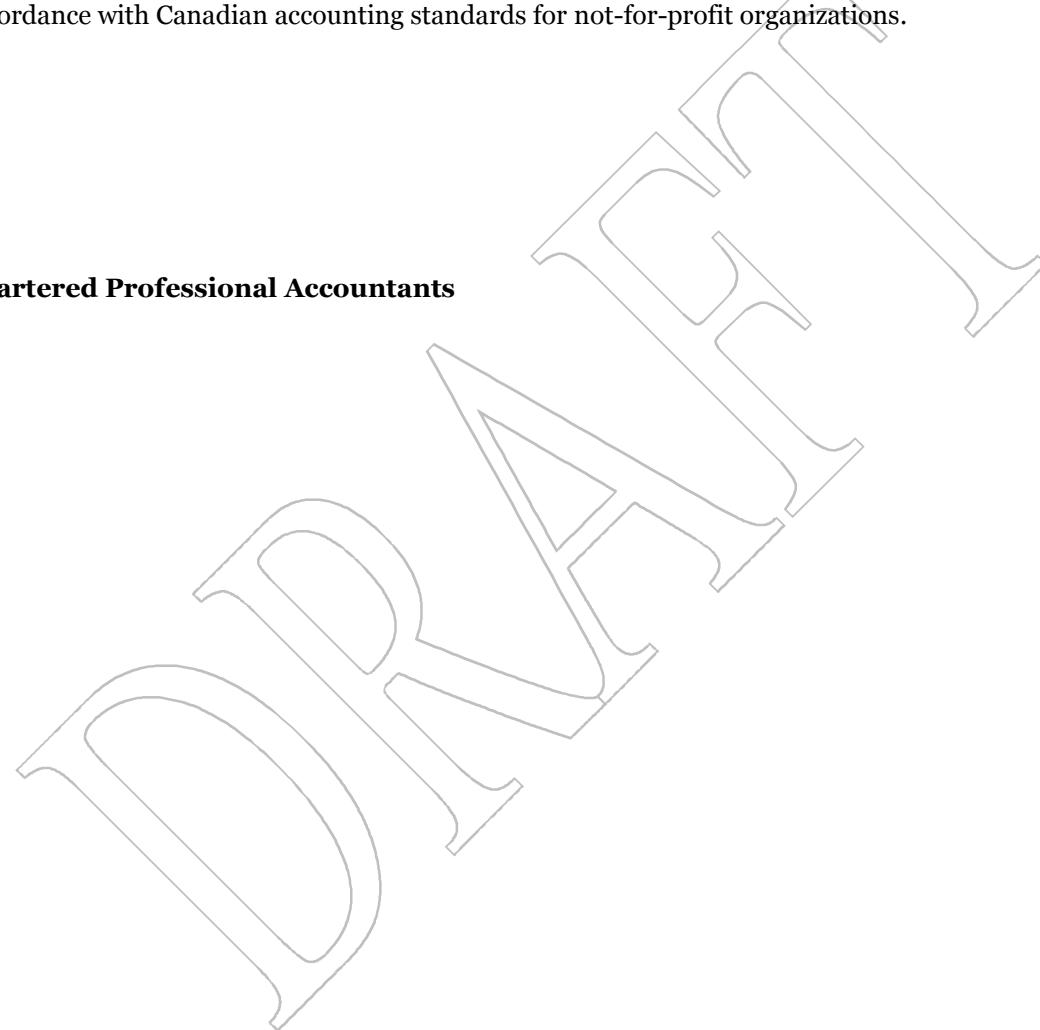
We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

Opinion

In our opinion, the consolidated fund financial statements present fairly, in all material respects, the financial position of The Law Society of British Columbia - Lawyers Insurance Fund, and its subsidiary, as at December 31, 2016 and the results of their operations and their cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations.

Chartered Professional Accountants



**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - Lawyers Insurance Fund

Consolidated Fund Statement of Financial Position

As at December 31, 2016

	2016 \$	2015 \$
Assets		
Cash	28,661,761	24,279,287
Accounts receivable - net of allowance (note 3)	254,914	4,421,970
Prepaid expenses	30,937	47,441
Short-term investments (note 5)	4,201,359	3,936,524
Members' share of provision for claims	1,147,131	1,248,555
General Fund building loan (note 7)	2,600,000	3,100,000
Investments (note 6)	<u>154,267,887</u>	<u>144,173,568</u>
	<u>191,163,989</u>	<u>181,207,345</u>
Liabilities		
Accounts payable and accrued liabilities (notes 4 and 8)	1,825,625	1,163,740
Deferred revenue	7,461,217	7,330,710
Due to General Fund (note 10)	34,170,251	28,064,711
Due to Special Compensation Fund (note 10)	1,363,844	1,351,787
Provision for claims (note 9)	67,192,720	59,488,074
Provision for ULAЕ (note 9)	<u>8,781,000</u>	<u>7,920,000</u>
	<u>120,794,657</u>	<u>105,319,022</u>
Net assets		
Unrestricted net assets	52,869,332	58,388,323
Internally restricted net assets (note 11)	<u>17,500,000</u>	<u>17,500,000</u>
	<u>70,369,332</u>	<u>75,888,323</u>
	<u>191,163,989</u>	<u>181,207,345</u>
Commitments (note 10)		
Contingencies (note 14)		

Approved by

____ President _____ Chair of Finance and Audit Committee

The accompanying notes are an integral part of these consolidated fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - Lawyers Insurance Fund

Consolidated Fund Statement of Changes in Net Assets

For the year ended December 31, 2016

		2016	2015
	Unrestricted \$	Internally restricted \$	Total \$
Net assets - Beginning of year	58,388,323	17,500,000	75,888,323
(Deficiency) excess of revenue over expenses for the year	<u>(5,518,991)</u>	-	<u>(5,518,991)</u>
Net assets - End of year	<u>52,869,332</u>	<u>17,500,000</u>	<u>70,369,332</u>
			<u>75,888,323</u>

The accompanying notes are an integral part of these consolidated fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - Lawyers Insurance Fund

Consolidated Fund Statement of Revenue and Expenses

For the year ended December 31, 2016

	2016 \$	2015 \$
Revenue		
Annual assessments	14,681,333	14,452,561
Investment income (note 6)	5,375,891	4,655,494
Other income	77,500	68,999
	<hr/> <u>20,134,724</u>	<hr/> <u>19,177,054</u>
Insurance expenses		
Actuary, consultant and investment manager fees	801,592	568,406
Allocated office rent from General Fund	291,417	246,271
Contribution to program and administrative costs of General Fund	1,292,210	1,349,551
Insurance	407,330	393,142
Office	533,629	347,922
Premium taxes	8,572	8,605
Provision for settlement of claims (note 9)	22,941,291	15,913,668
Provision for ULAE (note 9)	770,000	689,000
Salaries, wages and benefits	2,544,395	2,454,744
	<hr/> <u>29,590,436</u>	<hr/> <u>21,971,309</u>
Loss prevention expenses		
Contribution to co-sponsored program costs of General Fund	862,284	925,039
	<hr/> <u>30,452,720</u>	<hr/> <u>22,896,348</u>
Deficiency of revenue over expenses before the following		
	(10,317,996)	(3,719,294)
Fair value changes in investments (note 6)	<hr/> <u>4,804,907</u>	<hr/> <u>13,802,978</u>
	(5,513,089)	10,083,684
Provision for income taxes	<hr/> <u>5,902</u>	<hr/> <u>5,997</u>
(Deficiency) excess of revenue over expenses for the year	<hr/> <u>(5,518,991)</u>	<hr/> <u>10,077,687</u>

The accompanying notes are an integral part of these consolidated fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - Lawyers Insurance Fund

Consolidated Fund Statement of Cash Flows

For the year ended December 31, 2016

	2016 \$	2015 \$
Cash flows from operating activities		
(Deficiency) excess of revenue over expenses for the year	(5,518,991)	10,077,687
Items not affecting cash		
Unrealized gain on investments	(2,619,395)	(1,469,755)
Realized gain on disposal of investments	(2,185,462)	(12,534,845)
Pooled distributions from investments	(5,612,436)	(4,737,893)
Amortization of 750 Cambie Street building	-	26,708
Amortization of deferred tenant inducement	-	34,423
	<hr/>	<hr/>
Decrease (increase) in assets	(15,936,284)	(8,603,675)
Accounts receivable	4,167,056	(2,996,617)
Prepaid expenses	16,504	466,360
Short-term investments	(264,835)	(715,838)
Members' share of provision for claims	101,424	(56,820)
Increase (decrease) in liabilities	<hr/>	<hr/>
Accounts payable and accrued liabilities	661,885	(591,211)
Deferred revenue	130,507	132,382
Provision for claims	7,704,646	6,928,509
Provision for ULAE	861,000	689,000
	<hr/>	<hr/>
	(2,558,097)	(4,747,910)
Cash flows from investing activities		
Decrease in General Fund building loan	500,000	500,000
Purchase of investments	(7,823,130)	(33,255,953)
Proceeds from disposal of investments	8,146,104	34,064,693
	<hr/>	<hr/>
	822,974	1,308,740
Cash flows from financing activities		
Interfund transfers (note 10)	<hr/>	<hr/>
	6,117,597	3,955,337
Increase in cash	<hr/>	<hr/>
Cash - Beginning of year	4,382,474	516,167
Cash - End of year	<hr/>	<hr/>
	24,279,287	23,763,120
	<hr/>	<hr/>
	28,661,761	24,279,287
Supplementary cash flow information		
Interest paid	<hr/>	<hr/>
	455,737	337,404
Interest income received	<hr/>	<hr/>
	54,902	64,900

The accompanying notes are an integral part of these consolidated fund financial statements.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

1 Nature of operations

The Law Society of British Columbia (the Society) regulates the legal profession in British Columbia, protecting public interest in the administration of justice by setting and enforcing standards of professional conduct for lawyers.

The Society's fund covered in these consolidated fund financial statements is for the Lawyers Insurance Fund and the Society's only subsidiary, LSBC Captive Insurance Company (the Captive), that together comprise the Society's insurance program.

The Lawyers Insurance Fund (the Fund) is maintained by the Society pursuant to Section 30 of the Legal Profession Act. The Captive is considered assessable for income tax under current legislation. The Captive is subject to regulation by the Financial Institutions Commission (FICOM). Effective January 1, 1990, the Fund underwrites the program by which errors and omissions insurance is provided to members of the Society.

Part A

The Society's members have limits of coverage for claims and potential claims arising from negligent acts, errors or omissions under Part A of the B.C. Lawyers' Compulsory Professional Liability Insurance Policy (the Policy) as follows:

	\$	\$
The Fund Deductible - applicable to indemnity payments only	995,000 or 5,000	990,000 or 10,000
Limit per error or related errors	<hr/>	1,000,000
Annual aggregate limit for all errors per member	<hr/>	2,000,000

The amount of the member deductible is \$5,000 for each initial claim resulting in the payment of damages and \$10,000 for each additional claim within a three-year period resulting in the payment of damages.

For claims reported between 1990 and 1996, the Captive entered into reinsurance contracts under which all claim payments above a per claim limit and in excess of inner aggregate retentions were ceded to reinsurers. Reinsurance does not relieve the Captive of primary liability as the originating insurer. All losses on claims since 1997 are fully reimbursed by the Fund on behalf of the Society under agreement.

For the 2016 and 2015 policy years, the Society and the Captive have obtained stop-loss reinsurance in the amount of \$12,000,000 to cover aggregate payments over \$25,000,000 for Parts A and C of the Policy. This limit is co-insured 80/20 with the reinsurer paying 80% of losses over \$25,000,000 to a maximum of \$12,000,000 and the Fund paying 20%.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(1)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

Part B

Effective May 1, 2004, Part B of the Policy provides defined insurance coverage for dishonest appropriation of money or other property entrusted to and received by insured lawyers in their capacity as barristers and solicitors and in relation to the provision of professional services.

For the 2016 and 2015 policy years, there is a \$300,000 per claim limit and a \$17,500,000 profession-wide annual aggregate limit. The Society and the Captive have obtained insurance in the amount of \$5,000,000 to cover a portion of the annual aggregate limit. There is no deductible payable by the member. This insurance is subject to a \$3,000,000 group deductible and is co-insured 80/20 with the insurer paying 80% of losses over \$3,000,000, to a maximum of \$5,000,000, and the Fund paying 20%.

Part C

Effective January 1, 2012, Part C of the Policy provides defined insurance coverage for trust shortages suffered by insured lawyers as a result of relying on fraudulent certified cheques.

For the 2016 and 2015 policy years, there is a limit of \$500,000 per claim, and per lawyer and firm annually, a profession-wide annual aggregate of \$2 million, and a deductible of 35% of the client trust fund shortage (reduced by the amount of any overdraft paid). Coverage is contingent upon compliance with the Society's client identification and verification rules.

The Society's General Fund and Special Compensation Fund are presented separately in fund financial statements.

2 Significant accounting policies

These Consolidated Fund Financial Statements are prepared in accordance with Canadian accounting standards for not-for-profit organizations (ASNPO) as issued by the Canadian Accounting Standards Board.

Basis of consolidation

These Consolidated Fund Financial Statements include the accounts of the Fund and the Captive, a wholly owned subsidiary.

Allocated administrative expenses

Administrative expenses are recovered by the General Fund of the Society from the Fund. Recoveries are based on amounts derived either on percentage of use or the proportion of the Fund's staff compared to the Society's total staff cost, or a set amount.

Cash

Cash comprises cash on hand and held with a Canadian chartered bank.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(2)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

Deferred tenant inducements

In 2006, the Fund provided one of its tenants in the 750 Cambie Street building with free gross rent of \$384,868 at the start of the lease. This free gross rent is amortized over the term of the lease. The balance of the deferred tenant inducements of \$49,357 was written off when the property was sold in 2015.

Fair value of financial instruments

The fair values of cash, accounts receivable, short-term investments and accounts payable and accrued liabilities correspond to their carrying values due to their short-term nature.

The fair values of the provision for claims correspond to their carrying values because they are discounted.

The interfund balances including the building loan receivable and other interfund transactions are recorded at their carrying amounts which approximate their exchange amounts.

Short-term investments

Short-term investments consist of pooled money market funds, whose investments have original maturities of less than 90 days, and the carrying amount approximates the fair value at the reporting date due to their short-term maturities.

Investments

The Fund's investments consist of units in pooled equity, bond, real estate and mortgage funds and are initially and subsequently measured at fair value. Changes in fair value are recognized in the consolidated fund statement of revenue and expenses in the year incurred. Transaction costs that are directly attributable to the acquisition of these investments are recognized in the consolidated fund statement of revenue and expenses in the year incurred.

In addition, the 750 Cambie Street building is a property that was held as an investment for the Fund. The property was recognized at cost. Amortization was provided on a straight-line basis as follows:

Building - 750 Cambie Street	2-1/2% per annum
Base building improvements	2-1/2% per annum
Tenant improvements	over lease period
Deferred tenant inducements	over lease period

Investment income

Investment income and pooled fund distributions are recorded on an accrual basis. Dividends are recorded on the date of record. Gains and losses realized on the disposal of investments are taken into income on the date of disposal.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(3)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

Provision for claims

The provision for claims and unallocated loss adjustment expenses (ULAE) represent an estimate for all external costs of investigating and settling claims and potential claims reported prior to the date of the consolidated fund statement of financial position. The provision is adjusted as additional information on the estimated amounts becomes known during the course of claims settlement. All changes in estimates are expensed in the current period. The Fund presents its claims on a discounted basis.

Revenue recognition

The Fund follows the deferral method of accounting for annual assessments. Assessments are billed and received in advance on a calendar-year basis. Accordingly, assessments for the next fiscal year received prior to December 31 have been recorded as deferred revenue for financial reporting purposes and will be recognized as revenue in the next calendar year.

All other revenues are recognized when receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Use of estimates

The preparation of financial statements in conformity with ASNPO requires management to make estimates and assumptions which affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the the consolidated fund financial statements and revenues and expenses for the period reported. The determination of the provision for claims and ULAE and the reinsurers' share of the provision for claims involves significant estimation. Actual results could differ from those estimates and the differences could be material.

Financial instruments

The Fund's financial instruments consist of cash, accounts receivable, short-term investments, investments and accounts payable and accrued liabilities.

The significant financial risks to which the Fund is exposed are credit risk, market risk, price risk, and liquidity risk.

Credit risk

Cash, accounts receivable, members' share of provision for claims, bond pooled funds and the investment in real estate mortgage indirectly expose the Fund to credit risk.

The maximum exposure to credit risk arising from the above-noted items is \$101,136,795 (2015 - \$98,296,244).

Credit risk arises from the possibility that a counterparty to an instrument fails to meet its obligations.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(4)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

The cash deposits are held only with Schedule I banks. The accounts receivable balances are spread across the broad membership base with no significant exposure to any one individual. The investment guidelines mitigate credit risk by ensuring the investments in the bond pooled funds have an adequate minimum credit rating and well-diversified portfolios.

Market risk

Market risk is the potential for loss to the Fund from changes in the value of its financial instruments due to changes in interest rates, foreign exchange rates or equity prices.

The Fund manages market risk by diversifying investments within the various asset classes and investing in pooled funds as set out in the guidelines of the Society's statement of investment policies and procedures (SIPP).

Price risk

Price risk is the risk that the fair value of the Society's investments will fluctuate due to changes in the market prices whether these changes are caused by factors specific to the individual financial instrument, its issuer, or factors affecting all similar financial instruments traded in the market. It arises primarily on pooled equity, bond, real estate and mortgage fund investments.

To manage price risk, the Society has guidelines on the diversification and weighting of investments within pooled funds which are set and monitored against the Society's SIPP.

As at December 31, 2016, if pooled fund prices increased or decreased by 10% with all other factors remaining constant, net assets would have increased or decreased by approximately \$15.4 million (2015 - \$14.4 million).

Liquidity risk

Liquidity risk is the risk that the Fund will not be able to meet all cash outflow requirements. At December 31, 2016, the sum of the Fund's cash, short-term investments and pooled fund investments, at fair value, which are available to settle the liabilities of the Society as they come due, exceeded the sum of the liabilities by \$66.3 million, or 55% (2015 - \$67.07 million, or 64%).

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(5)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

3 Accounts receivable

	2016 \$	2015 \$
Member deductibles	459,109	432,897
Allowance for doubtful accounts	(295,134)	(264,097)
Receivable for premium taxes under appeal (note 14)	12	4,131,398
GST/HST receivable	79,349	106,533
Taxes receivable	94	15,239
Other receivables	<u>11,484</u>	-
	<u>254,914</u>	<u>4,421,970</u>

4 Government remittances

The following government remittances are included in accounts payable:

	2016 \$	2015 \$
Ministry of Finance - PST	452	813
Receiver General - corporate income tax	-	969
Ministry of Finance - premium tax	<u>8,572</u>	<u>8,374</u>
	<u>9,024</u>	<u>10,156</u>

5 Short-term investments

Short-term investments comprise pooled money market funds with the following balances:

	2016 \$	2015 \$
Money market funds	<u>4,201,359</u>	<u>3,936,524</u>

6 Investments

	2016 \$	2015 \$
Investments - at fair value	<u>154,267,887</u>	<u>144,173,568</u>

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(6)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

	2016			
	Carrying cost \$	Gross unrealized gains \$	Gross unrealized losses \$	Estimated fair value \$
Bonds				
Pooled Funds	41,216,639	-	(594,967)	40,621,672
Equities				
Canadian Pooled Funds	21,233,972	14,256,017	-	35,489,989
International Pooled Funds	33,490,648	14,214,265	-	47,704,913
	54,724,620	28,470,282	-	83,194,902
Real Estate & Mortgage				
Real Estate Fund	14,521,175	860,268	-	15,381,443
Mortgage Fund	15,221,185	-	(151,315)	15,069,870
	29,742,360	860,268	(151,315)	30,451,313
	125,683,619	29,330,550	(746,282)	154,267,887
	2015			
	Carrying cost \$	Gross unrealized gains \$	Gross unrealized losses \$	Estimated fair value \$
Bonds				
Pooled Funds	39,179,020	-	(13,998)	39,165,022
Equities				
Canadian Pooled Funds	19,022,670	10,079,833	-	29,102,503
International Pooled Funds	30,825,615	15,831,672	-	46,657,287
	49,848,285	25,911,505	-	75,759,790
Real Estate & Mortgage				
Real Estate Fund	14,508,072	76,102	-	14,584,174
Mortgage Fund	14,673,319	-	(8,737)	14,664,582
	29,181,391	76,102	(8,737)	29,248,756
	118,208,696	25,987,607	(22,735)	144,173,568

The effective yield on the Bond, Mortgages and Equities portion of the investment portfolio was 2.29% (2015 - 2.34%).

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(7)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

Investment risk management

The Society has adopted policies which establish the guidelines for all investment activities. These guidelines apply to the investment funds controlled by the Fund.

The Society's overall investment philosophy is to maximize the long-term real rate of return subject to an acceptable degree of risk.

The Society's long-term funding requirements and relatively low level of liquidity dictate a portfolio with a mix of fixed income, equities, as well as real estate and mortgages. The Society invests in bonds, equities, real estate and mortgages through pooled funds.

Investment income

	2016 \$	2015 \$
Interest on cash	143,498	151,091
Pooled distributions	5,638,747	4,799,721
Net interfund loan interest expense (note 10)	(400,835)	(272,504)
Building income - 750 Cambie Street (revenue of \$nil (2015 - \$172,427); net of expenses of \$5,519 (2015 - \$195,241)	(5,519)	(22,814)
Investment income	5,375,891	4,655,494

Fair value changes in investments

	2016 \$	2015 \$
Realized gain on disposal of investments	2,185,512	12,333,223
Unrealized gain on investments measured at fair value	2,619,395	1,469,755
Fair value changes in investments	4,804,907	13,802,978

7 General Fund building loan

In 1992, the Benchers authorized the lending of monies from the Fund to support the capital development of the Society's buildings at 845 Cambie Street, Vancouver, B.C. The loan has no fixed repayment terms and bears interest calculated monthly at a rate equal to the stated monthly bond yield to maturity earned on the Fund's investment portfolio. It is the intention of the Benchers to require the General Fund to repay a minimum of \$500,000 of the principal each year. During 2016, principal of \$500,000 (2015 - \$500,000) was repaid.

	2016 %	2015 %
Weighted average rate of return	2.09	2.07

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(8)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

8 Accounts payable and accrued liabilities

	2016 \$	2015 \$
Trade payables	1,590,314	823,736
Accrued trade expenses	226,287	329,952
Taxes payable	452	709
Premium taxes payable	8,572	8,374
Income taxes payable	-	969
	<hr/>	<hr/>
	1,825,625	1,163,740

9 Provision for claims and unallocated loss adjustment expenses (ULAE)

The changes in unpaid claims recorded in the consolidated fund statement of financial position are as follows:

	2016 \$	2015 \$
Part A and Part C Insurance Coverage		
Provision for claims - Beginning of year	59,062,074	51,997,565
Provision for losses and expenses for claims occurring in the current year	17,944,208	16,208,000
Increase (decrease) in estimated losses and expenses for losses occurring in prior years	4,530,000	(279,000)
Provision for claims liability	<hr/>	<hr/>
Less:		
Payments on claims incurred in the current year	(1,013,274)	(947,153)
Payments on claims incurred in prior years	(14,401,094)	(8,054,034)
Recoveries on claims	473,230	79,876
Change in due to (from) members	(101,424)	56,820
Claim payments - net of recoveries	<hr/>	<hr/>
Provision for claims - End of year	66,493,720	59,062,074
Part B Insurance Coverage		
Total provision for Parts A, B and C Insurance Coverage	<hr/>	<hr/>
	67,192,720	59,488,074

The determination of the provision for unpaid claims and adjustment expenses requires the estimation of two major variables or quanta, being development of claims and the effects of discounting, to establish a best estimate of the value of the respective liability or asset.

The provision for unpaid claims and adjustment expenses is an estimate subject to variability, and the variability, as with any insurance company, could be material in the near term. The variability arises because all events affecting the ultimate settlement of claims have not taken place and may not take place for some time.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(9)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

Variability can be caused by receipt of additional claim information, changes in judicial interpretation of contracts, significant changes in severity of claims from historical trends, the timing of claims payments and future rates of investment return. The estimates are principally based on the Fund's historical experience. Methods of estimation have been used that the Society believes produce reasonable results given current information.

The provision for ULAE is an actuarially determined estimate of the Fund's future costs relating to the administration of claims and potential claims reported up to the consolidated fund statement of financial position date.

The Fund discounts its best estimate of claims provisions at a rate of interest of 2.65% (2015 - 2.50%). The Fund determines the discount rate based upon the expected return on its investment portfolio of assets with appropriate assumptions for interest rates relating to reinvestment of maturing investments.

A 1% increase in the discount rate will have a favourable impact on the discounted claims liability of \$2.272 million (2015 - \$1.914 million) and a 1% decrease in the discount rate will have an unfavourable impact on the discounted claims liability of \$2.434 million (2015 - \$2.049 million).

To recognize the uncertainty in establishing these best estimates, to allow for possible deterioration in experience, and to provide greater comfort that the actuarial liabilities are adequate to pay future benefits, the Fund includes a Provision for Adverse Deviations (PFAD) in some assumptions relating to claims development and future investment income. The PFAD is selected based on guidance from the Canadian Institute of Actuaries.

The effects of discounting and the application of PFAD are as follows (in thousands of dollars):

	2016 \$	2015 \$
Undiscounted		
Effect of present value	69,081	60,825
PFADs	(5,678)	(4,479)
	<hr/> 11,423	<hr/> 9,814
Discounted		
	<hr/> 74,826	<hr/> 66,160

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(10)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

Claims development tables

A review of the historical development of the Fund's insurance estimates provides a measure of the Fund's ability to estimate the ultimate value of claims. The top half of the following tables illustrates how the Fund's estimate of total undiscounted claims costs for each year has changed at successive year-ends. The bottom half of the tables reconciles the cumulative claims to the amount appearing in the consolidated fund statement of financial position.

Part A (and C, from 2012 onwards) insurance claims (in thousands of dollars)

Claims year	2007 \$	2008 \$	2009 \$	2010 \$	2011 \$	2012 \$	2013 \$	2014 \$	2015 \$	2016 \$	Total \$
Estimate of undiscounted ultimate claims costs											
At end of claims year	13,580	13,670	11,520	13,650	14,560	13,390	15,230	12,690	15,090	16,590	16,720
One year later	14,980	13,230	11,310	12,990	13,550	13,080	15,100	12,390			
Two years later	15,250	13,470	11,500	12,610	11,570	11,970	17,780	12,240			
Three years later	14,940	13,360	13,470	13,210	10,920	10,690	20,300				
Four years later	14,820	13,170	13,960	13,920	11,100	10,490					
Five years later	14,610	13,060	14,540	15,190	11,810						
Six years later	16,190	12,780	14,240	14,900							
Seven years later	16,400	13,070	14,340								
Eight years later	16,190	13,270									
Nine years later	16,790										
Current estimate of cumulative claims	16,790	13,270	14,340	14,900	11,810	10,490	20,300	12,240	16,590	16,720	147,450
Cumulative payments to date	(15,839)	(12,059)	(12,664)	(12,032)	(8,708)	(6,313)	(12,942)	(4,179)	(4,271)	(1,030)	(90,037)
Undiscounted unpaid liability	951	1,211	1,676	2,868	3,102	4,177	7,358	8,061	12,319	15,690	57,413
Undiscounted unpaid liability in respect of 2006 and prior years											2,907
Undiscounted unallocated loss adjustment expense reserve											8,021
Total undiscounted unpaid claims liability											68,341
Discounting adjustment (includes Claim PFAD)											5,695
Total discounted unpaid claims liability											74,036

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(11)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

Part B insurance claims (in thousands of dollars)

Claims year	2007 \$	2008 \$	2009 \$	2010 \$	2011 \$	2012 \$	2013 \$	2014 \$	2015 \$	2016 \$	Total \$
Estimate of undiscounted ultimate claims costs											
At end of claims year	251	8	107	23	28	18	53	562	41	274	
One year later	250	7	196	19	24	13	82	500	184		
Two years later	274	9	197	22	23	12	100				
Three years later	322	9	197	26	23	13	115				
Four years later	353	9	197	26	23	8					
Five years later	375	9	197	26	25						
Six years later	121	9	197	27							
Seven years later	124	9	203								
Eight years later	124	10									
Nine years later	125										
Current estimate of cumulative claims											
Cumulative payments to date	125	10	203	27	25	8	115	421	184	274	1,392
(121)	(10)	(197)	(26)	(24)	-	(100)	(161)	(161)	(63)	(43)	(745)
Undiscounted unpaid liability	4	-	6	1	1	8	15	260	121	231	647
Undiscounted unpaid liability in respect of 2005 and prior years											8
Undiscounted unallocated loss adjustment expense reserve											85
Total undiscounted unpaid claims liability											740
Discounting adjustment (includes Claim PFAD)											50
Total discounted unpaid claims liability											790

The expected maturity of the unpaid claims provision is analyzed below (undiscounted and gross of reinsurance):

(in thousands of dollars)	Less than one year \$	One to two years \$	Two to three years \$	Three to four years \$	Four to five years \$	Over five years \$	Total \$
December 31, 2016	16,751	13,038	10,840	7,294	5,833	15,325	69,081
December 31, 2015	15,759	11,390	9,785	6,862	5,011	12,018	60,825

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(12)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016**Role of the actuary**

The actuary is appointed to fulfill reporting requirements pursuant to the Insurance (Captive Company) Act of B.C. With respect to preparation of these Consolidated Fund Financial Statements, the actuary is required to carry out a valuation of the Fund's policy liabilities and to provide an opinion regarding their appropriateness at the date of the consolidated fund statement of financial position. The factors and techniques used in the valuation are in accordance with accepted actuarial practice, applicable legislation and associated regulations. The scope of the valuation encompasses the policy liabilities as well as any other matter specified in any direction that may be made by the regulatory authorities. The policy liabilities consist of a provision for unpaid claims and adjustment expenses. In performing the valuation of the liabilities for these contingent future events, which are by their very nature inherently variable, the actuary makes assumptions as to future loss ratios, trends, expenses and other contingencies, taking into consideration the circumstances of the Fund and the nature of the insurance policies.

The valuation is based on projections for settlement of reported claims and claim adjustment expenses. It is certain that actual claims and claim adjustment expenses will not develop exactly as projected and may, in fact, vary significantly from the projections.

The actuary relies on data and related information prepared by the Fund. The actuary also analyzes the Fund's assets for its ability to support the amount of policy liabilities.

10 Interfund transactions

The operations of the Fund, the General Fund and the Special Compensation Fund are administered by the management of the Society. Balances between the funds arise from transactions of an operating nature and are recorded at exchange amounts at the dates of the transactions. Surplus funds are invested in the Fund's investment portfolio.

Amounts due to and from the General Fund and the Special Compensation Fund are due on demand and have no fixed terms of repayment. The Fund has authorized a loan facility of up to \$1 million to the General Fund to fund capital expenditures in accordance with the 10-year capital plan. The Fund has also authorized a loan facility of up to \$8 million to the Special Compensation Fund. As of December 31, 2016, no amounts have been drawn on the facilities (2015 - \$nil).

Monthly interest on the Fund's net loan position with the General Fund and Special Compensation Fund is paid to the Fund at a rate equal to the stated monthly bond yield to maturity earned on the Fund's investment portfolio. The average bond yield for 2016 was 2.09% (2015 - 2.07%). The Fund's net loan position of \$32,934,095 (2015 - \$26,316,498) includes the General Fund building loan, other operating balances with the General Fund and the loan with the Special Compensation Fund. This net loan position fluctuates during the year as amounts are transferred between the General Fund, the Special Compensation Fund and the Fund to finance ongoing operations.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(13)

The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

During the year ended December 31, 2016, interest revenue of \$54,902 (2015 - \$64,900) was received on the General Fund building loan and interest of \$427,221 (2015 - \$309,540) was paid on General Fund cash balances held by the Fund and \$28,512 (2015 - \$27,864) was paid on the Special Compensation Fund cash balances held by the Fund for a net interest expense of \$400,835 (2015 - \$272,504).

Other interfund transactions are disclosed elsewhere in these Consolidated Fund Financial Statements.

11 Internally restricted net assets

The Benchers have allocated \$17,500,000 (2015 - \$17,500,000) of the net assets to the Part B coverage for dishonest appropriation of trust funds or property.

12 Regulatory requirements and capital management

The Captive is required to maintain a minimum of \$200,000 in shareholder's equity and \$100,000 in reserves under the regulations of the Insurance (Captive Company) Act of B.C. The Captive was in compliance with these regulations throughout the year and as at December 31, 2016.

13 Related parties

The elected Benchers include members drawn from law firms across the province. These law firms may at times be engaged by the Society in the normal course of business. During the year ended December 31, 2016, expenses of \$74,923 (2015 - \$125,414) were incurred by the Fund with these law firms.

14 Contingencies

During the year ended December 31, 2011, the Ministry of Finance (the Ministry) informed the Captive that the Ministry contended that the annual assessments contributed by members to the Fund constituted premiums payable to the Captive for purposes of the Insurance Premium Tax Act and the Ministry proposed to adjust the Captive's net taxable premiums from 2005 to 2009 to reflect this. The Captive maintained that it is liable for premium tax only on amounts received by it from the Fund as a reimbursement of reinsurance premiums and general and administrative costs, and that premium tax has been paid in full. The Captive disputed the Ministry's proposal in 2011.

During 2014, the Ministry sent a notice of Revised Assessment to the Captive assessing it for premium taxes for 2008 to 2009, in the amount of \$1.087 million, which the Captive appealed. In 2015, the Ministry sent notices of Revised Assessment to the Captive assessing it for premium taxes for 2010 to 2014, amounting to a total of \$3.044 million. The Captive appealed all revised assessments.

**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

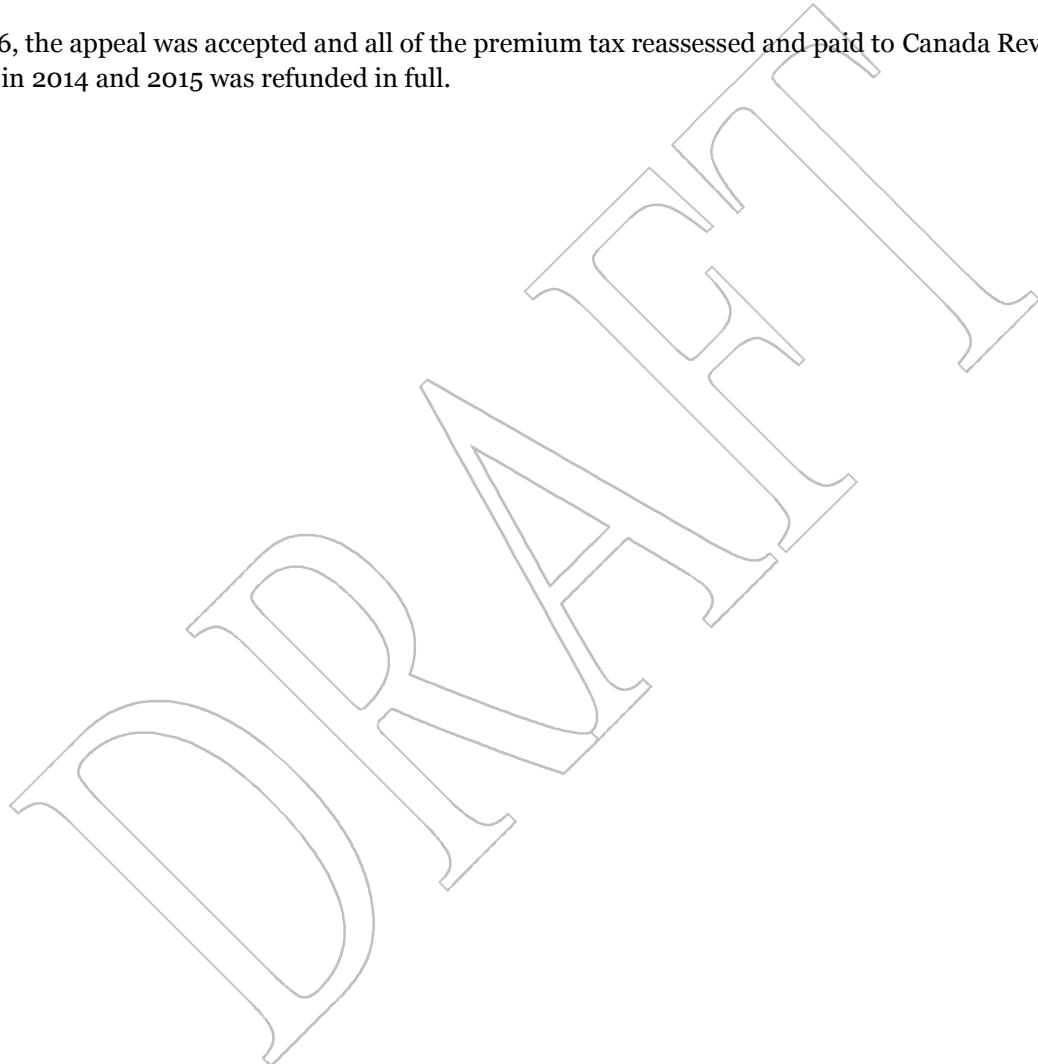
The Law Society of British Columbia - Lawyers Insurance Fund

Notes to Consolidated Fund Financial Statements

December 31, 2016

The Captive has accounted for this matter using the contingent liability method, whereby a provision is established only when it is considered likely that a liability will be incurred. The Captive did not consider the liability likely and a decision on the appeals had not yet been made. Accordingly, the payment of the revised assessments was posted to accounts receivable as they were expected to be refunded.

In 2016, the appeal was accepted and all of the premium tax reassessed and paid to Canada Revenue Agency (CRA) in 2014 and 2015 was refunded in full.



**FOR DISCUSSION WITH MANAGEMENT ONLY – SUBJECT TO AMENDMENT
NOT TO BE FURTHER COMMUNICATED**

(15)

Management Discussion and Analysis

The Law Society of British Columbia accounts for its financial activities through three separate funds: the General Fund, the Special Compensation Fund and the Lawyers Insurance Fund (LIF). Society management has the responsibility for assisting the Benchers in fulfilling the Society's mandate, while ensuring that operating expenditures are closely controlled and that appropriate accounting and internal controls are maintained. The 2016 audited financial statements for the three funds are set out in this report. The statements are presented in accordance with the presentation and disclosure standards of the Chartered Professional Accountants of Canada.

During 2016, in addition to the general oversight by the Benchers, the Finance and Audit Committee assisted the Benchers in ensuring that management and staff properly managed and reported on the financial affairs of the Society. The oversight by the Benchers and the Finance and Audit Committee included:

- Reviewing periodic financial statements of the General, Special Compensation and Consolidated Lawyers Insurance Fund
- Reviewing investment performance as managed by the appointed investment managers
- Reviewing with the Law Society's auditors their approach, scope and audit results
- Reviewing the annual Audit Report prepared by the Law Society auditors
- Recommending the 2017 practice fees and insurance assessments, and reviewing corresponding budgets
- Reviewing the enterprise risk management plan

General Fund

Overview

Overall, the 2016 results for the General Fund resulted in an operating surplus of \$4.9 million. Revenues were higher than expected, particularly in the areas of trust administration, electronic filing revenues, and practice fees. Operating expenses were similar to the prior year, but lower than expected due to savings in the areas of external counsel and professional fees.

Revenues

General Fund revenue was \$29.4 million, \$1.9 million higher than 2015 with growth in the number of lawyers and an increase in the 2016 practice fee. During 2016, net growth in the number of full-time equivalent practicing lawyers was 2.1% resulting in a total of 11,619 full fee paying equivalent lawyers for the year, compared to 11,378 in 2015. The trust administration fee revenue increased 12% due to an increase in the number of TAF-related transactions arising from greater activity in the real estate market. Electronic filing revenues increased due to an increase in the number of transactions, with increased real estate unit sales. Investment income increased due to higher cash balances held during the year. Discipline and custodianship recoveries increased over last year. Other income increased over 2015 as the result of increased PLTC grant revenues. Professional Legal Training

Course (PLTC) enrolment revenue was slightly lower in 2016, with 470 PLTC students attending during the year. Application fees and rental revenue were very similar to their 2015 levels.

The Lawyers Insurance Fund contributed \$2.2 million to the General Fund for co-sponsored programs and for general program and administrative expenses attributable to operations.

Expenses

The 2016 General Fund expenses increased by \$240,000 (0.9%) to \$26.71 million, compared to \$26.47 million in 2015.

Bencher Governance expenses increased by \$60,000 compared to 2015 due to increased travel and meeting costs.

Communication, Publications and Information Services costs were very similar to 2015, with market based staff salary adjustments offset by savings in printing and mailing costs.

Education and Practice expenses were higher than 2015 by \$131,000, with market based staff salary adjustments offset by lower credentials external counsel fees.

General and administration costs decreased \$324,000 from 2015 with a significant reduction in human resource related external fees, staff professional development and skills training, offsetting increases for market based staff salary adjustments and insurance costs.

Policy and Legal Services expenses decreased \$132,000 over 2015, due to reduced external counsel fees for external litigation, offset by increases for market based staff salary adjustments.

Regulation operating expenses increased \$683,000 over 2015, due to higher external fees in the areas of discipline, professional conduct, and custodianships with higher file loads. Additionally, there were increases for market based staff salary adjustments.

Net Assets

Overall, the General Fund remains financially sound. As of December 31, 2016, net assets in the General Fund were \$19.8 million. The net assets include \$2.6 million in capital funding for planned capital projects related to the 845 Cambie Street building and workspace improvements for Law Society operations. In addition, the net assets include \$4.8 million of trust administration reserves in accordance with approved reserve policies. The remaining General Fund net assets are \$12.4 million, of which \$11.0 million is invested in capital assets, mainly the 845 Cambie Street building, and \$1.4 million of working capital.

Special Compensation Fund

Overview

Previously, the Special Compensation Fund was maintained pursuant to Section 31 of the Legal Profession Act, was financed by members' annual assessments, and claims were recorded net of

recoveries when they had been approved for payment. In 2012, the *Legal Profession Amendment Act, 2012* repealed section 31 of the *Legal Profession Act*. In addition, Section 23 of the *Legal Profession Act* was amended to remove the requirement that practising lawyers pay the Special Compensation Fund assessment. Section 50 of the *Legal Profession Amendment Act, 2012* provides for the transfer of unused reserves that remain within the Special Compensation Fund to the Lawyers Insurance Fund for the purposes of the insurance program, which has provided insurance coverage since 2004 for dishonest appropriation of money or other property entrusted to and received by insured lawyers. The transfer will occur when recoveries are received.

Revenues/Expenses

There were no claims costs in 2016 since the Lawyers Insurance Fund has been providing coverage for dishonest appropriation of funds by lawyers since 2004. During the year, \$75,000 was recovered along with \$29,000 in interest income. In addition, external counsel costs of \$91,000 were incurred for specific file activity.

Net Assets

At the end of 2016, the Special Compensation Fund net assets were \$1.36 million.

Lawyers Insurance Fund

Overview

The Lawyers Insurance Fund (LIF) remains in a strong financial position at the end of 2016. Revenue from annual assessments was slightly higher due to additional insured members, and overall investment returns were above the benchmark.

Revenues

The 2016 insurance assessment remained at \$1,750 per insured member, resulting in total revenue of \$14.7 million, compared to \$14.5 million in 2015.

During 2016, the long term investment portfolio performed well, earning a return of 7.1%, compared to a benchmark return of 6.0%. All increases in the market value of the investment portfolio have been recognized through the statement of revenue and expenses in accordance with Canadian accounting standards for not-for-profit organizations.

Expenses

In 2016, LIF general operating costs, including the \$2.2 million contribution to the General Fund, but excluding claims payments and unallocated loss adjustment expenses (ULAE), were \$6.7 million, compared to \$6.3 million in 2015. The increase is due to market based staff salary adjustments and increases in actuary and investment managers fees.

The net actuarial provision for settlement of claims for the year was \$22.9 million, an increase of \$7.0 million from 2015, based on an increase in the expected severity of claims in current and previous years. The provision for claims liabilities on the balance sheet at the end of 2016 was \$67.2 million, compared to \$59.5 million in 2015.

Net Assets

As of December 31, 2016, the LIF net assets were \$70.4 million, which includes \$17.5 million internally restricted for Part B claims, leaving \$52.9 million in unrestricted net assets.

Other Matters

In 2014, the Law Society received inquiries from the Financial Institutions Commission (“FICOM”) regarding insurance licensing issues pursuant to the Financial Institutions Act (British Columbia) and the Insurance (Captive Company) Act. Following discussions with FICOM, it was decided that the Law Society would pursue an exemption from certain statutory requirements. The exemption request to the Minister of Finance is proceeding and no decision has been made yet. It is our view that the outcome is likely to be favorable. In addition, discussions have continued with FICOM regarding structure options. The Law Society also sought an exemption from the Insurance Premium Tax Act. On May 19, 2016, Bill 14, the Finance Statutes Amendment Act, 2016 received Royal Assent. The Act provided in section 28 for an exemption for members of the Law Society of British Columbia from premium taxes in respect of an insurance fee set under Section 30 (3) (a) of the Legal Profession Act. See note 14 of the Lawyers Insurance Fund financial statements for additional information regarding premium tax.



*Lawyers
Insurance
Fund*

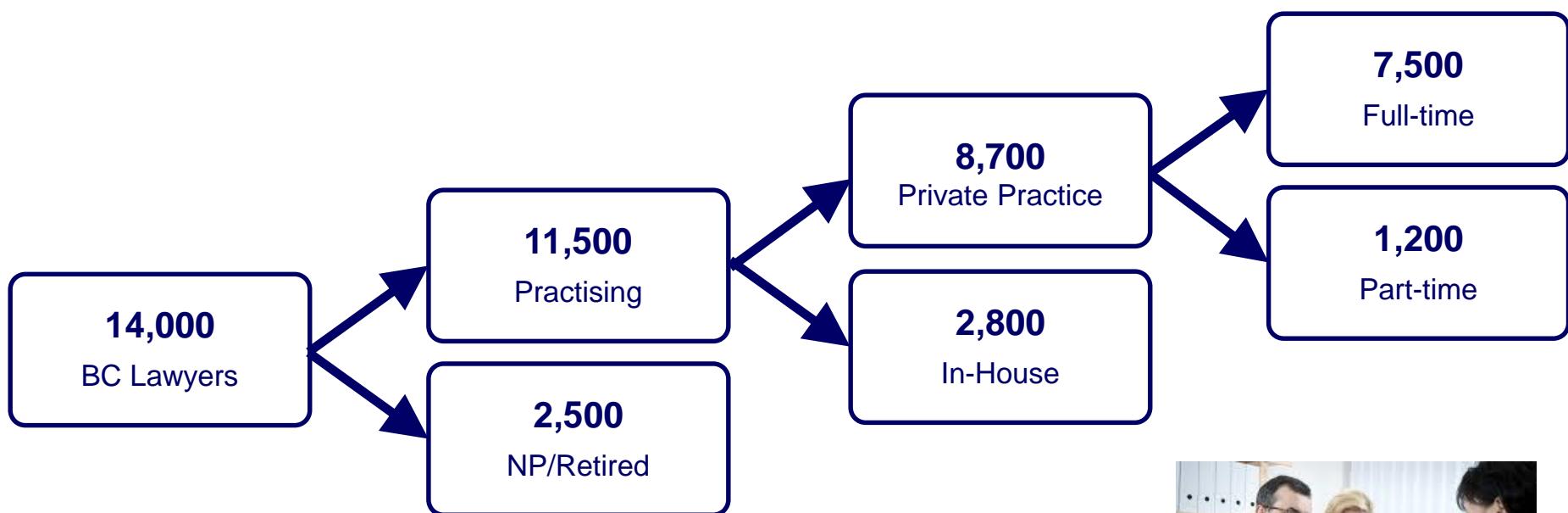
Lawyers Insurance Fund

2016 Year End Report

Overview

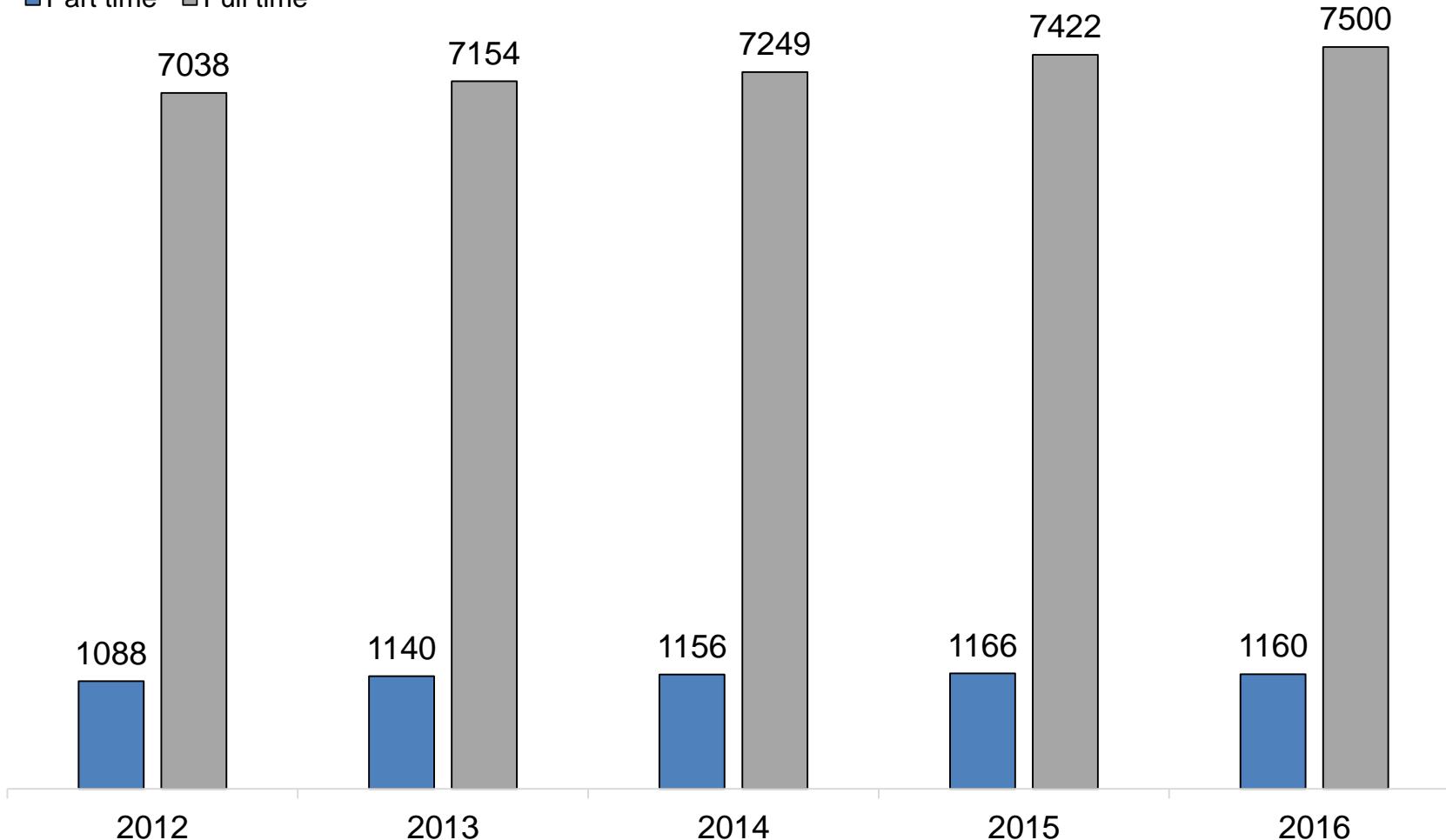
1. BC lawyers
2. Part A (negligence)
3. Part B (theft)
4. Service evaluation & risk identification

BC Lawyers



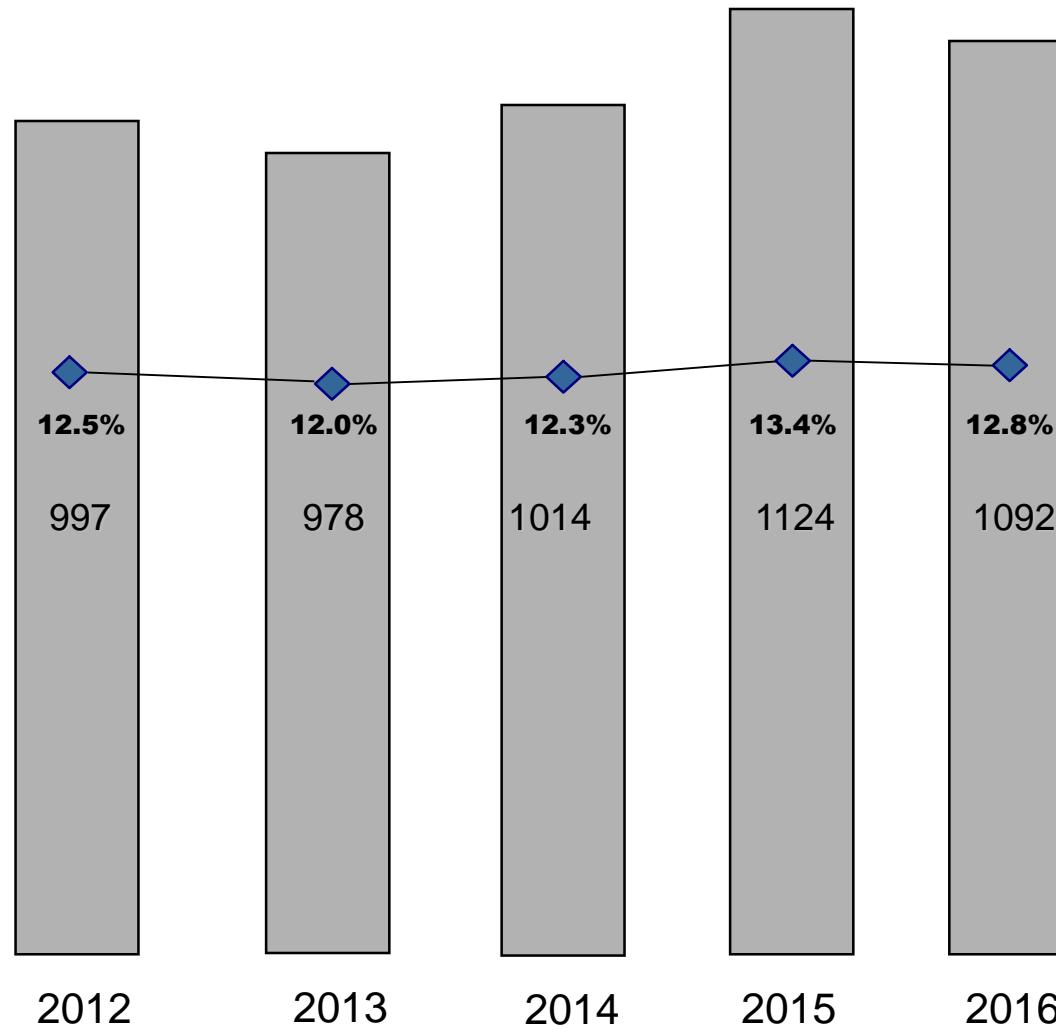
Full and Part Time Insureds

■ Part time ■ Full time

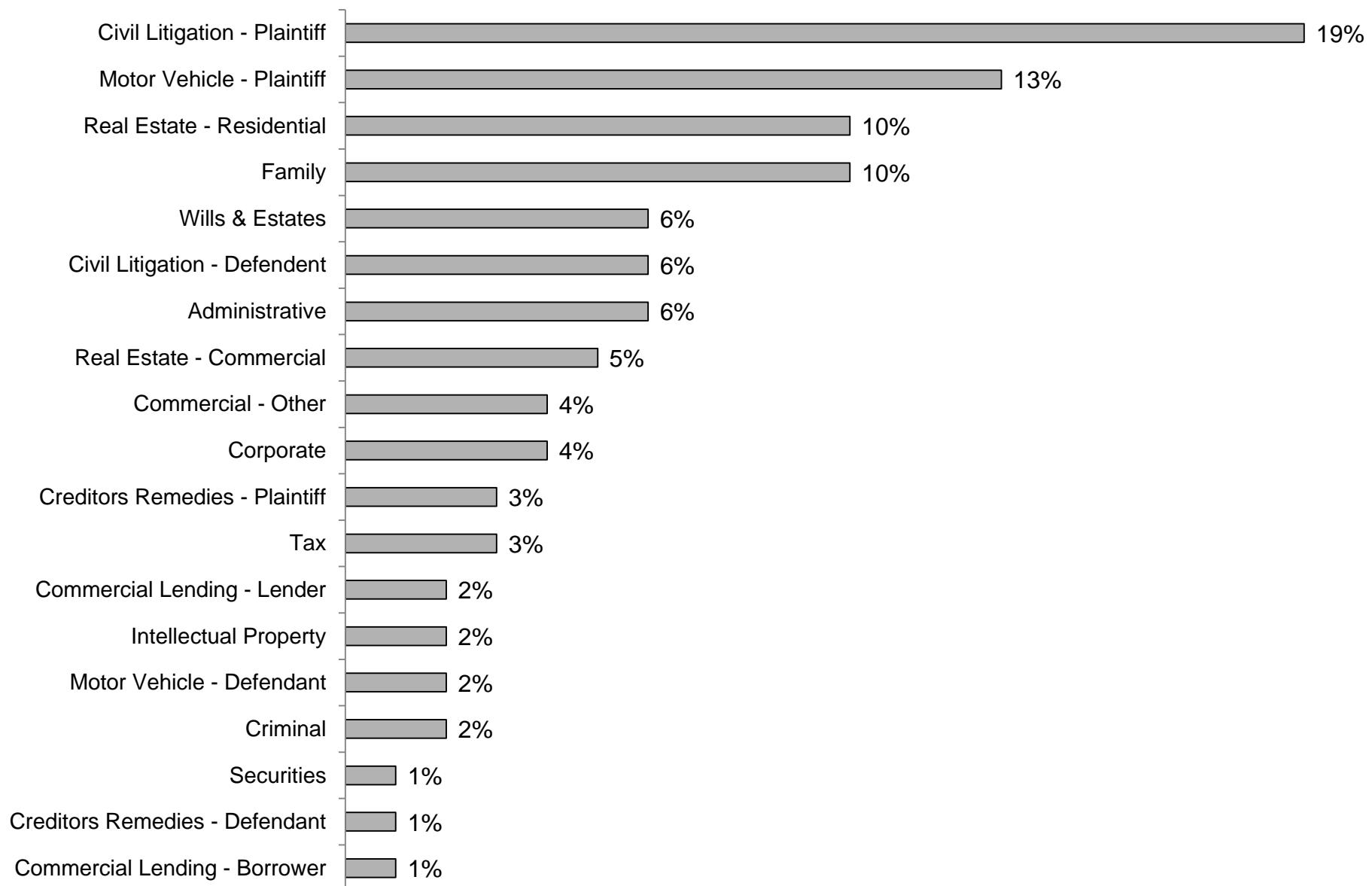


Number and Frequency of Reports

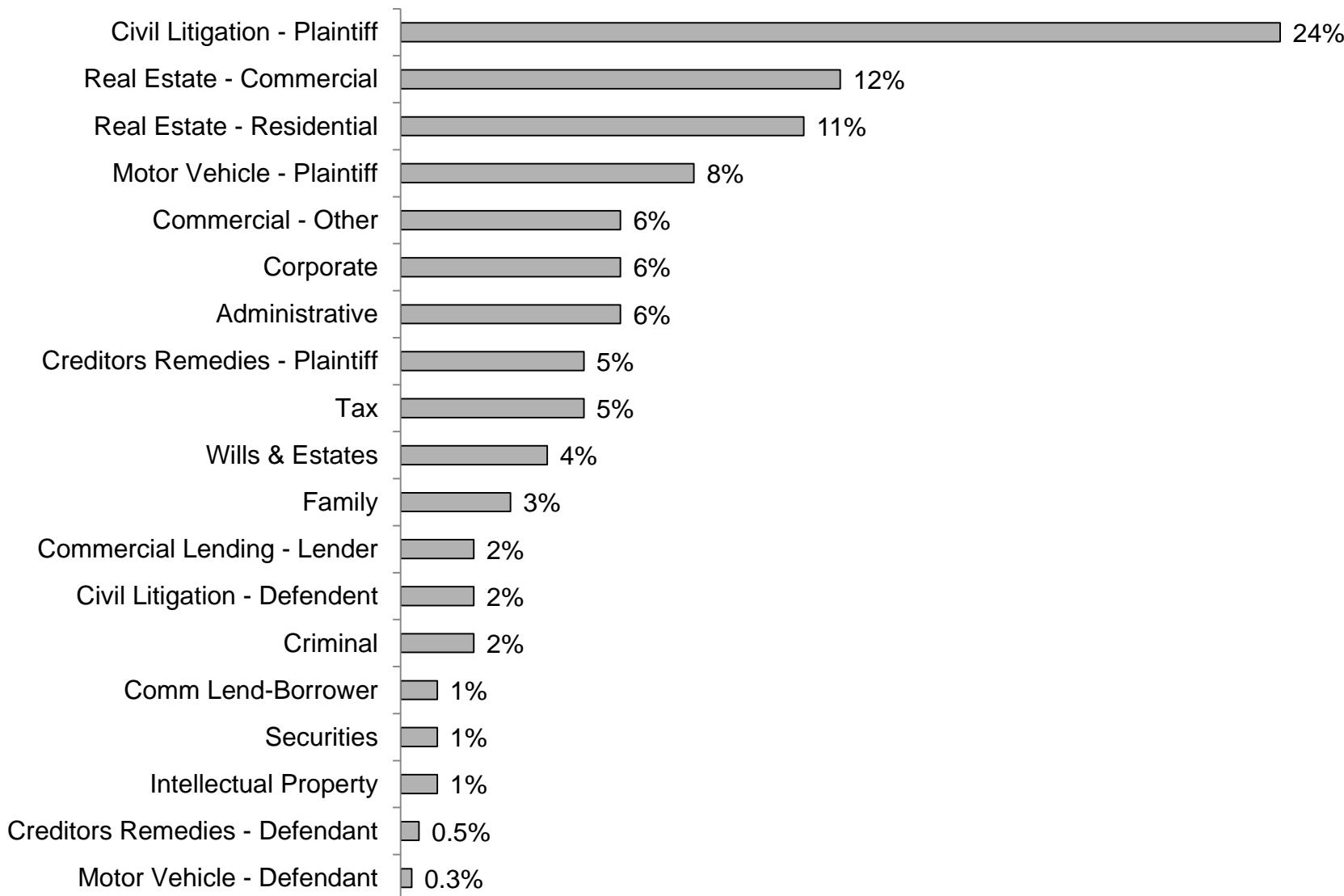
- Number of Reports
- ◆ Frequency of Reports



Frequency by Area of Practice

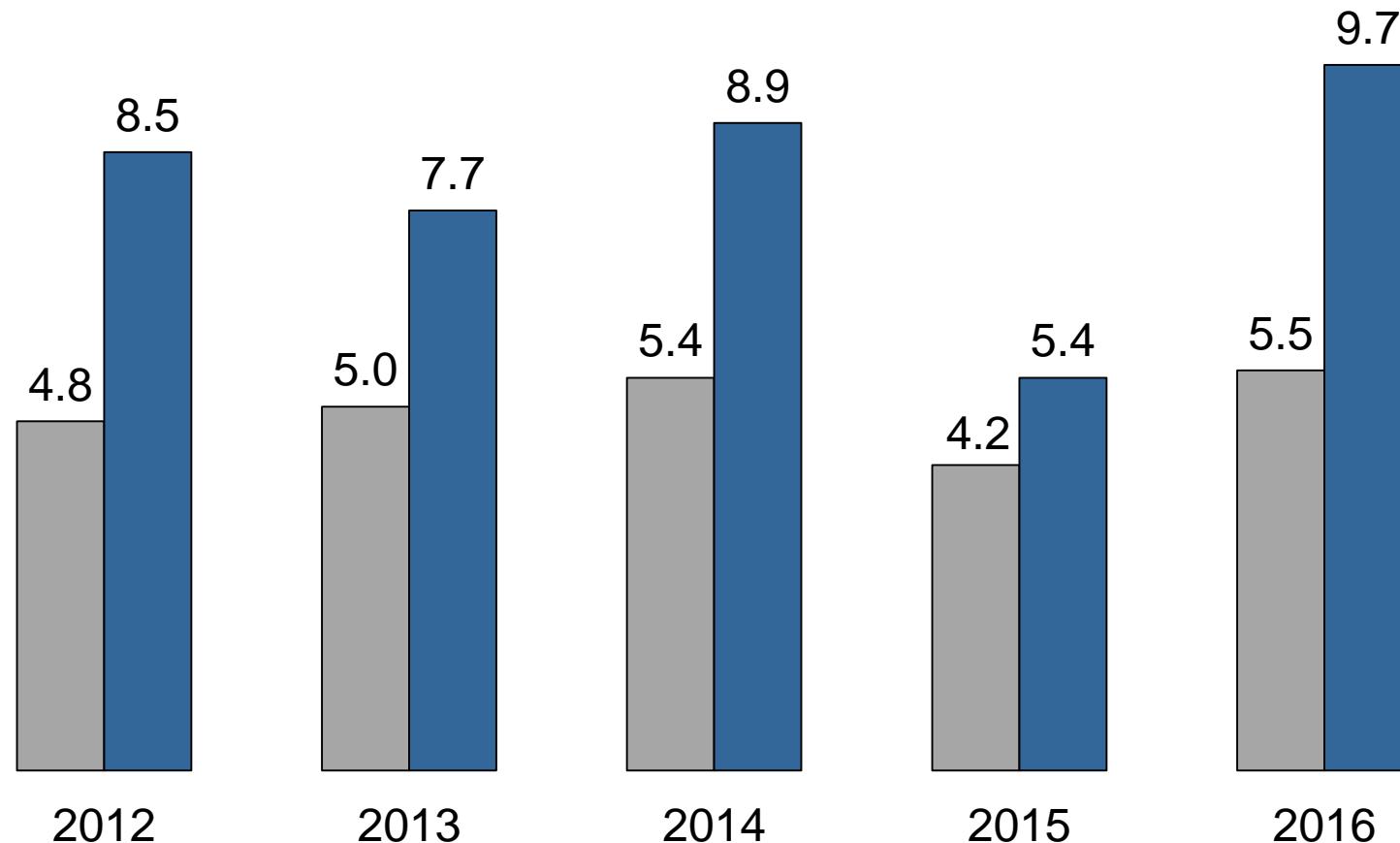


Severity by Area of Practice



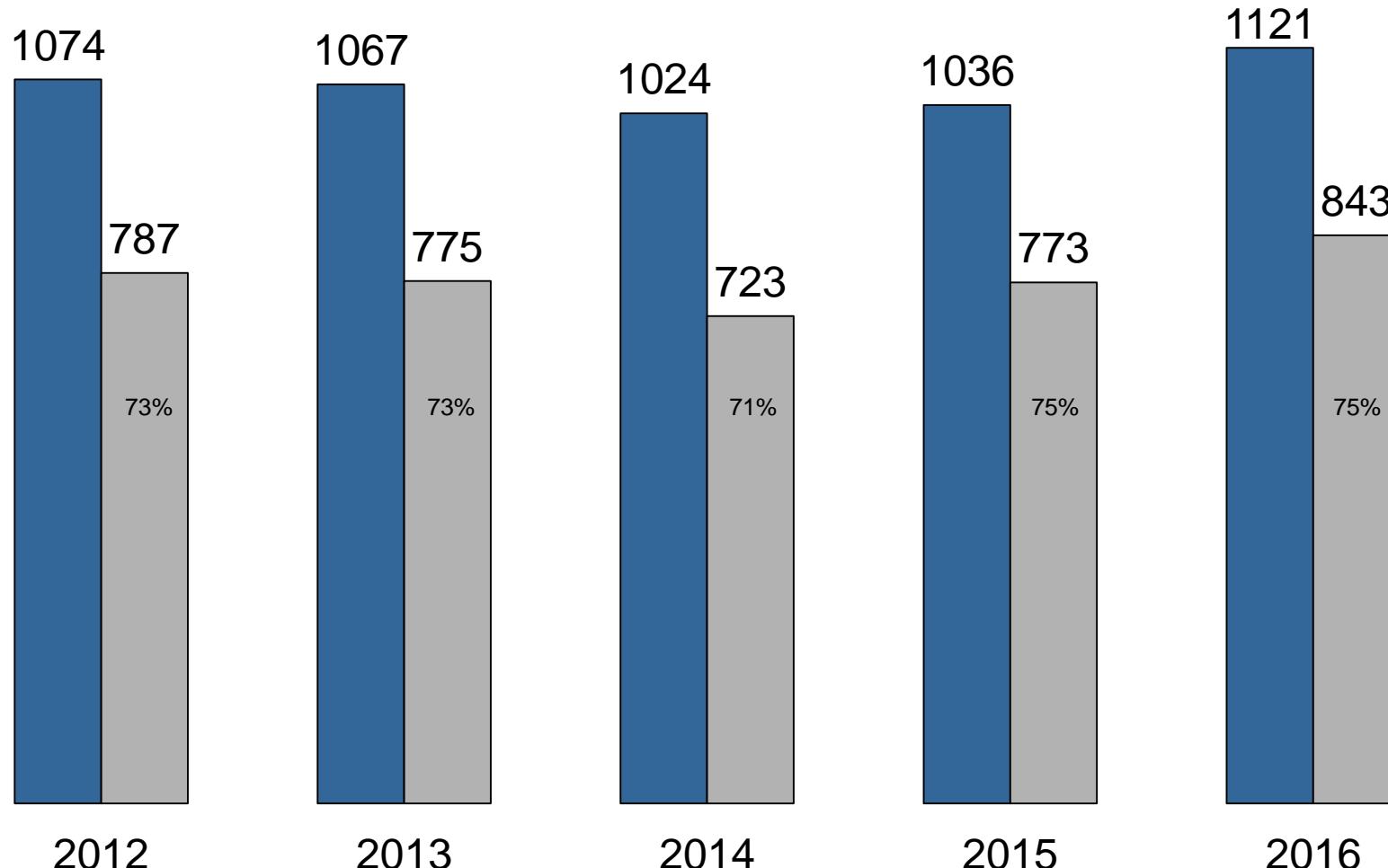
Claim Payments

- Expense
- Indemnity

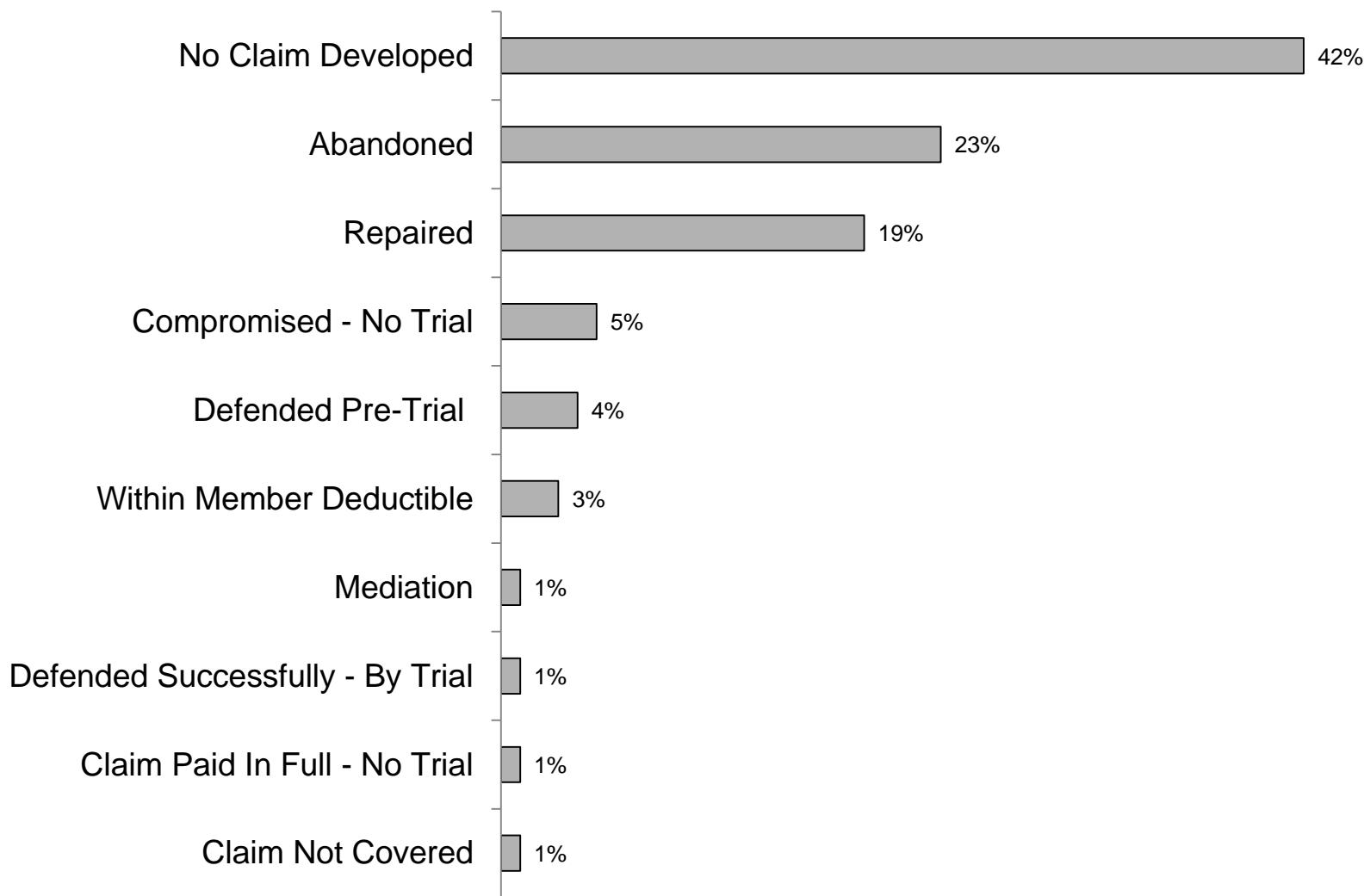


Closed Reports with No Payment

- Total Reports Closed
- Reports Closed with No Payment



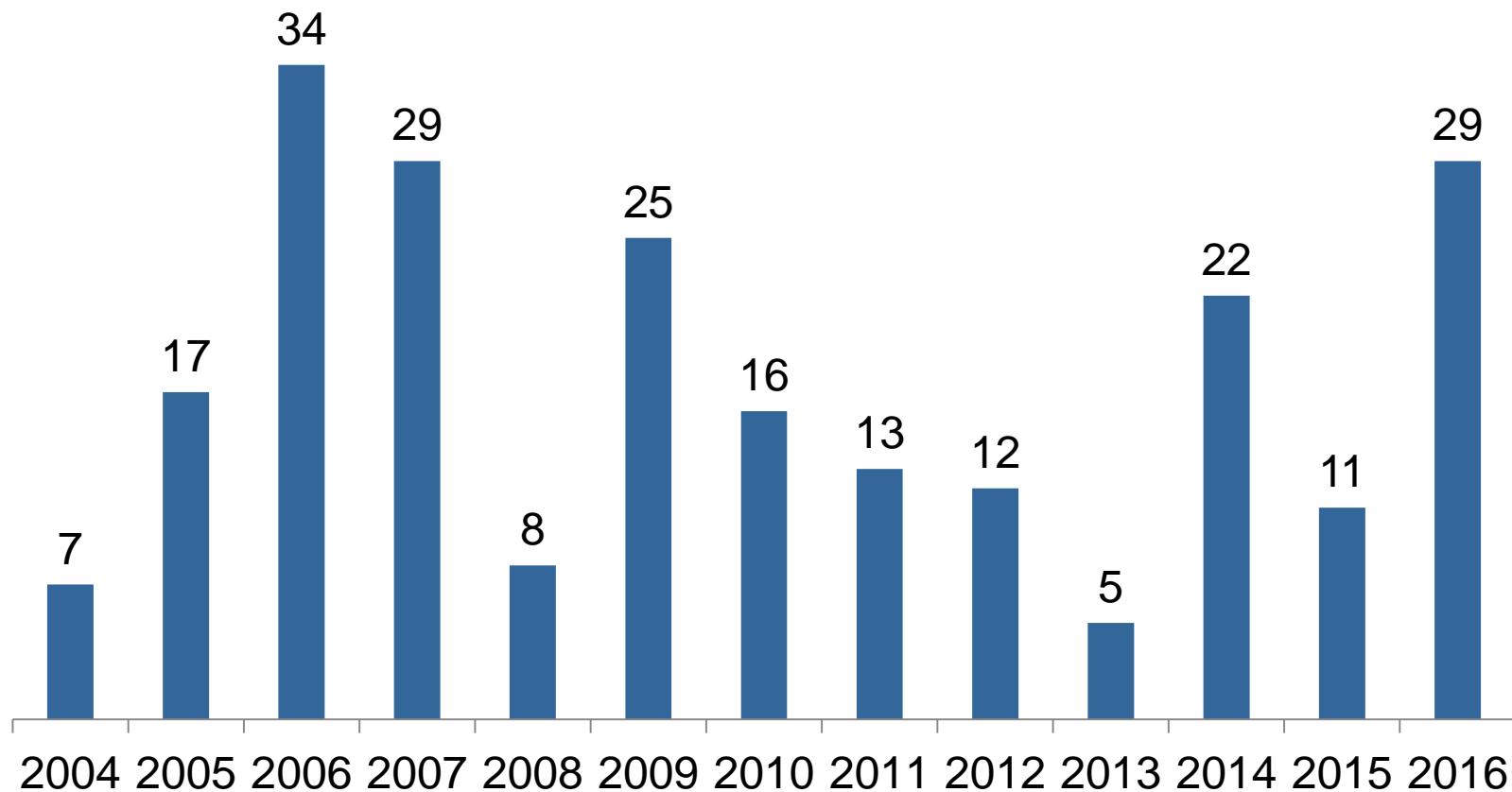
Results of Reports



Other Results in 2016

	2015	2016
Indemnity payments	102	115
Settlements > \$1 million (paid by excess insurers)	0	3
Number of risk management presentations	9	6
Matters tried	11	13
• Trials won	10	13
• Trials lost	1	0
• Appeals won	1	2
• Appeals lost	0	0

Part B Claims: 2004 – 2016

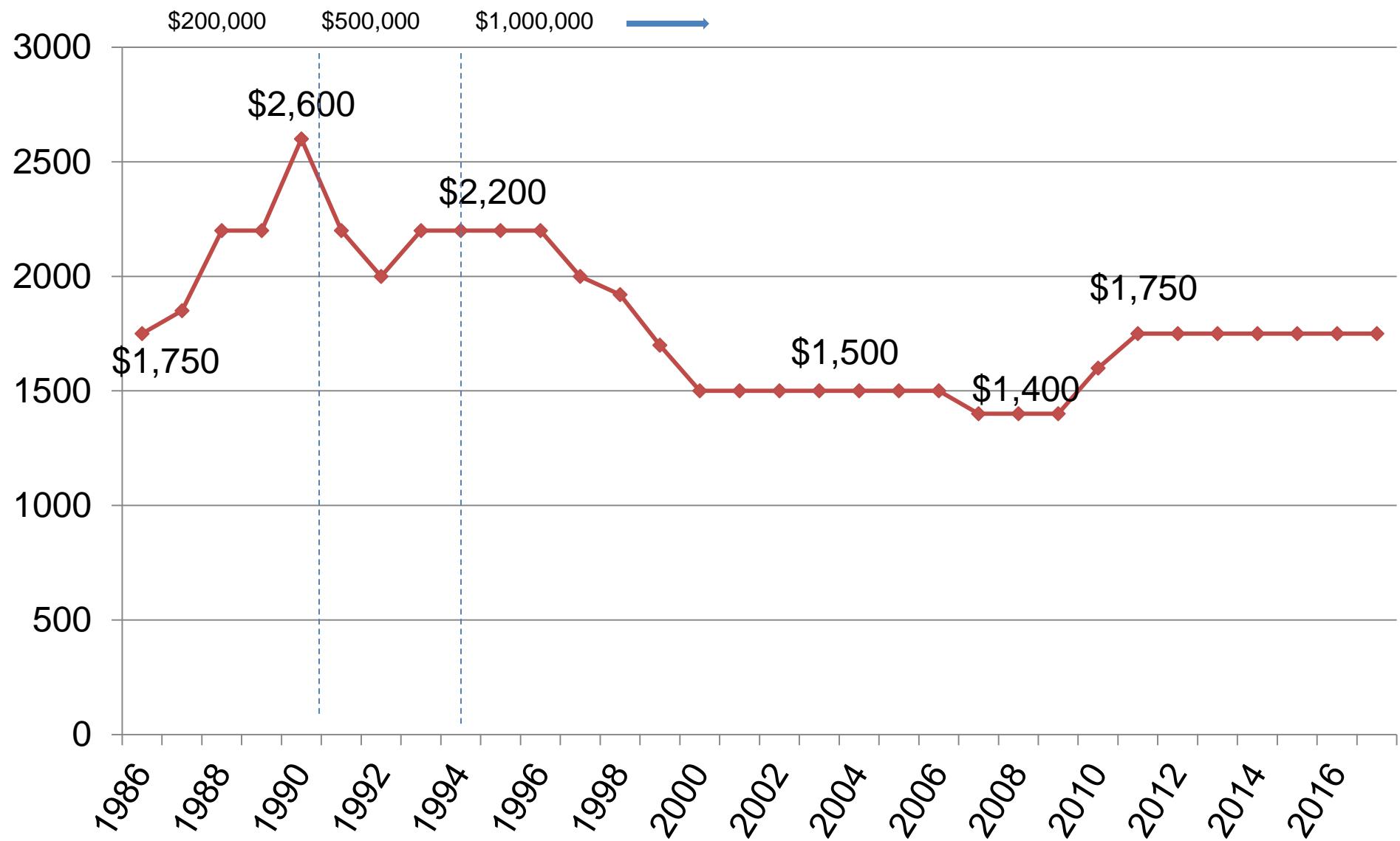


Part B

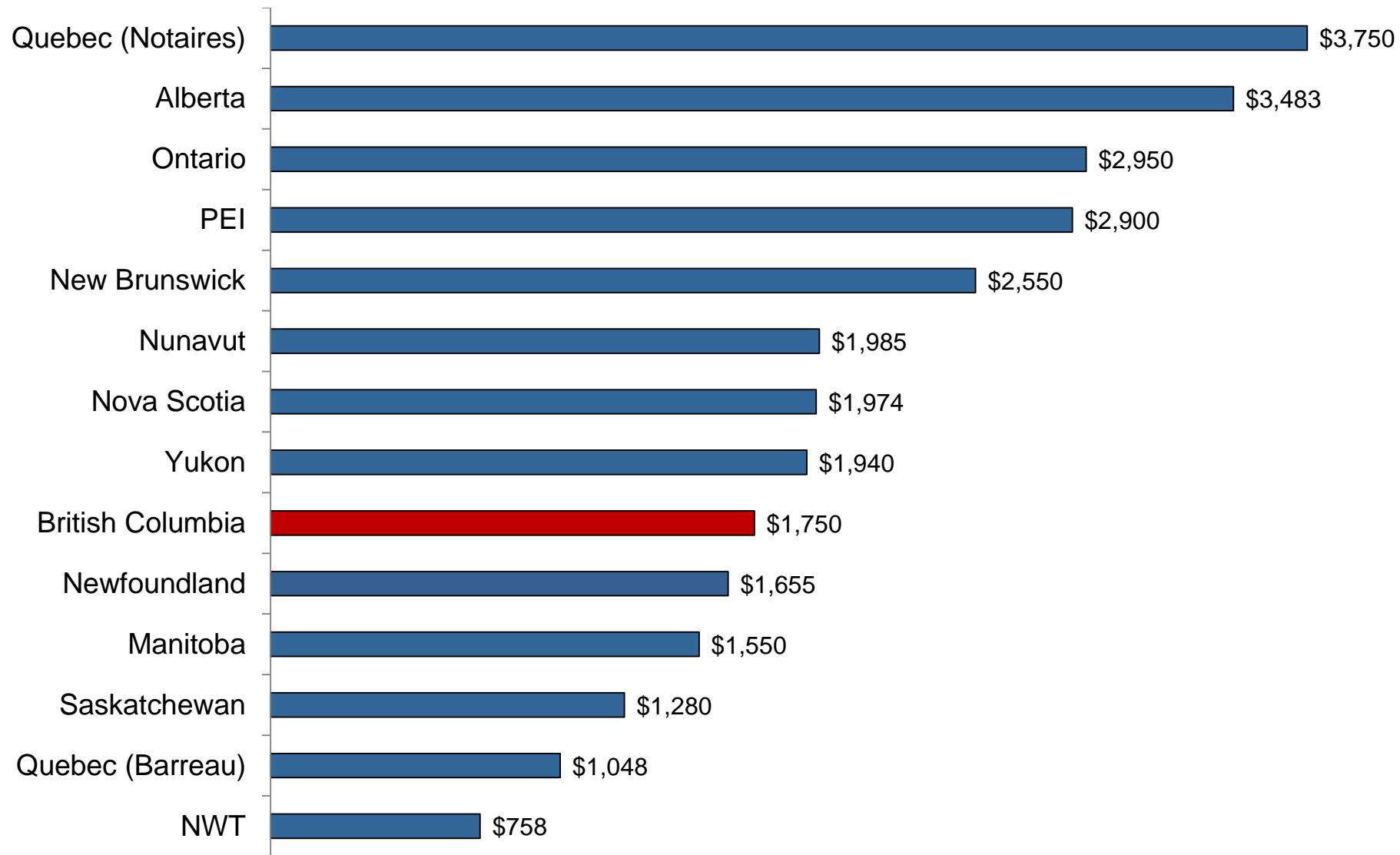
In 2016:

- 29 reports
- 7 claims – 5 lawyers – totaling \$94,000
- \$6,000 was recovered

Insurance Fee History



Insurance Fee Comparison



Service Evaluation Forms



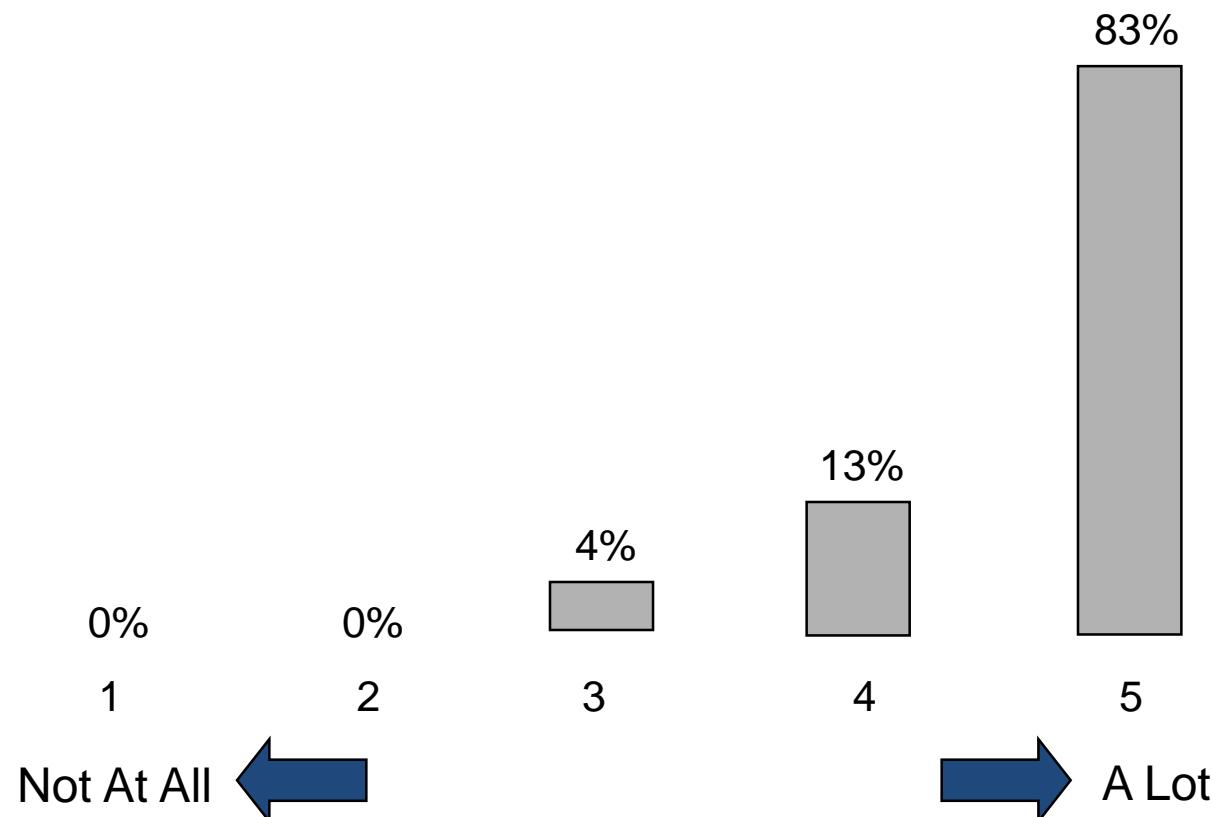
Kudos – 183



Grumbles – 7

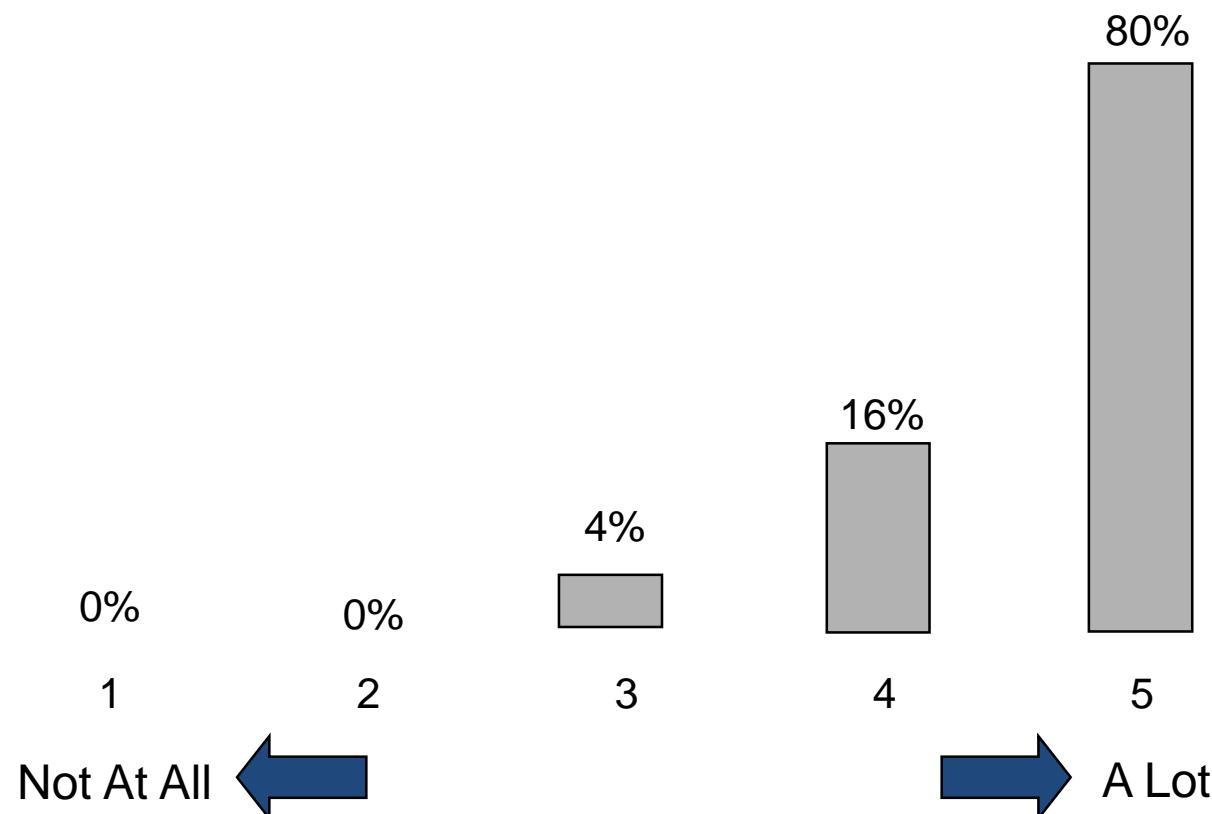
Service Evaluation Form Results

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



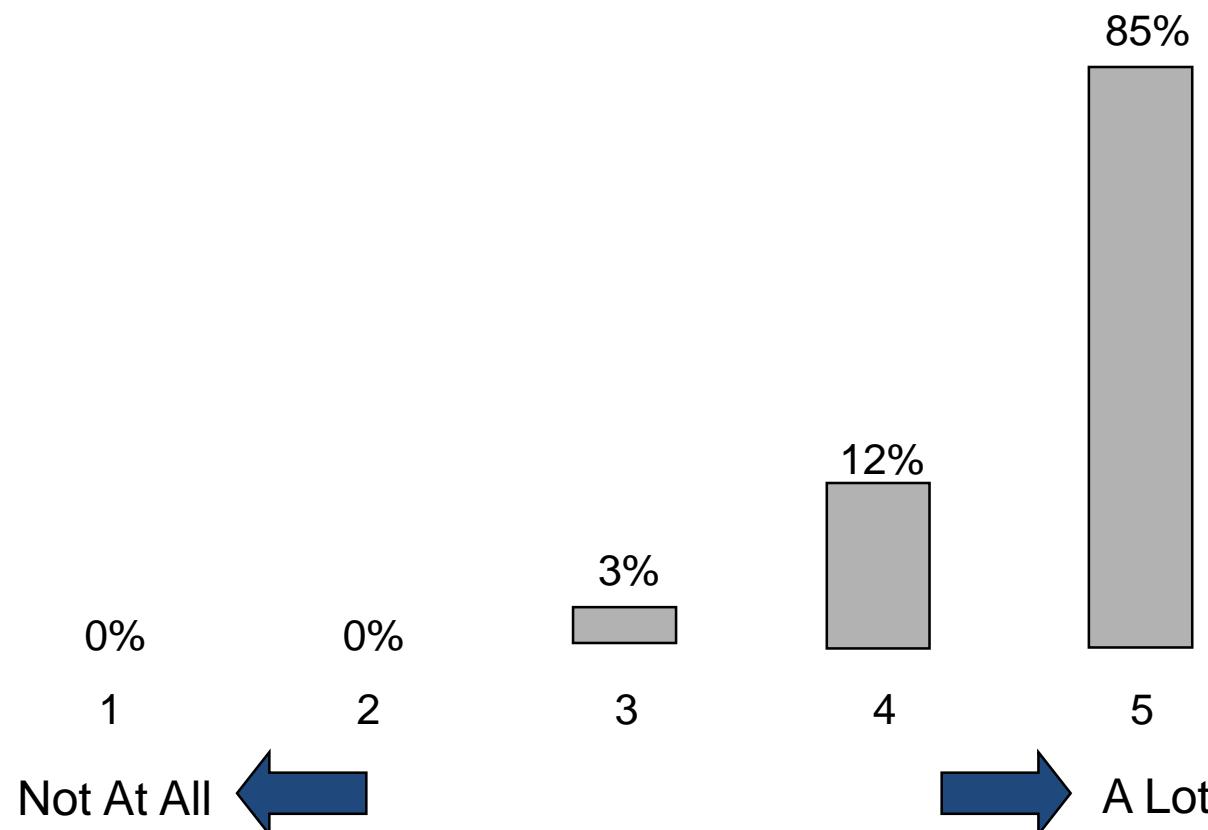
Service Evaluation Form Results

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

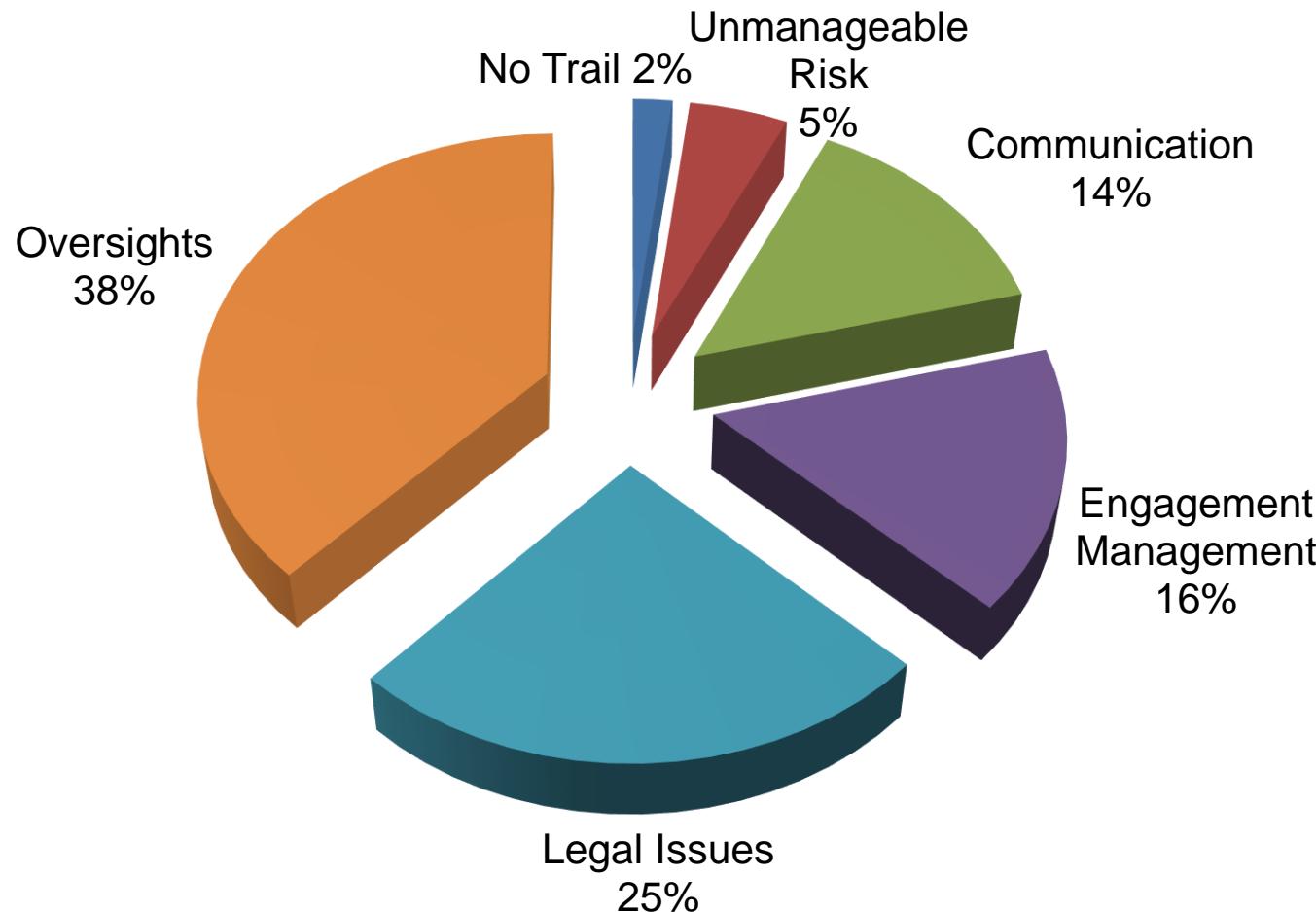


Service Evaluation Form Results

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



Risks of Malpractice





*Lawyers
Insurance
Fund*

Thank you

United Nations

E/C.19/2014/3



Economic and Social Council

Distr.: General
20 February 2014

Original: English

Permanent Forum on Indigenous Issues

Thirteenth session

New York, 12-23 May 2014

Item 3 of the provisional agenda*

Special theme: “Principles of good governance consistent with the United Nations Declaration on the Rights of Indigenous Peoples, articles 3 to 6 and 46”

Study on the impacts of the Doctrine of Discovery on indigenous peoples, including mechanisms, processes and instruments of redress

Note by the secretariat

Pursuant to a decision of the United Nations Permanent Forum on Indigenous Issues at its eleventh session (see [E/2012/43](#), para. 112), Edward John, a member of the Forum, undertook a study of the impacts of the Doctrine of Discovery on indigenous peoples, including mechanisms, processes and instruments of redress, with reference to the Declaration, and particularly to articles 26 to 28, 32 and 40. The outcome of the study is hereby submitted to the Permanent Forum at its thirteenth session.

* E/C.19/2014/1.



Study on the impacts of the Doctrine of Discovery on indigenous peoples, including mechanisms, processes and instruments of redress

I. Introduction

1. The members of the Permanent Forum examined the Doctrine of Discovery as a special theme during its eleventh session, which included the convening of a panel of international experts, the preparation of a conference room paper, statements from indigenous peoples from Africa, Asia, the Pacific, the Arctic, Central and South America and the Caribbean and North America¹ and recommendations in the final report of the Forum on the session (see E/2012/43, chap. III). The reach and impacts of the Doctrine are global.

2. There is a substantial body of scholarly work² on the historical foundations of the doctrine and the ongoing effects on indigenous peoples globally. It is therefore not the intention of the present study to repeat that valuable work, but rather to build upon it so as to create a better understanding of the doctrine and its continuing impacts. The challenge is to shift the paradigm. The Doctrine has been rejected by some international and domestic bodies but continues to have life. Its resilience remains because it is embedded in colonizing cultures and maintained in State laws, policies, negotiations and litigation positions.

3. The Doctrine of Discovery is based invalidly on the presumption of racial superiority of Christian Europeans.³ It originated with the papal bulls issued during the so-called Age of Discovery in Europe. It was compounded by regulations, such as the *Requerimiento*, that emanated from royalty in Christian European States.⁴ In all its manifestations, “discovery” has been used as a framework for justification to dehumanize, exploit, enslave and subjugate indigenous peoples and dispossess them of their most basic rights, laws, spirituality, worldviews and governance and their lands and resources. Ultimately it was the very foundation of genocide.⁵

4. Doctrines of superiority, such as discovery, have been repudiated as “racist, scientifically false, legally invalid, morally condemnable and socially unjust”.⁶ The

¹ Available from www.docip.org.

² See, e.g., Robert J. Miller and others, *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies* (Oxford/New York, Oxford University Press, 2012); Charles Geisler, “New terra nullius narratives and the gentrification of Africa’s empty lands”, (2012), *Journal of World Systems Research*, vol. 18, No. 1; Robert A. Williams, Jr., *Savage Anxieties: The Invention of Western Civilization* (New York, Palgrave Macmillan, 2012); Robert J. Miller, “The international law of colonialism: a comparative analysis”, *Lewis & Clark Law Review*, vol. 15 (2011); and Steven T. Newcomb, *Pagans in the Promised Land: Decoding the Doctrine of Christian Discovery* (Golden, Colorado, Fulcrum Press, 2008).

³ Steven T. Newcomb, “The evidence of Christian nationalism in federal Indian law: the Doctrine of Discovery, *Johnson v. McIntosh*, and plenary power”, *New York University, Review of Law & Social Change*, vol. 20 (1993).

⁴ Robert J. Miller and others, (see footnote 2 above).

⁵ See, e.g., Robert A. Williams, Jr., *The American Indian in Western Legal Thought* (New York, Oxford Publishing, 1990).

⁶ Declaration, fourth preambular paragraph, “similarly, see the *International Convention on the Elimination of All Forms of Racial Discrimination*, preamble.

prohibition against racial discrimination is a peremptory norm.⁷ The Human Rights Council, in paragraph 5 of its resolution 18/15 on the incomptability between democracy and racism, “condemned” doctrines of superiority as “incompatible with democracy and transparent and accountable governance” (see [A/66/53/Add.1](#), chap. I). For both indigenous peoples and States, there are compelling reasons to go beyond repudiation. It is essential to replace the colonial Doctrine of Discovery with contemporary international human rights standards and engage in just and collaborative processes of redress. High courts in various States have expressly discredited the doctrines of Discovery and of *Terra nullius*, which underpin the de facto dispossession of indigenous lands and laws.⁸ Yet these same States continue applying those doctrines. Even State laws that affirm and protect indigenous land rights and legal orders are not being respected and implemented by these same States. Large “gaps” remain between State commitments to recognize indigenous rights and their full and effective implementation and realization.

5. The Secretary-General has stated that the United Nations Declaration on the Rights of Indigenous Peoples provides a principled framework “on which States can build or rebuild their relationships with indigenous peoples”.⁹ The Declaration is a universal, remedial human rights instrument. As described by the Expert Mechanism on the Rights of Indigenous Peoples, as a “normative expression of the existing international consensus regarding the individual and collective human rights of indigenous peoples, the Declaration provides a framework for action aiming at the full protection and implementation of the rights of indigenous peoples”.¹⁰

6. The General Assembly, in paragraph 1 of its resolution 2621 (XXV), indicated that the continuation of colonialism is a crime which constitutes a violation of the Charter of the United Nations and the principles of international law. Colonial-era doctrine cannot continue to oppress and impoverish generations of indigenous peoples and deny them jurisdiction to exercise their indigenous laws and legal orders.

7. It is critical to examine how Crown sovereignty and underlying title could ever have legitimately crystallized through the “discovery” of indigenous peoples’ lands and territories. The Doctrine must be unmasked so its manifestations are made visible. As Tracey Lindberg concluded, “Crown sovereignty could not replace Indigenous sovereignty just by virtue of non-Indigenous peoples settling in Indigenous territories and homelands ... you must assume Indigenous inability, absence, and invisibility in order to imagine the crystallization of Crown sovereignty and superior title”.¹¹ In the different regions of the world, “assumed”

⁷ See the report of the Study Group of the International International Law Commission, entitled “Fragmentation of international law: difficulties arising from the diversification and expansion of international law” ([A/CN.4/L.702](#)), para. 33; and Antonio Cassese, *International Law* (Oxford/New York: Oxford University Press, 2001).

⁸ *Mabo v. State of Queensland* (No. 2) (1992), 175 C.L.R. 1 (H.C.), paras. 28-29, 40 and 43 per Justice Brennan; and *Simon v. The Queen*, [1985] 2 S.C.R. 387.

⁹ Message of the Secretary-General for the International Day of World’s Indigenous People, 23 July 2008.

¹⁰ Report of the Expert Mechanism on the Rights of Indigenous Peoples, final report of the study on indigenous peoples and the right to participate in decision-making ([A/HRC/18/42](#)), annex, advice No. 2 (2011), para. 4.

¹¹ Tracey Lindberg, “Contemporary Canadian resonance of an imperial Doctrine”, in Robert J. Miller and others (see footnote 2 above). See also John Borrows, “Sovereignty’s alchemy: an

sovereign powers continue to be abused by States that derived justification by these doctrines. As underlined by Robert A. Williams, “this blatantly racist European colonial-era legal doctrine continues to be used by courts and policy makers in the West’s most advanced nation-States to deny indigenous peoples their basic human rights guaranteed under principles of modern international law”.¹²

8. Every Member State must respect and apply the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations.¹³ State reliance on the Doctrine of Discovery and the denial of indigenous sovereignty and self-determination are incompatible with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith, which are the core principles for interpreting and applying indigenous peoples’ rights and the related State obligations affirmed in the Declaration (art. 46(3)). Here as well, the adoption of the Declaration by the General Assembly notwithstanding, the “gaps” between commitments and implementation continue to be significant.

9. With regard to land disposessions, forced conversions of non-Christians, the deprivation of liberty and the enslavement of indigenous peoples, the Holy See reported that an “abrogation process took place over the centuries” to invalidate such nefarious actions.¹⁴ Such papal renunciations do not go far enough. There is a pressing need to decolonize from the debilitating impacts and the ongoing legacy of denial by States of indigenous peoples’ inherent sovereignty, laws, and title to their lands, territories and resources. At the same time, there is a growing movement among faith-based bodies to repudiate the doctrine of discovery.¹⁵ In that context, the World Council of Churches and Canadian Quakers have both emphasized indigenous peoples’ inherent sovereignty and title concerns.

II. Impacts of the Doctrine of Discovery

10. The impacts of the Doctrine of Discovery continue to be devastating, far-reaching and intergenerational. The Special Rapporteur on the rights of indigenous peoples, James Anaya, concluded in his report that “the colonial-era doctrine of discovery, when coupled with related doctrines of conquest and European racial superiority, was a driving force for atrocities committed against indigenous peoples on a global scale, with the consequences continuing to be felt” (see [A/HRC/21/47](#), para. 5).

11. The Permanent Forum, in its report on the eleventh session, described some of the ongoing adverse effects in indigenous communities as relating to “health;

analysis of *delgamuukw v British Columbia*” (1999), *Osgoode Hall Law Journal*, vol. 37, “What alchemy transmutes the basis of Aboriginal possession into the golden bedrock of Crown title?”

¹² Robert A. Williams, Jr., *Savage Anxieties: The Invention of Western Civilization* (New York, Palgrave Macmillan, 2012).

¹³ Arts. 1(2) and 55 c; see also Declaration, preambular paras. 1-2, and arts. 1-3.

¹⁴ Statement by the Permanent Observer Mission of the Holy See to the United Nations to the Permanent Forum at its ninth session, 27 April 2010.

¹⁵ To date, statements have been issued by the World Council of Churches and denominations, including Episcopalian/Anglican, Unitarian, United Church of Canada and Religious Society of Friends (Quakers). See, e.g., www.oikoumene.org/en/resources/documents/executive-committee/2012-02/statement-on-the-doctrine-of-discovery-and-its-enduring-impact-on-indigenous-peoples.

psychological and social well-being; denial of rights and titles to land, resources and medicines; conceptual and behavioural forms of violence against indigenous women; youth suicide; and the hopelessness that many indigenous peoples experience, in particular indigenous youth” (see [E/2012/43-E/C.19/2012/13](#), para. 5). The visual impacts of dispossession and oppression, such as the conditions in many indigenous communities and the resulting social problems, serve to perpetuate stereotypes. Racism and discrimination and notions of non-indigenous superiority, whether overt or otherwise, will continue so long as severe poverty remains in communities.

12. In the preamble to the outcome document of the Global Indigenous Preparatory Conference for the United Nations World Conference on Indigenous Peoples, which took place in Alta, Norway, from 8 to 13 June 2013 (see [A/67/994](#), annex), the impacts of colonial doctrines are described by indigenous peoples as including the ongoing usurpation of indigenous peoples’ lands, territories, resources, the destruction of indigenous political and legal institutions, discriminatory practices aimed at destroying indigenous cultures; the failure to honour treaties, agreements and other constructive arrangements with indigenous peoples and nations; genocide, the loss of food sovereignty and crimes against humanity.

13. The highest court of Canada has recognized the need for reconciliation of “pre-existing aboriginal sovereignty with assumed Crown sovereignty”.¹⁶ The Supreme Court has taken judicial notice of “such matters as colonialism displacement and residential schools”,¹⁷ which demonstrate how “assumed” sovereign powers were abused throughout history. The root cause of such abuse leads back to the Doctrine of Discovery and other related fictitious constructs, which therefore must be addressed.

14. As affirmed in the Declaration, the ongoing denial by States of indigenous peoples’ sovereignty leads to a denial of their human rights. These include, among other things, the right of self-determination, including the right to self-government through their own laws and jurisdiction (arts. 3, 4, 5, 33 and 34); right to own, develop and control their lands, territories and resources (art. 26); and right to development in accordance with their own priorities (arts. 20 and 23) and treaties (art. 37). As a result of colonial doctrines and policies, indigenous peoples are among the most marginalized and disadvantaged in the world. The General Assembly endorsed the following statement: “Eradicating poverty is the greatest global challenge facing the world today and an indispensable requirement for sustainable development”.¹⁸ The United Nations Children’s Fund (UNICEF) has declared that “poverty is a denial of human rights and human dignity”.¹⁹

III. Redress: implementation of a human rights-based approach

15. In order to redress the ongoing debilitating consequences of the doctrine of discovery, it is imperative that a human rights-based approach be adopted, which affirms that “indigenous peoples are equal to all other peoples” and that “all peoples

¹⁶ *Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 S.C.R. 511, para. 20.

¹⁷ *R. v. Ipeelee*, 2012 S.C.C. 13, para. 60.

¹⁸ General Assembly resolution 66/288, annex, para. 2.

¹⁹ UNICEF, *Poverty Reduction Begins with Children*, New York, March 2000.

contribute to the diversity and richness of civilizations and cultures".²⁰ The Doctrine of Discovery was used as a tool to justify conferring upon States the "exclusive power to extinguish" indigenous rights on an ongoing basis.²¹ The pre-existing inherent sovereignty of indigenous peoples was not justly considered. In various parts of the world, domestic courts have aided States not only by validating such destructive acts, but also by extinguishing indigenous rights through judicial rulings.²²

16. Indigenous peoples' inherent rights are human rights and are not subject to extinguishment or destruction in form or result.²³ According to United Nations treaty bodies, the extinguishment of indigenous peoples' rights is incompatible with their right of self-determination.²⁴ Further, the Committee on Economic, Social and Cultural Rights concluded that "policies which violate Aboriginal treaty obligations and the extinguishment, conversion or giving up of Aboriginal rights and title should on no account be pursued".²⁵ The International Court of Justice has ruled that "great weight" should be ascribed to the interpretations adopted by independent bodies established specifically to supervise the application of human rights treaties.²⁶ The Court added that the same is true in respect of supervisory regional bodies, such as the African Commission on Human and Peoples' Rights and the Inter-American Court of Human Rights. The United Nations and regional bodies are increasingly using the Declaration to interpret and apply indigenous peoples' rights and related State obligations in existing treaties.

17. Human rights are generally relative in nature and not absolute. The Declaration affirms, in article 46, paragraph 2, that the exercise of the rights in the Declaration shall be "subject only to such limitations as are ... in accordance with international human rights obligations ... and strictly necessary solely for the purpose of securing due recognition and respect for the rights ... of others and for meeting the just and most compelling requirements of a democratic society".²⁷ The Special Rapporteur on the rights of indigenous peoples underlined in paragraph 29 of his report on the situation of indigenous peoples in Australia ([A/HRC/15/37/Add.4](#)) that the "extinguishment of indigenous rights in land by unilateral uncompensated acts" is "incompatible with the Declaration, as well as with other international

²⁰ Declaration, preambular paras. 2 and 3.

²¹ *Johnson v. McIntosh*, 21 U.S. (8 Wheat.) 543 (1823).

²² *Tsilhqot'in Nation v. British Columbia*, 2012 B.C.C.A. 285 (broad territorial claims to title are "antithetical to the goal of reconciliation"). The case is currently under appeal to the Supreme Court of Canada.

²³ Human rights instruments do not permit the destruction of human rights. See, e.g., identical art. 5(1) of the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights; and art. 45 of the Declaration.

²⁴ See, e.g., concluding observations of the Human Rights Committee: Canada (CCPR/C/79/Add.105), para. 8.

²⁵ E/C.12/1/Add.31, para. 18.

²⁶ *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Merits, Judgment, I.C.J. Reports 2010*. The Court indicated that the jurisprudence of treaty bodies would include their "General Comments" and their concluding observations regarding individual States Parties.

²⁷ See also *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya*, African Commission on Human and Peoples' Rights, Communication No. 276/2003, twenty-seventh activity report, 2009, annex 5, paras. 213-215.

instruments”.²⁸ With regard to the lands, territories and resources of indigenous peoples “taken ... or damaged without their free, prior and informed consent”, the Declaration, in article 28, affirms their right to redress. This includes restitution “or, when this is not possible, just, fair and equitable compensation”.

18. The Declaration affirms that indigenous peoples and individuals have the “right not to be subjected to forced assimilation or destruction of their culture” (art. 8(1)). In this regard, States have a duty to provide effective mechanisms for the prevention of, and redress for, any action which has the aim or effect of “depriving them of their integrity as distinct peoples, or of their cultural values” or “dispossessing them of their lands, territories and resources” (art. 8(2)). The Special Rapporteur stated in paragraph 45 of his report ([A/64/338](#)) that the Declaration also affirms that indigenous peoples have the right to cultural integrity, “including cultural and spiritual objects, languages and other cultural expressions”²⁹ which is intimately linked to their lands, territories and resources. The study by the Expert Mechanism on the Rights of Indigenous Peoples states, in its advice No. 5 (see [A/HRC/24/50](#), annex), that the Declaration “affirms the right to the integrity of their lands and territories” (arts. 25-32), which includes protection of the environment.

19. The International Law Association concluded that “indigenous peoples have the rights to reparation and redress for the wrongs suffered. This right amounts to a rule of customary international law to the extent that it is aimed at redressing a wrong resulting from a breach of a right that is itself part of customary international law. In fact, redress is an essential element for the effectiveness of human rights”.³⁰ Examples of customary international law in the Declaration include, among other things, the general principle of international law of *pacta sunt servanda* (“treaties must be kept”, fourteenth preambular para. and art. 37); the prohibition against racial discrimination (art. 2); the right to self-determination (art. 3); the right to one’s own means of subsistence (art. 20); and the right not to be subjected to genocide (art. 7). The Association adds that “States must comply — pursuant to customary and, where applicable, conventional international law — with the obligation to recognize, respect, safeguard, promote and fulfil the rights of indigenous peoples to their traditional lands, territories and resources”.³¹

20. In its resolution [67/157](#), the General Assembly recognized that universal realization of the right of all peoples to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights.

IV. Redress: processes and mechanisms

21. In order to achieve redress in the global indigenous context, effective processes and mechanisms will be required at international, regional and domestic levels. Currently, for example, there are no effective international mechanisms for

²⁸ See *Case of Sawhoyamaxa v. Paraguay*, Inter-American Court of Human Rights (Ser. C) No. 146 (2006), para. 128.

²⁹ See arts. 11-16 and 31 of the Declaration.

³⁰ International Law Association, “Rights of indigenous peoples”, Interim report of The Hague Conference (2010).

³¹ “Rights of indigenous peoples”, final report of the Sofia Conference (2012), (Conclusions and Recommendations).

remedy State violations of treaties, agreements and other constructive arrangements. The Inter-American Court has confirmed that “it is a principle of international law that any violation of an international obligation which has caused damage carries with it the obligation to provide adequate reparation for it”.³² Reparations “consist of measures that tend to make the effects of the violations committed disappear”,³³ including measures such as restitution.

22. The International Law Association has concluded that “States must comply with the obligation — according to customary and, where applicable, conventional international law — to recognize and fulfil the right of indigenous peoples to reparation and redress for the wrongs they suffered, in particular their lands taken or damaged without their free, prior and informed consent. Effective mechanisms for redress — established in conjunction with the peoples concerned — must be available and accessible in favour of indigenous peoples.”³⁴ Any ongoing actions based in discovery are in violation of States’ international obligations. Redress must include decolonization processes that effectively restore indigenous peoples’ sovereignty and jurisdiction in contemporary contexts and achieve genuine reconciliation.

23. In the global perspective, different processes of redress are required for different political and historical contexts. Within the United Nations, trust territories and Non-Self-Governing Territories have been the subject of special decolonization processes, which have their own particular limitations and serious injustices.³⁵ In countless other situations worldwide, indigenous peoples are striving for effective reconciliation in diverse ways. Within existing States, the key issues urgently requiring resolution are those relating to making jurisdictional space for indigenous sovereignty,³⁶ and self-determination, including the effective operation of distinct indigenous legal orders over their territories.

24. According to the study on the rights of indigenous peoples and truth commissions and other truth-seeking mechanisms on the American continent (E/C.19/2013/12), truth commissions are an essential tool in identifying the causes of serious human rights violations, including economic, social and cultural rights; determining patterns of abuse; and preventing a repetition of similar acts. The study states that “if properly implemented, with strong guarantees of independence and honest leadership, the commissions could help to strengthen recognition of the sovereignty, identity and perspective of indigenous peoples and respect of their civil, political, economic, social, spiritual and cultural rights, as well as the right to ancestral lands and natural resources” (ibid., para. 71).

25. Many States continue to ignore human rights challenges to their “assumed” sovereignty over indigenous peoples and their territories. Former Chief Justice Lance Finch of the British Columbia Court of Appeal emphasized

³² *Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, Inter-American Court of Human Rights, Judgment of 31 August 2001, Ser. C No. 79 (2001), para. 163.

³³ *Case of the Indigenous Community Yakye Axa*, Inter-American Court of Human Rights, Ser. C. No. 125 (Judgment) 17 June 2005, para. 182.

³⁴ International Law Association, 2012 (see footnote 31 above).

³⁵ See, e.g., E/C.19/2013/12.

³⁶ Courtney Jung, “Transitional justice for indigenous people in a non-transitional society”, International Center for Transitional Justice, October 2009, at p. 3: “one of the historic injustices that lie at the heart of indigenous identity is loss of sovereignty. Indigenous peoples are defined in part by the fact that their sovereignty was not recognized by colonial powers that appropriated territory and sovereignty under the doctrine of *terra nullius*.”

“To guard against imbalance and resulting injustice, we must conceive of reconciliation, in the legal context as well as in social and political terms, as a two-way street: just as the pre-existence of aboriginal societies must be reconciled with the sovereignty of the Crown, so must the Crown, in its assertion of sovereignty, equally be reconciled with the pre-existence of aboriginal societies”.³⁷

26. As affirmed in article 40 of the Declaration, “indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights”. Indigenous rights to just and fair procedures and to effective remedies for all infringements apply not only to States, but also to business enterprises and other third parties. Under international law, States must take positive measures to ensure the indigenous right to an effective remedy not only against their own actions, but also against the acts of other parties within their own State.³⁸ The Permanent Forum, in its report on the eleventh session, reiterated that international human rights law, including norms on equality and non-discrimination demand that States rectify past wrongs caused by such doctrines, including the violation of the land rights of indigenous peoples, through law and policy reform, restitution and other forms of redress for the violation of their land rights ([E/2012/43-E/C.19/2012/13](#), para. 7).

V. Role of domestic courts

27. Although some domestic courts acknowledge the colonial origins of “assumed” State sovereignty over indigenous peoples and their traditional territories, they have failed to give full and fair consideration to pre-existing indigenous sovereignty.³⁹ State sovereignty is not absolute.⁴⁰ Within their respective countries, domestic courts generally have legal authority and a constitutional responsibility to determine and enforce constraints on State sovereignty so as to ensure jurisdictional space for indigenous sovereignty, laws and legal orders. The extraterritorial actions of States are also constrained by their international human rights obligations.⁴¹

28. In *Mabo et al. v. State of Queensland* [No. 2], in striking down the doctrine of *terra nullius* in Australia, it was held that “it is imperative in today’s world that the common law should neither be nor be seen to be frozen in an age of racial discrimination”.⁴² The same rationale must apply to the whole Doctrine of

³⁷ Hon. Lance Finch, “The duty to learn: taking account of indigenous legal orders in practice”, Continuing Legal Education Society of British Columbia Indigenous Legal Orders and the Common Law Conference, 15 November 2012.

³⁸ See, e.g., CCPR/C/21/Rev.1/Add.5, para. 6.1.

³⁹ See, e.g., Brian Slattery, “Aboriginal sovereignty and imperial claims”, *Osgoode Hall Law Journal*, vol. 29: “native American peoples held sovereign status and title to the territories they occupied at the time of European contact and that this fundamental fact transforms our understanding of everything that followed”.

⁴⁰ A/47/277, para. 17: “The time of absolute and exclusive sovereignty ... has passed; its theory was never matched by reality.”

⁴¹ See, e.g., A/60/350, para. 30.

⁴² *Mabo et al. v. State of Queensland* [No. 2], (1992) 107 A.L.R. 1 (High Court of Australia), per Brennan J.

Discovery. At the same time, there is an ongoing reluctance among States to eliminate all reliance on the Doctrine.⁴³ “Assumed” State sovereignty is being abused in different regions of the world, especially when indigenous lands, territories and resources are involved.⁴⁴ Thus it is urgent for domestic courts to repudiate and provide remedies for harmful colonial doctrines and further elaborate a judicial framework that is consistent with the Declaration and other contemporary international human rights law. In addition, there is a need for indigenous perspectives in judicial decision-making, through the appointment of indigenous justices and the maintenance, support and development of indigenous courts with jurisdiction to make decisions in accordance with indigenous laws, cultures and international human rights standards.

VI. Need for human rights education

29. Genuine reconciliation is not possible without a clear understanding of, and sensitivity to, past and present injustices relating to indigenous peoples. In view of the legal fictions generated by “discovery” and other related doctrines, there is an urgent need to ensure that curricula include the historical realities of the founding of modern nation States. Students at all levels should learn about the impacts of such doctrines and the need for justice and redress. Further, in view of the entrenched and often unconscious ways the doctrines are embedded in State legal and political culture, there is a need for education of State law makers and decision makers.

30. National human rights institutions can play a role by developing and promoting human rights education through culturally appropriate materials. Such materials must be developed in consultation and cooperation with indigenous peoples. In the United Nations Declaration on Human Rights Education and Training (General Assembly resolution [66/137](#), annex), the General Assembly affirmed the importance of such education and training and the roles of States and other actors in their implementation. Human rights education materials should also be created and distributed at the international level through the Office of the United Nations High Commissioner for Human Rights and appropriate United Nations agencies and bodies, including the Permanent Forum and the Expert Mechanism on the Rights of Indigenous Peoples.

31. The Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, emphasized in her report that “it is necessary to avoid the biased or flawed premise that judicial actors have already obtained the necessary knowledge that will enable them to perform their duties in an impartial manner”.⁴⁵ Such legal professionals should be requested to take courses on international human rights law, including the Declaration. These courses should be made widely available, especially by bar associations and universities.

⁴³ For example, A/HRC/21/47/Add.1, para. 16: “the use of notions of discovery and conquest to find Indians rights diminished and subordinated to plenary congressional power is linked to colonial era attitudes toward indigenous peoples that can only be described as racist”.

⁴⁴ Ibid., para. 34: “natural resource extraction and development on or near indigenous territories had become one of the foremost concerns of indigenous peoples worldwide, and possibly also the most pervasive source of the challenges to the full exercise of their rights”.

⁴⁵ A/HRC/20/20, para. 94 (conclusions). “Judicial actors” are said to include: judges, magistrates, prosecutors, public defenders and lawyers.

VII. Conclusions and recommendations

32. The Doctrine of Discovery is significant globally not only for abuses in the past, but also for its ongoing far-reaching consequences. Such colonial doctrines must not prevail in practice over human rights, democracy and the rule of law. In this context, the implementation gap must be addressed fully and effectively so that such doctrines are wholly eliminated. According to Robert J. Miller, “discovery is a dangerous fiction that if not tackled will continue to undermine attempts to create a better, reconciled Crown-Indigenous future”.⁴⁶

33. Domestically, fundamental changes must be reflected through constitutional and legislative reforms, policies, and government negotiation mandates in regard to indigenous peoples. State Governments must be constrained from the illegal taking of indigenous lands, territories and resources justified by these doctrines.⁴⁷

34. Processes and mechanisms of redress, as well as independent oversight, are required at international, regional and domestic levels. Decolonization processes must be devised in conjunction with indigenous peoples concerned and compatible with their perspectives and approaches. Such processes must be fair, impartial, open and transparent, and be consistent with the Declaration and other international human rights standards.

35. Such processes should encourage peace and harmonious and cooperative relations between States and indigenous peoples. Where desired by indigenous peoples, constitutional space must be ensured for indigenous peoples’ sovereignty, jurisdiction and legal orders.

36. Within their respective mandates, United Nations treaty bodies and regional human rights bodies have an important role to play in establishing relevant standards and jurisprudence. Similarly, the Permanent Forum, the Expert Mechanism on the Rights of Indigenous Peoples and United Nations Special Rapporteurs should play a role. The universal periodic review should also be used to encourage States to engage together with indigenous peoples in processes of decolonization.

37. The upcoming World Conference on the Rights of Indigenous Peoples provides an opportunity for further examination of the topic. The United Nations and States will have an appropriate and timely occasion in the outcome document to wholly repudiate colonial doctrines and to commit to processes of redress.

38. History cannot be erased. Its course, however, can be changed to ensure the present and future well-being, dignity and survival of indigenous peoples. Dignity and respect for human rights must be guaranteed, especially in the light of existing vulnerabilities. There must be a full and honest account of the past, in order to ensure that colonial doctrines do not continue to be perpetuated. A clear shift of paradigm is critical from colonial doctrines to a principled human rights framework, consistent with the United Nations Declaration on the Rights of Indigenous Peoples and other international human rights law.

⁴⁶ Robert J. Miller and others (see footnote 2 above).

⁴⁷ See, e.g., E/C.19/2013/20.

The Law Society *of British Columbia*



CEO's Report to the Benches

March 2017

Prepared for: Benchers

Prepared by: Timothy E. McGee

Introduction

At the start of each year Management focuses on a relatively short list of items which will require special attention and effort in the year to ensure they are implemented successfully. Our work on these priorities does not detract from our core responsibility to discharge our regulatory mandate in the normal course but ensures we are addressing key items which arise from year to year. In my report this month I have outlined the top operational priorities in 2017. I have also provided updates on several other important matters of interest.

2017 Operational Priorities

KPM's Review

I have asked each of our regulatory departments to undertake a full review of their departmental objectives and their respective performance measures which currently form part of the overall KPMs dashboard. This review will focus on a few key questions: Are the objectives and desired outcomes for the department still relevant and in keeping with best practices and our public interest mandate? Are the performance measures measuring the right things? Are the targets for those measures at the right level – what should the baseline be and what would a stretch target look like? What are we not measuring today but should be? How can the KPMs better inform decisions at both the operational and strategic policy level?

The results of this review process will be brought back in draft form and presented by Management to the Executive Committee for review, discussion and further work and refinement as directed by the Committee. Our goal is to have a final set of recommendations regarding the KPMs from the Executive Committee for consideration by the Benchers in the Fall.

Enterprise Risk Management Plan Review

We have the benefit of having in place a comprehensive and detailed Enterprise Risk Management (ERM) Plan which was developed with broad input and professional advice under the auspices of the Finance and Audit Committee. In adopting the ERM plan the Benchers mandated annual reporting on the plan and a full review every 3 years. As the last full review was done in 2014 we are now due for another one in 2017. We will be working closely with the Finance and Audit Committee to reevaluate and assess all aspects of the Law Society's risk profile and to scrutinize the efficacy of our current mitigation risk strategies. This needs to be detailed and careful work, and must be done with a sense of fresh eyes and an intimate understanding of what is happening

on the front lines of our operations. It also requires an informed assessment of what external factors currently influence our risk profile and how those may have changed in the past 3 years and be changing in the years ahead. Management and senior staff will be heavily involved in supporting this work in conjunction with the activity plan which the Finance and Audit Committee has adopted for the year.

Resourcing Analysis

As you heard during the presentation of our 2016 Annual Employee Survey results at the January Bencher meeting some staff believe that we need to offer better resources to help them perform their jobs. Management will be making it a priority in 2017 to get behind this feedback and to better understand what this means so that we can consider the options and develop a responsive action plan.

Because this question on the survey elicited different responses by department and because we expect that what “resources” may mean for staff in one area may be quite different than staff in another we will be breaking the review down by department and function and looking for common indicators as well. We know that for some “resources” means more staff support, for others it means having 2 computer monitors, for others it means better access to specific skills training and professional development.

Our goal is to have consulted broadly on what resources are being sought across the organization and to have assessed and developed an appropriate action plan by the Fall and ideally before internal budget proposals for 2018 are finalized. Part of the challenge of course is to move from an organizational wish list for resources to firm recommendations for items that will have the most impact coupled with an acceptable incremental cost.

Cultural Competency and Diversity Training

In 2016, the Law Society took steps to address the recommendations in the report of the Truth and Reconciliation Commission, including forming a Truth and Reconciliation Advisory Committee. At the staff level, we began to explore the idea of setting a high standard for our own “cultural competency” particularly in the area of Aboriginal and Indigenous issues. To that end, we held an all staff forum last Fall at which Hilary Stoddart our Manager of Human Resources and Andrea Hilland our Policy Counsel supporting the T&R Advisory Committee, presented on the topics of Diversity and Inclusion and Cultural Competence. The presentation outlined a proposal to provide training to staff in general cultural competence and Indigenous matters in 2017. We learned from the smaller break out group sessions which followed the presentations that there was strong interest and enthusiasm among staff for pursuing this initiative in 2017.

We have made it a priority this year to form an employee resource group on Diversity and Cultural Competency to recommend ways of implementing cultural and diversity awareness at the Law Society, as well as to assist with the implementation of accepted recommendations. We will also benefit from the work which is already underway at PLTC on this topic and from the knowledge and background which our colleague Andrea Hilland brings to our endeavours. Our goal is to have an overall training plan for all staff in place and underway this year and to benefit from any discrete opportunities, such as lunch and learn sessions on specific topics, throughout the year.

Outstanding File Reduction Initiative

One of the key components of our 2017 budget is funding for staff resources to target a significant reduction over the next 2 years in the number of outstanding files in our professional conduct area. Our Chief Legal Officer Deb Armour and her team are recruiting the resources for that purpose and are finalizing a work plan and timeline with appropriate milestones to measure progress against the objective. This is an ambitious project the success of which depends on a number of factors including a successful recruiting strategy, assigning those with the right skills to the right tasks, close management oversight and support, and a strong sense of teamwork and determination. We expect the complement of additional staff resources to be in place and work underway by the end of the summer and our expectation is that tracking and progress reports can begin soon after that.

2016 Financial Report

The Chair of the Finance and Audit Committee Miriam Kresivo QC and Jeanette McPhee our CFO will be presenting the 2016 Audited Financial Statements for Bencher review and approval at the meeting. The supporting materials will be included with the meeting package. We ended 2016 in a strong financial position overall and members of senior management will be at the meeting to answer any questions.

Strategic Plan Review – Bencher Briefings and Preparation

At its last meeting the Executive Committee reviewed a memorandum from staff which outlined a number of strategic topics and possible areas for consideration by the Benchers in the coming months leading up to the formal deliberations in the Fall on a new 3 year strategic plan for the Law Society. After discussion, it was agreed that several of these topics should be featured as discussion items at the upcoming Bencher meetings in April, May and June. Staff is now working on developing those presentations.

The purpose of the briefings is to inform the Benchers on these topics and to encourage and facilitate a broader discussion of their relevance and importance for the strategic priorities of the Law Society over the next 3 years. No decisions will be sought or required in these informative sessions. The deliberations and decision on the content of the new 3 year strategic plan will be made at the Bencher meetings in the Fall. In the meantime, we will also present to the Benchers a primer and/or refresher on the goals of strategic planning, the appropriate role for Benchers in that process and what the key success factors are as well as pitfalls to avoid.

TWU & Supreme Court of Canada

At the time of writing we are awaiting the decision from the Supreme Court of Canada on the leave applications before it from LSBC and from TWU in respect of the decisions of the BC Court of Appeal and the Ontario Court of Appeal, respectively. We understand that the decision will be released by the Court on Friday, February 24 and so we will be able to discuss the matter and plans at the Bencher meeting on March 3.

Timothy E. McGee
Chief Executive Officer

REDACTED

MATERIALS


**THE LAW
FOUNDATION
OF BRITISH COLUMBIA**

1340-605 Robson Street, Vancouver,
British Columbia, V6B 5J3 Canada
FAX 604/688-4586 • Phone 604/688-2337

January 26, 2017

Mr. Tim McGee, QC
CEO and Executive Director
Law Society of BC
845 Cambie Street
Vancouver, BC V6B 4Z9

Dear Mr. McGee:

Re: Pro Bono Law in British Columbia

As you know, the Law Foundation has, since 2001, been funding pro bono activities of the legal profession in the province. It has supported, together with the Law Society and the Canadian Bar Association, the development of Pro Bono Law BC, which in 2010 merged with the Western Canada Society to Access Justice to become the Access Pro Bono Society of British Columbia. As you will recall, at our Board's March 2012 meeting, Access Pro Bono was made a continuing program of the Law Foundation.

At the Benchers meeting of November 10, 2006, the Benchers of the Law Society passed a motion authorizing an annual payment to the Law Foundation of 1% of the general fund portion of the annual practice fee to be distributed to organizations offering pro bono services to the public. This amount was generously increased by the Law Society in 2014 to \$340,000 per year, \$60,000 of which is for access to justice initiatives and \$48,380 of which is "flow through" money for Access Pro Bono's lease with the Law Society, and the balance to pro bono initiatives funded by the Law Foundation.

Prior to 2006, the Law Foundation had funded a total of approximately \$200,000 per year towards pro bono activities and committed to continuing to fund at least this amount out of its own, non-Law Society funds, in the future.

I am pleased to report to you that in 2016, with support from the Law Society, the Law Foundation was able to provide funding totalling \$613,380 to pro bono organizations (if you include the various law student clinical programs, some of which have a pro bono component, the figure grows). Breakdowns of funding to pro bono organizations in 2016 are attached.

There are a significant number of lawyers and law students involved in pro bono activities in the province, and a significant number of clients served. In 2014, 7455 clients were served by pro bono lawyers through Law Foundation funded programs. A total of 910 lawyers and 315 law students were involved in pro bono programs. Updated statistics for 2016 will be available shortly. As you can see, the profession can be proud of the pro bono contribution its members make.

On behalf of the Law Foundation, I want to thank you and the Benchers of the Law Society for your support of this important initiative.

I trust you will find the above in order. If you have any questions or comments, I can be reached at wrobertson@lawfoundationbc.org 604-688-7360.

Yours truly,



Wayne Robertson, QC
Executive Director

cc: Renee Collins Goult, Manager, Executive Support
Aaron Griffith, Controller

Pro Bono Projects and Programs funded by the Law Foundation in 2016:

Access Pro Bono Society of BC:

- \$415,000 Major Programs Grant
- \$48,380 Rent Subsidy from Law Society

Multiple Sclerosis Society:

- \$55,000 Volunteer Legal Advocacy Program

Pro Bono Students Canada - UBC:

- \$35,000 Community Placement Program

Pro Bono Students Canada – UVic:

- \$30,000 Student Placement Program

Pro Bono Students Canada – TRU:

- \$30,000 Student Placement Program

Total: \$613,380

Of this total, \$280,000 was provided to the Law Foundation by the Law Society for pro bono activities as part of the \$340,000 grant (set out in the letter dated February 14, 2015).

The \$60,000 access to justice portion of the Law Society grant for 2016 was allocated for the Children's Lawyer Initiative.

A notional allocation of the pro bono portion of the Law Society grant for 2016 might be:

- Access Pro Bono rent subsidy: say \$50,000
- Access Pro Bono: \$190,000
- MS Society: \$10,000
- Pro Bono Students Canada (UBC): \$10,000
- Pro Bono Students Canada (UVic): \$10,000
- Pro Bono Students Canada (TRU): \$10,000