



Minutes

Benchers

Date: Friday, March 06, 2015

Present: Ken Walker, QC, President
David Crossin, QC, 1st Vice-President
Haydn Acheson
Joseph Arvay, QC
Satwinder Bains
Edmund Caissie
David Corey
Jeevyn Dhaliwal
Lynal Doerksen
Thomas Fellhauer
Craig Ferris, QC
Martin Finch, QC
Miriam Kresivo, QC

Dean Lawton
Peter Lloyd, FCA
Jamie Maclaren
Sharon Matthews, QC
Ben Meisner
Maria Morellato, QC
David Mossop, QC
Greg Petrisor
Claude Richmond
Elizabeth Rowbotham
Cameron Ward
Sarah Westwood

Excused: Herman Van Ommen, QC, 2nd Vice-President
Pinder Cheema, QC
Nancy Merrill
Lee Ongman
Phil Riddell

Staff Present: Tim McGee, QC
Deborah Armour
Taylore Ashlie
Felicia Ciolfitto
Renee Collins Goult
Su Forbes, QC
Andrea Hilland
Jeffrey Hoskins, QC

Thomas Kampioni
Ryan Lee
Michael Lucas
Jeanette McPhee
Jaia Rai
Alan Treleaven
Adam Whitcombe

Guests: Dom Bautista	Executive Director, Law Courts Center
Mark Benton, QC	Executive Director, Legal Services Society
Johanne Blenkin	Chief Executive Officer, Courthouse Libraries BC
Prof. Janine Benedet	Associate Dean of Academic Affairs, University of British Columbia
Jennifer Chow	Vice President, Canadian Bar Association, BC Branch
Ron Friesen	CEO, Continuing Legal Education Society of BC
Richard Fyfe, QC	Deputy Attorney General of BC, Ministry of Justice, representing the Attorney General
Yves Moisan	President, BC Paralegal Association
Bradford Morse	Interim Dean of Law, Thompson Rivers University
Caroline Nevin	Executive Director, Canadian Bar Association, BC Branch
Anne Pappas, J.D.	Interim Dean of Law, Thompson Rivers University
MaryAnn Reinhardt	BC Paralegal Association
Wayne Robertson, QC	Executive Director, Law Foundation of BC

Introductions

President Ken Walker, QC noted absent Benchers Herman Van Ommen, QC, Lee Ongman, Phil Riddell, Nancy Merrill, Pinder Cheema, QC and Dean Jeremy Webber, and congratulated Craig Ferris, QC on his recent Queen's Counsel appointment.

Tim McGee QC introduced the members of the 2015 Leadership Council, comprised of Deborah Armour, Felicia Ciolfito, Su Forbes QC, Jeffrey Hoskins QC, Thomas Kampioni, Jeanette McPhee, Jaia Rai, Alan Treleaven and Adam Whitcombe.

CONSENT AGENDA

1. Minutes

a. Minutes

The minutes of the meeting held on January 30, 2015 were approved as circulated.

The *in camera* minutes of the meeting held on January 30, 2015 were approved as circulated.

b. Resolutions

The following resolution was passed unanimously and by consent.

- External Committee Appointments: LSS, Hamber Foundation and BC Building Code Appeal Board

BE IT RESOLVED to appoint Ms. Jean Whittow, QC to the Board of Directors of the Legal Services Society for a two-year term effective September 7, 2015.

BE IT RESOLVED to appoint Mr. Todd L. Kerr as the Law Society's new representative on the Hamber Foundation Board of Governors, and that Mr. Mark Killas be re-appointed to the Board for a second term.

BE IT RESOLVED to nominate Edna Cheung for Vancouver City Council's appointment of the Law Society representative on the Building Board of Appeal.

- Rules 5-2.1 and 5-12.3 – New rules to allow hearing panel or review board to continue without all members

BE IT RESOLVED to amend the Law Society Rules by adding the following rules:

Panel member unable to continue

- 5-2.1** (1) Despite Rule 5-2 [*Hearing panels*], if a member of a hearing panel cannot, for any reason, complete a hearing that has begun, the President may order that the panel continue with the remaining members.
- (2) Despite Rule 5-2 [*Hearing panels*], if the chair of a hearing panel cannot, for any reason, complete a hearing that has begun, the President may appoint another member of the hearing panel who is a lawyer as chair of the hearing panel, whether or not the lawyer is a current Bencher.

Review board member unable to continue

- 5-12.3** (1) Despite Rule 5-12.1 [*Review boards*], if a member of a review board cannot, for any reason, complete a review that has begun, the President may order that the review board continue with the remaining members, whether or not the board consists of an odd number of persons.
- (2) Despite Rule 5-12.1 [*Review boards*], if the chair of a review board cannot, for any reason, complete a review that has begun, the President may appoint another member of the review board who is a lawyer as chair of the hearing panel, whether or not the lawyer is a current Bencher.

All passed by consent

DISCUSSION/ DECISION

2. Governance Committee Report on 2014 Bencher and Committee Evaluations

Miriam Kresivo, QC, chair of the Governance Committee, opened her remarks by thanking individually the members of the Committee for their robust discussion and hard work. In introducing the Committee's report, she noted that the exercise of conducting annual evaluations is an important one, allowing directors to understand how well an organization is functioning both procedurally and substantively.

Generally, while the Committee response rate was relatively high and positive, the Bencher response rate was relatively low and somewhat negative; at 55% it was a decrease from the previous year. This represents a problem for analysis, as data collected from the low sample size is not necessarily representative of the Benchers' opinion as whole; nevertheless, as the only data

available, it was still analyzed for guidance purposes. Consideration is being given to ways to increase participation next year, including earlier notice.

The questions themselves are also being reviewed in case negative responses were the unintended result of the way particular questions were being asked, rather than an actual indicator of dissatisfaction.

The analysis itself reveals that Benchers feel adequately prepared and informed about expectations. However, they feel less aware of Board and CEO functions, including financial management, strategic planning, succession planning and performance evaluations. To address this, the Governance Committee will look at whether increased training and education should be provided to Benchers on an annual basis.

Finally, responses indicate a possible concern around how the Benchers work collectively as a team. It is unclear what assumptions might underlie the individual notions of teamwork, but the Committee stressed that it is committed to encouraging and maintaining an environment of healthy debate alongside meaningful collaboration.

Mr. Walker joined others in their thanks of Ms. Kresivo and the work of the Governance Committee, and noted the value of his recent governance training with Glen Tecker of Tecker International. The Benchers agreed that the Governance Committee should pursue the question of whether similar training would be valuable for the Bencher group as a whole

3. Fiduciary Property Rule Amendments

Ms. Jeevyn Dhaliwal, reporting as Vice-Chair of the Act and Rules Committee, opened her remarks by thanking the current Committee members and previous Chair Tom Fellhauer for their hard work in preparing these and other Rule amendments.

As an introduction to the amendments at hand, she detailed the circumstances in which lawyers may act in a fiduciary capacity on behalf of clients outside the practice of law but arising from their practice, such as acting as an executor of a will or under a power of attorney. The current Rules dictate that such lawyers must treat all funds they manage as trust funds in accordance with the Rules, even when they are acting in a different representative role; the proposed amendments relieve lawyers of some of the responsibilities in this circumstance.

After consultation with relevant CBA sections and with associated regulatory departments of the Law Society, including inviting commentary through the Law Society e-briefs and website, the Act and Rules Committee recommended amendments to revise the Rules accordingly.

Ms. Dhaliwal moved (seconded by Mr. Doerkson) that the Benchers approve the following resolution:

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

1. In Rule 1, by rescinding the definitions of “general funds” and “trust funds” and substituting the following:

“fiduciary property” means

(a) funds, other than trust funds, and valuables for which a lawyer is responsible in a representative capacity or as a trustee, if the lawyer’s appointment is derived from a solicitor-client relationship,

but does not include

(b) any funds and valuables that are subject to a power of attorney granted to the lawyer if the lawyer has not taken control of or otherwise dealt with the funds or valuables;

“general funds” means funds received by a lawyer in relation to the practice of law, but does not include

(a) trust funds, or

(b) fiduciary property;

“trust funds” includes funds received in trust by a lawyer acting in the capacity of a lawyer, including funds

(a) received from a client for services to be performed or for disbursements to be made on behalf of the client, or

(b) belonging partly to a client and partly to the lawyer if it is not practicable to split the funds;

“valuables” means anything of value that can be negotiated or transferred, including but not limited to

(a) securities,

(b) bonds,

(c) treasury bills, and

(d) personal or real property;;

2. In Rule 3-47

- (a) *by striking the semi-colon at the end of the definition of “public body” and substituting a period, and*
- (b) *by rescinding the definition of “valuables”;*

3. By adding the following Rule:

Fiduciary property

3-48.1(1) In addition to any other obligations required by law and equity, this rule applies to lawyers who are responsible for fiduciary property.

- (2) A lawyer must make all reasonable efforts to determine the extent of the fiduciary property for which the lawyer is responsible and must maintain a list of that fiduciary property.
- (3) A lawyer must produce on demand the following records for any period for which the lawyer is responsible for fiduciary property:
 - (a) a current list of valuables, with a reasonable estimate of the value of each;
 - (b) accounts and other records respecting the fiduciary property;
 - (c) all invoices, bank statements, cancelled cheques or images, and other records necessary to create a full accounting of the receipt or disbursement of the fiduciary property and any capital or income associated with the fiduciary property.
- (4) The records required under subrule (3) form part of the books, records and accounts of a lawyer, and the lawyer must produce them and permit them to be copied as required under these Rules.
- (5) Subrules (3) and (4) continue to apply for 10 years from the final accounting transaction or disposition of valuables.;

4. In Rule 3-57(3), by rescinding paragraph (e) and substituting the following:

- (e) made available to the client by other means agreed to in writing by the client.;

5. In Rule 3-68, by rescinding subrules (1) and (2) and substituting the following:

- (1) A lawyer must keep his or her records for as long as the records apply to money held as trust funds or to valuables held in trust for a client and for at least 10 years from the final accounting transaction or disposition of valuables.

- (2) A lawyer must keep his or her records, other than electronic records, at his or her chief place of practice in British Columbia for at least 3 years from the final accounting transaction or disposition of valuables.;

6. In Rule 3-80

(a) ***in subrule (1), by striking the phrase “in the lawyer’s possession or power” and substituting “in the lawyer’s possession or control”,***

(b) ***by rescinding subrule (1)(e) and substituting the following:***

(e) trust accounts and trust funds;

(f) fiduciary property., ***and***

(c) ***by rescinding subrule (2)(c) and substituting the following:***

(c) the lawyer or former lawyer has notified all clients and other persons for whom the lawyer is or potentially may become a personal representative, executor, trustee or other fiduciary regarding the lawyer or former lawyer’s withdrawal from practice and any change in his or her membership status.;

7. In Rule 3-82

(a) ***by striking the heading substituting “Payment of unclaimed money to the Society”, and***

(b) ***by rescinding subrules (1), (4) and (5) and substituting the following:***

(1) A lawyer who has held money in trust on behalf of a person whom the lawyer has been unable to locate for 2 years may apply to the Executive Director to pay those funds to the Society under section 34 [*Unclaimed Trust Money*] of the Act.

(4) If the Executive Director is satisfied that the lawyer has made appropriate efforts to locate the owner of the money, the Executive Director may accept the money under section 34 [*Unclaimed Trust Money*] of the Act.

(5) The Executive Director must account for money received by the Society under subrule (4) separately from the other funds of the Society.;

8. In Rule 3-84, by rescinding subrule (9) and substituting the following:

(9) Following the hearing of the evidence and submissions, the Executive Committee must determine whether the claimant is entitled to the money held in trust by the Society.;

9. In Rule 3-85, by rescinding subrule (2) and substituting the following:

- (2) Interest calculated under subrule (1) is payable from the first day of the month following receipt of the unclaimed money by the Society, until the last day of the month before payment out by the Society.;

10. By rescinding Rules 3-86 and 3-87 and substituting the following:

Efforts to locate the owner of money

- 3-86** From time to time, the Executive Director must conduct or authorize efforts to locate the owner of money held under this Part.

Payment to the Law Foundation

- 3-87** Before paying the principal amount received under Rule 3-82 [*Payment of unclaimed money to the Society*] to the Foundation under section 34 [*Unclaimed trust money*] of the Act, the Executive Director must be satisfied that the owner of the money cannot be located following efforts to locate the owner..

Discussion surrounded the positive outcome of the changes, which would better enable lawyers who are well trained as fiduciaries to provide additional, valued services.

The motion was passed unanimously.

4. Approval of the Law Society Rules 2015 – to take effect July 1, 2015

Ms. Dhaliwal also reported on the Act and Rules Committee’s Consolidated Rules revision, a collection of non-substantive amendments designed to enhance clarity and restore consistency of numbering and cross-references. Historically such revisions have been undertaken in 10 to 15 year cycles; the last major revision was in 1998. Work on this revision began in 2010; its completion marks hundreds of hours of work by staff and the Committee.

All regulatory committees have been informed of changes in their areas; once approved, the amended Rules will be posted to the Law Society website for members to review before the July 1 implementation.

Motion was made and seconded to approve the Law Society Rules 2015 as amended; during discussion, it was suggested that more time be afforded the Benchers to review the proposed amendments, before approval of them.

After consideration of the time needed to implement the necessary operational changes prior to the new Rules coming into effect July 1, 2015, it was unanimously agreed to postpone the

motion to approve the proposed Law Society Rules 2015 to the April 10 Bencher meeting, for review under the Consent Agenda.

5. Review of the Law Society's 2014 Audited Financial Statements and Financial Reports

Mr. Peter Lloyd, Chair of the Finance and Audit Committee introduced Ms. Jeanette McPhee, Chief Financial Officer, to review the Law Society's 2014 Internal Financial Statements, to be followed by his own presentation of the 2014 Audited Financial Statements.

Ms. McPhee's presentation, found at Appendix 1, provided an overview of the General Fund, Trust Assurance Program, Lawyers Insurance Fund ("LIF") and the Special Compensation Fund, and some information on 2015 to date.

The General Fund experienced a negative variance of approximately 2.2%, due to costs associated with the TWU application and external counsel fees in both the regulation and credentialing areas. These losses were partially offset by approximately \$500,000 in additional revenue, representing a total revenue increase of 2.4% over budget. Specifically, there were increases in the areas of PLTC fees, disciplinary fines and recoveries, and lease revenues, and a slight decrease in practice fee income.

The Trust Assurance Program, funded by the Trust Assurance Fee ("TAF") saw an increase in transactional revenue, likely due to an increase in real estate sales in 2014. The TAF itself was also increased in 2014 to bring the reserve out of deficit position, and closer to the targeted 6-12 months of operating expenses needed to guard against future economic fluctuations. The Special Compensation Fund saw no real activity; the \$1.3 million reserve currently held in it will be transferred to LIF in 2015. Fee revenue for LIF was also up 2% ahead of budget in 2014. LIF operating expenses were 7% below budget, due in part to lower staff compensation costs and lower travel and consulting fees. Investment of LIF funds is currently managed by two investment managers, who reported a rate of return of 9.6%, which was slightly below the targeted benchmark.

For 2015, all areas appear to be tracking to budget, with the possible exception of external counsel fees and the ongoing TWU process.

Mr. Lloyd then reviewed and provided explanatory detail for the 2014 Audited Financial Statements, including a review of the Notes provided (found at page 229 of the meeting materials).

Motion was made and seconded (Fellhauer/Meisner) to approve the following resolution:

BE IT RESOLVED to approve the Law Society's 2014 Financial Statements, for the General & Special Compensation Fund and the Consolidated Lawyers Insurance Fund.

The motion was passed unanimously.

REPORTS

6. Lawyers Insurance Fund: Program Report for 2014

Su Forbes, Director of LIF, detailed her report found at Appendix 2. The total number of lawyers in BC is currently 13,300, of which 2200 are non-practicing or retired. 8400 are engaged in private practice while 2700 practice in house. 7250 practice full time, but the growth in part time practice is outpacing full time, due in part to the trend of retiring lawyers transitioning first to part time work.

With regards to insurance reports, LIF experienced an increase in 2010 and 2011 consistent with the economic climate. One third of all reports arose from the civil litigation and plaintiffs' personal injury areas. Those areas also account for a third of dollars reserved. This represents a shift from years past, in which commercial real estate and lending claims were the most severe, in keeping with the recessionary times.

At 17%, LIF also experienced a significant percentage of files that were resolved through successful repairs, driven by timely reporting by insured lawyers, proactive steps by claims counsel, and an experienced group of repair counsel. Other comparative results include an increase in indemnity payments and a decrease in excess payments, an increase in the number of Risk Management presentations made, and a decrease in the number of trials held. As compared to other jurisdictions, ours is the third largest program, but only the ninth largest fee; additionally, we were one of only two jurisdictions in which fees remained the same.

Survey of closed files indicates an overall positive evaluation of LIF service. Surveys also allow for lawyer self-reflection in considering how they might have avoided the claim; responses in this regard are used in risk management presentations to help raise awareness around potential pitfalls. Ms. Forbes detailed several examples of practice situations resulting in claims, and insured lawyers' suggestions for how they could have been avoided.

Efforts to educate members on practice risks and tips will continue this year with a Fall webinar, and the publication of "My Insurance Program Q and A" on the website.

7. Report on 2014 Key Performance Measures

Mr. McGee provided highlights of the report (found at page 250 of the meeting materials), noting that Key Performance Measures are the Board's tool to monitor performance and provide insight into the standards set by the organization with respect to its public mandate. He detailed the results in the areas of Professional Regulation, Trust Assurance, PLTC, Practice Advice and Practice Standards.

While the KPMs set a high standard for the processing of complaints under Professional Regulation, there are good indicators of satisfaction with the service provided and the processes used. In reviewing the area of Trust Assurance, it was suggested that efforts be made to further minimize the potential disruption to practice caused by an audit.

The PLTC program represents the largest credentialing body in BC and is seen as successful. The upcoming Strategic Plan review of our bar admission program will focus on ensuring achievement of our pre-call goals, acknowledging that principals rate the articling program lower each year. The area of Practice Advice will also be a focus of the Strategic Plan, through the Knowledge Management Project; specifically, the goal will be to update current manual processes to include new technological tools, while still maintaining the high rate of satisfaction. Finally, while the KPMs were not met in the area of Practice Standards, the Small Firm Practice course remains a valuable resource for improvement in this area.

Discussion included praise for the Report and the efforts by staff to produce it, questions around the use of the Small Firm Practice course, and how we measure the performance of organizations funded by the Law Society. In answer to the latter, it was noted that, while these organizations each have Boards measuring their performance, the Finance Committee has recognized that some program review could be implemented, to keep apprised of business plans and objectives. Finally, note was made of the need to raise awareness amongst the membership of the many resources available through the Law Society, as many continue to view the Law Society as solely a disciplinary body.

8. Report on the Outstanding Hearing & Review Reports

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

9. President's Report

Mr. Walker briefed the Benchers on various Law Society events he has attended since the last meeting, including:

- Mr. Justice Romilly's retirement dinner;

- The Iona Campagnolo Lecture on Restorative Justice in Courtenay, at which Chief Justice McLachlin spoke.

He also noted the upcoming Call ceremony, asking that Benchers try to attend, and thanked Ms. Dhaliwal for attending on his behalf at the Federal Court Welcoming Ceremony, and Mr. Lawton for attending the Court of Appeal Welcoming ceremony.

In briefing the Benchers on judicial appointments, he noted that there will be no replacement for the resident judge in Cranbrook following the retirement of Mr. Justice Melnyk. Concern was expressed by Benchers on behalf of the Kootenay and rural Bars, characterizing this loss as an access to justice issue for rural communities. Opinion was expressed both for the cultural differences in rural communities that should dictate a local appointment, and for the efficiency inherent in dedicating a visiting Vancouver judge to a particular area. Also noted was the relative shortage of Supreme Court Judges, as the Federal Judicial Council has not yet been struck to consider new appointments. After discussion of whether the Law Society should intervene in some way, it was agreed that the matter would be considered next meeting, allowing further investigation in the interim.

Mr. Crossin then briefed the Benchers on the upcoming Retreat program, which will focus on our mandate as set out in section 3 of the Legal Professions Act and the extent to which it obliges us to go beyond setting standards and regulating lawyers. Guest speakers will include Mister Justice Cromwell, Madam Justice Bennett and Professor Adam Dodek. Mark Benton, QC will be the facilitator.

10. CEO's Report

Mr. McGee provided highlights of his monthly written report to the Benchers (attached as Appendix 3). Regarding engagement with the Notaries, two successful meetings with the Notaries have helped map out a Memorandum of Understanding ("MOU"), a non-binding framework for future discussion that has been reviewed by the Executive Committee. Discussions going forward will be overseen by the Executive Committee and guided by the MOU, particularly around any increased scope of practice, with a view to determining whether merger is a possibility.

Regarding the Federation Governance Committee, the upcoming Federation conference in Ottawa will involve a series of discussions around the Federation's governance model, to help determine whether the Federation should be more of a coordinating or regulatory body. The Law Society will be well represented by both Benchers and staff.

11. 2015-2017 Strategic Plan Implementation Update

On behalf of the Lawyer Education Advisory Committee, Chair Tony Wilson provided an update on the Committee's Admission program review (PLTC and articling), pursuant to the Strategic Plan (presentation attached as Appendix 4).

Despite the long success of PLTC, a review is desirable to determine what enhancements ought to be made. To that end, recently called lawyers are being surveyed regarding the effectiveness of PLTC and articling. The Committee awaits the Federation's next report on proposals for implementing the national competency profile, and a review of programs in other Canadian and international jurisdictions has begun. The latter review has shown that Ontario's mainstream program has no meaningful training course, only articles and rigorous multiple choice examinations. In response to increasing numbers of students without articles, the Law Society of Upper Canada is embarking on a streamed approach, in which students choose one of:

- Articling for 10 months, followed by exams,
- The Law Practice Program pilot in which students without articles participate in a four month online program followed by four months of workplace experiential learning and exams,
- The Lakehead University 3 year program, which includes two summer terms, with an integrated practice component in place of articles.

Alberta, Saskatchewan and Manitoba share a program combining a mainly online training program and articles, followed by written and performance tests rather than exams (except in the case of ethics). The program, which utilizes relatively old technology, is itself under review.

In comparing programs, the Committee remains focused on effectiveness, taking into consideration both technological advances and the value of face to face learning, as well as being mindful of law firm feedback on change.

A review of admission programs nationally and internationally shows that American states have no articling requirements, Canada's range from 6-12 months, and the Solicitors' Regulation Authority (UK) requires a 2 year training contract. Some question the value of articling, citing concerns over increasing numbers of students unable to secure articling positions. Some also question the consistency of articles, noting that students receive training of unequal quality.

In response to those questions, the Committee's task is to consider options for training students for practice. Possibilities include an expedited admission program for students willing to confine their practice to in-demand legal areas. The Committee remains open to ideas and encourages the Benchers to provide suggestions.

Discussion of the report included concerns over the quality and consistency of articles at small and large firms, and over the intrusiveness of a 10 week articling program.

The Benchers discussed other matters *in camera*.

RCG
2015-03-06

The Law Society of British Columbia



Law Society of British Columbia 2014 Financial Results

Bencher Meeting – March 6, 2015



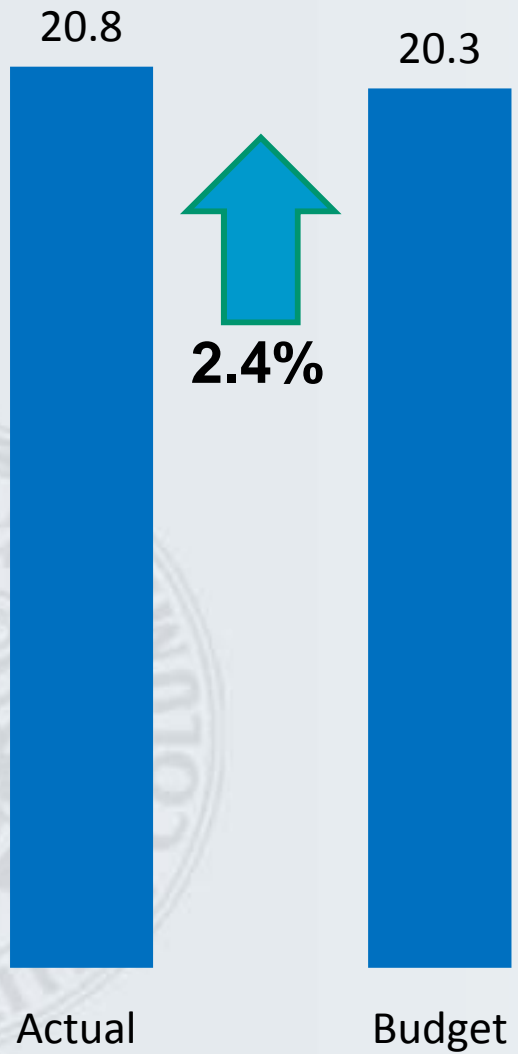
Overview

1. 2014 General Fund
2. 2014 TAF (Trust Assurance Program)
3. 2014 Special Compensation Fund
4. 2014 Lawyers Insurance Fund
5. 2015 to date

General Fund Operating Results

(without capital)

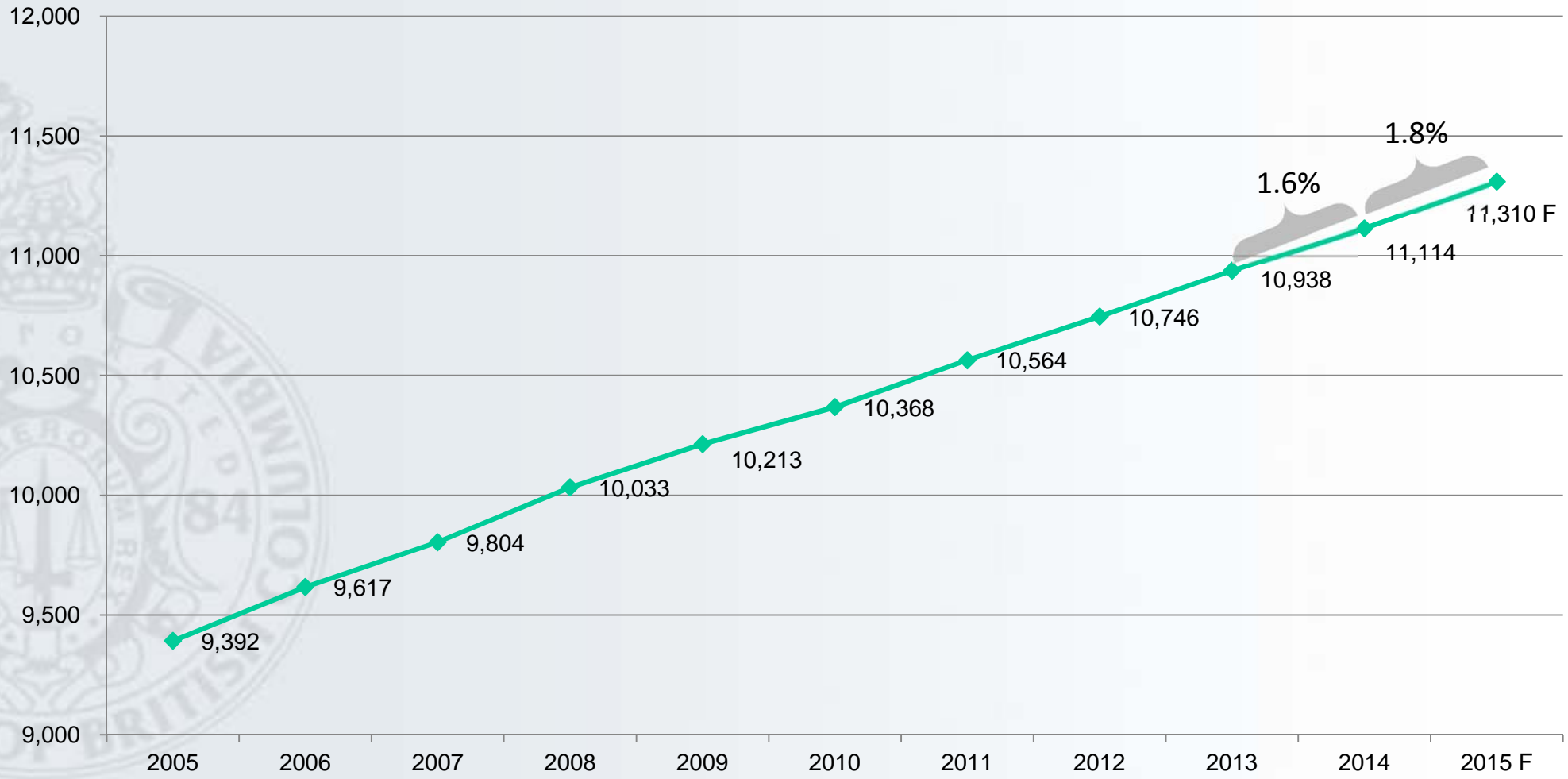
Revenue



- Membership fees below budget, and PLTC fees, recoveries, buildings and interest above budget
- 11,114 members, 76 members below budget of 11,190
- 470 PLTC students, 20 students above budget
- Electronic filing revenue above budget = \$30,000
- Recoveries ahead of budget = \$198,000
- Interest income above budget = \$78,000
- Cambie building lease revenue above budget = \$108,000

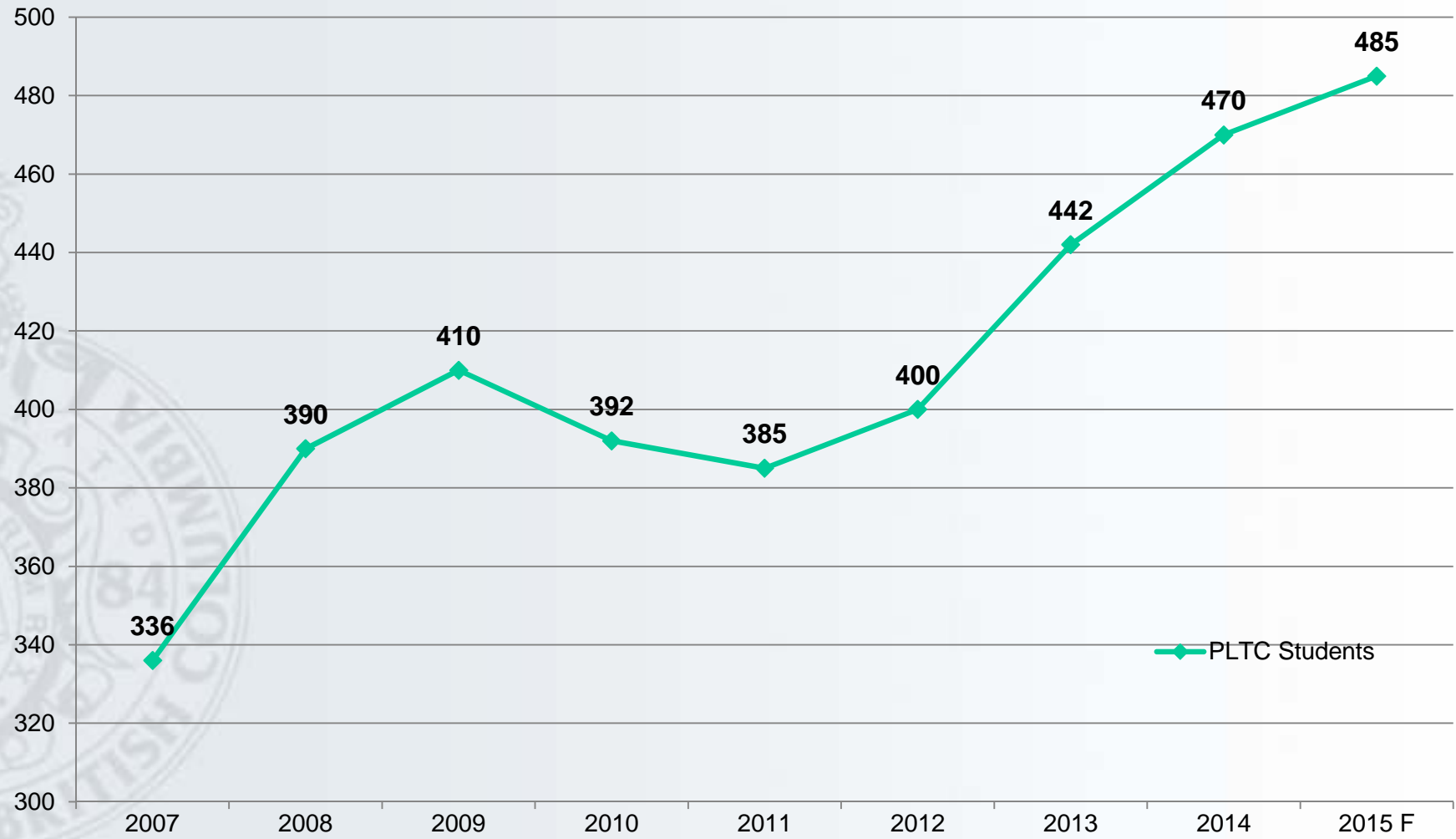


2014 Practicing Membership





PLTC Students



General Fund Operating Results (without capital)



Expenses



Approved reserve funded amounts (unbudgeted):

- CBA REAL initiative = \$48,000
- Articling Student = \$57,000
- Practice Standards / On-line courses = \$50,000

Unexpected Costs:

- TWU (external counsel/ meetings) = \$432,000

Costs in excess of budget:

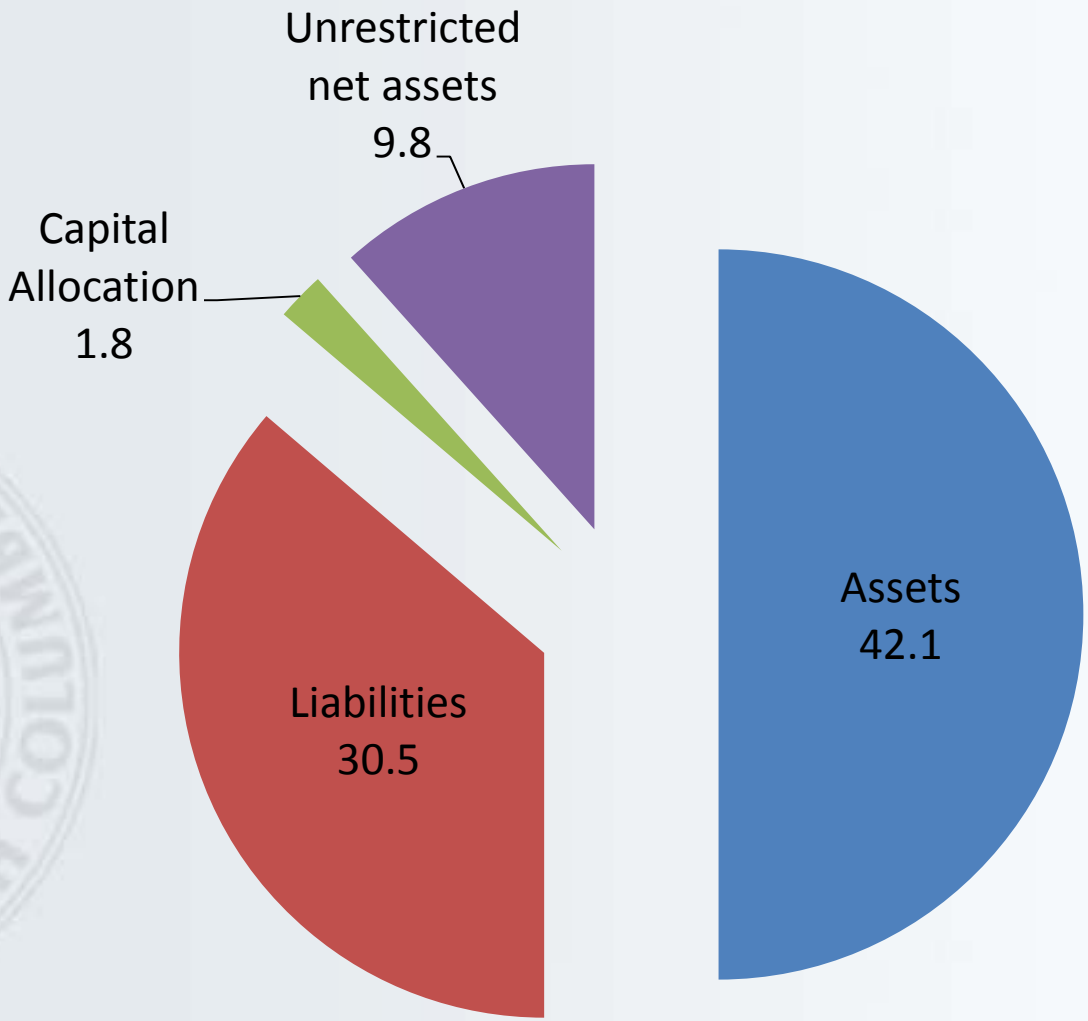
- Regulation external professional fees = \$464,000
- Credentials professional fees = \$201,000
- Building – property taxes / utilities = \$80,000

Areas of savings against budget:

- Staff compensation = \$237,000
- Forensic professional fees = \$80,000

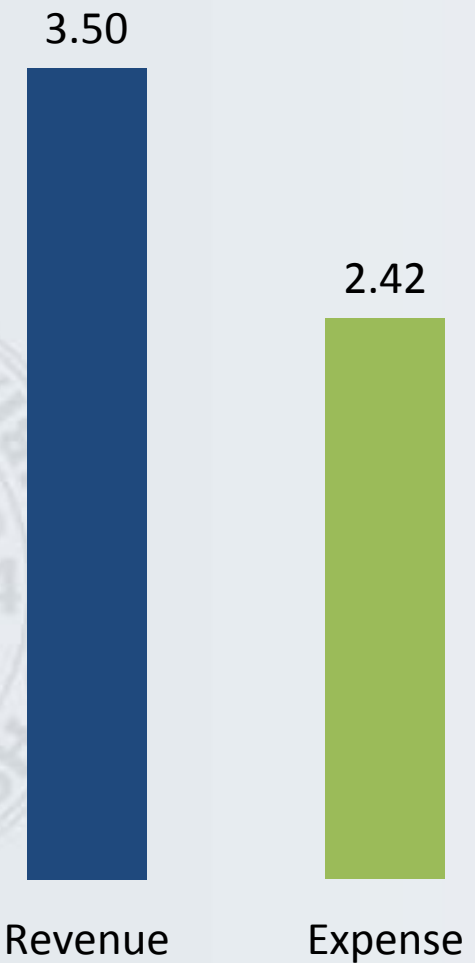


General Fund Balance Sheet – December 2014

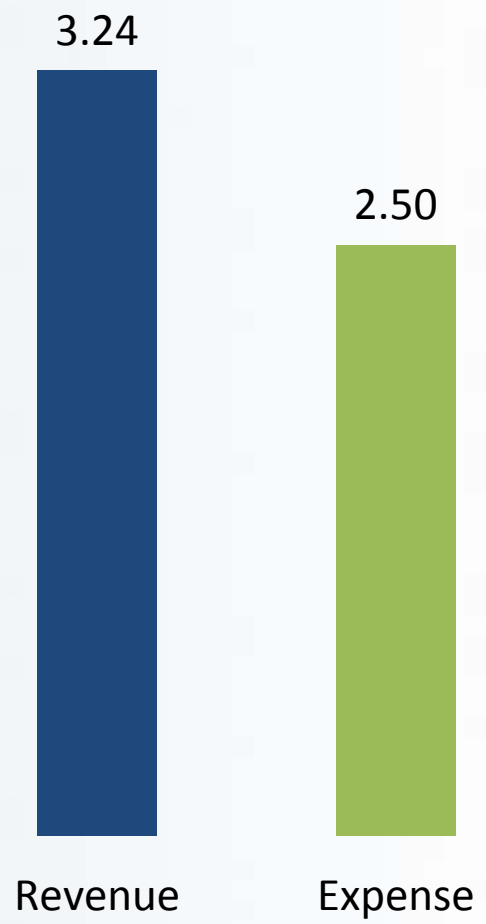


Trust Assurance

2014 Actual

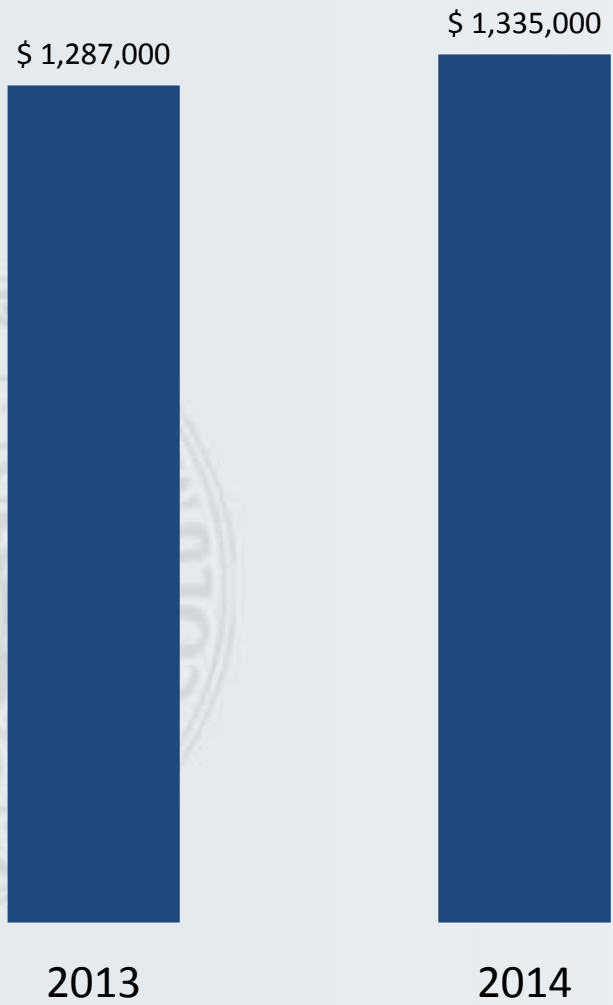


2014 Budget



Special Compensation Fund

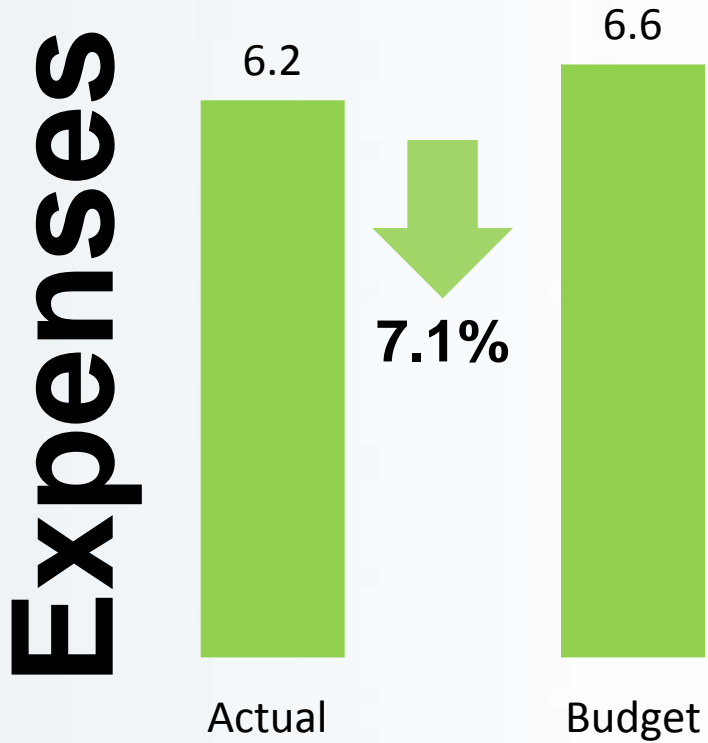
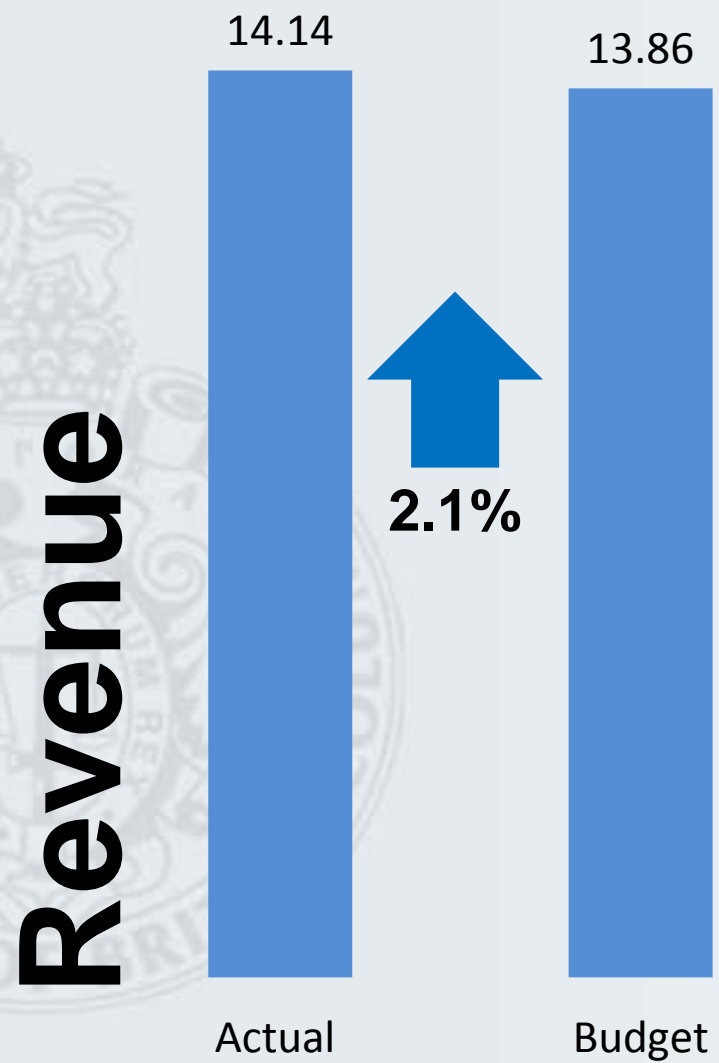
Net Assets



Special Fund Fee



Lawyers Insurance Fund





Lawyers Insurance Fund

Investment Returns – 2007 to 2014



Lawyers Insurance Fund



Net Assets



A preliminary look at 2015...

- 2015 membership numbers and PLTC are expected to be on budget
- Pressures and strengths for 2015 –
 - External counsel fees will continue to have pressure this year, with complex and challenging files, and the on-going TWU process
 - Other cost areas are expected to be on budget at this time



Questions?





*Lawyers
Insurance
Fund*

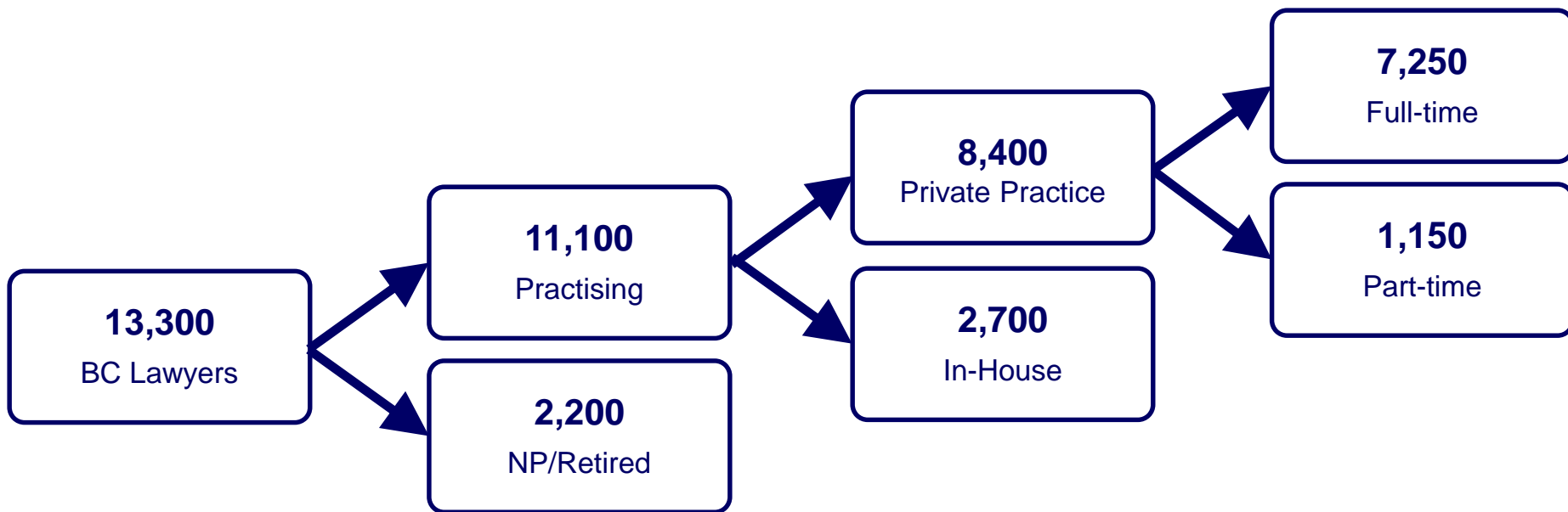
Lawyers Insurance Fund

2014 Year End Report

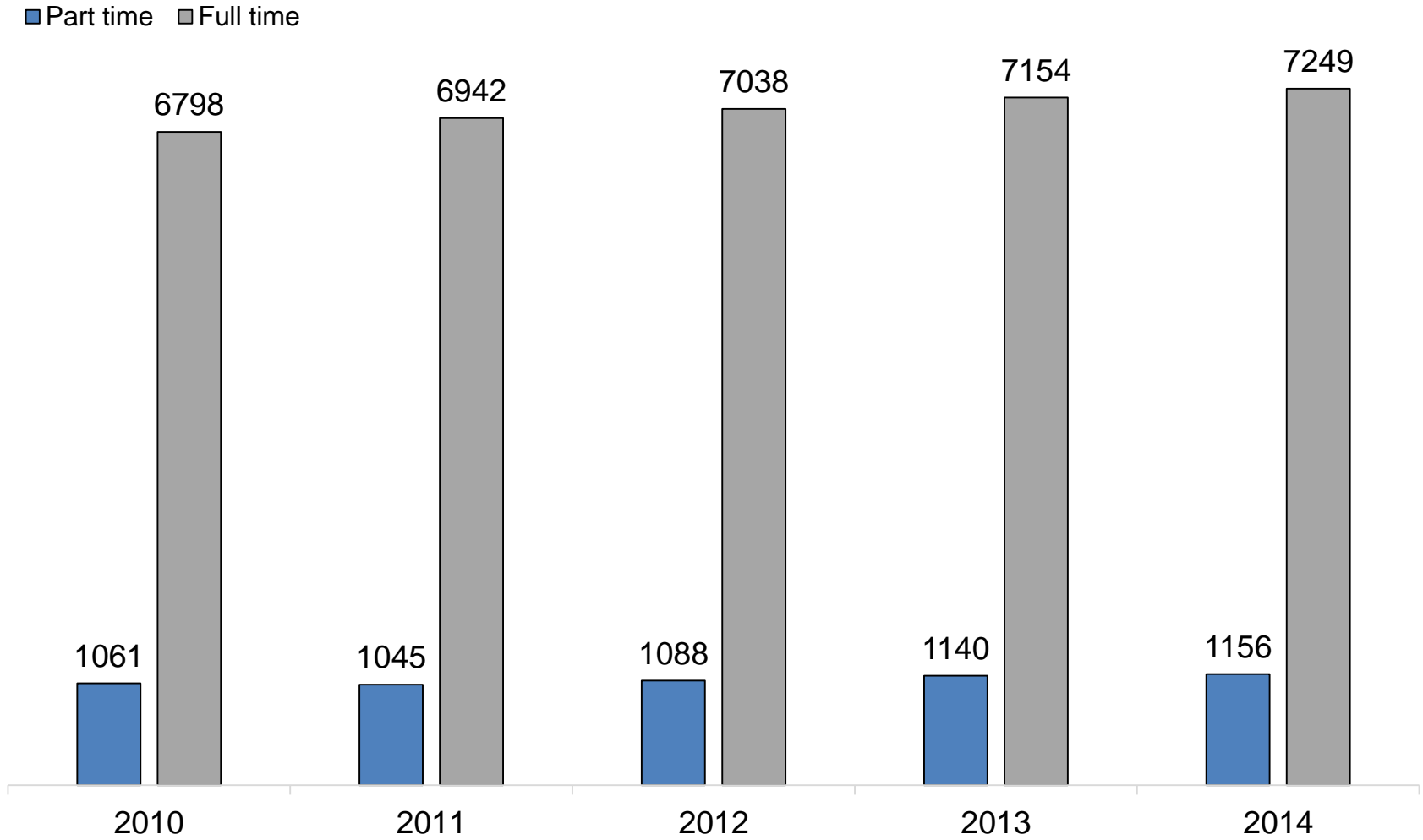
Overview

1. BC lawyers
2. Part A (negligence)
3. Part B (theft)
4. Service evaluation & risk identification
5. What's new on the horizon

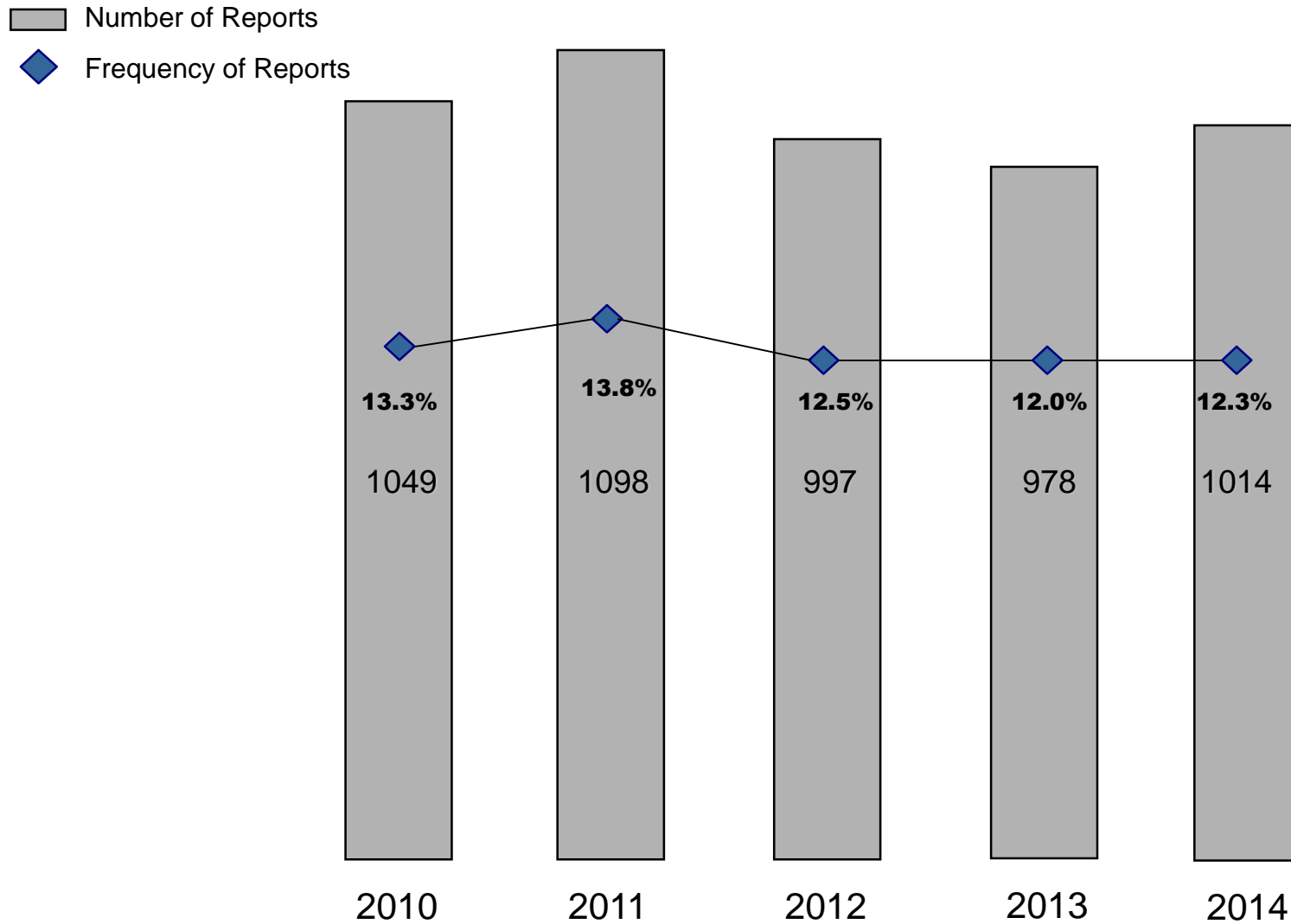
BC Lawyers



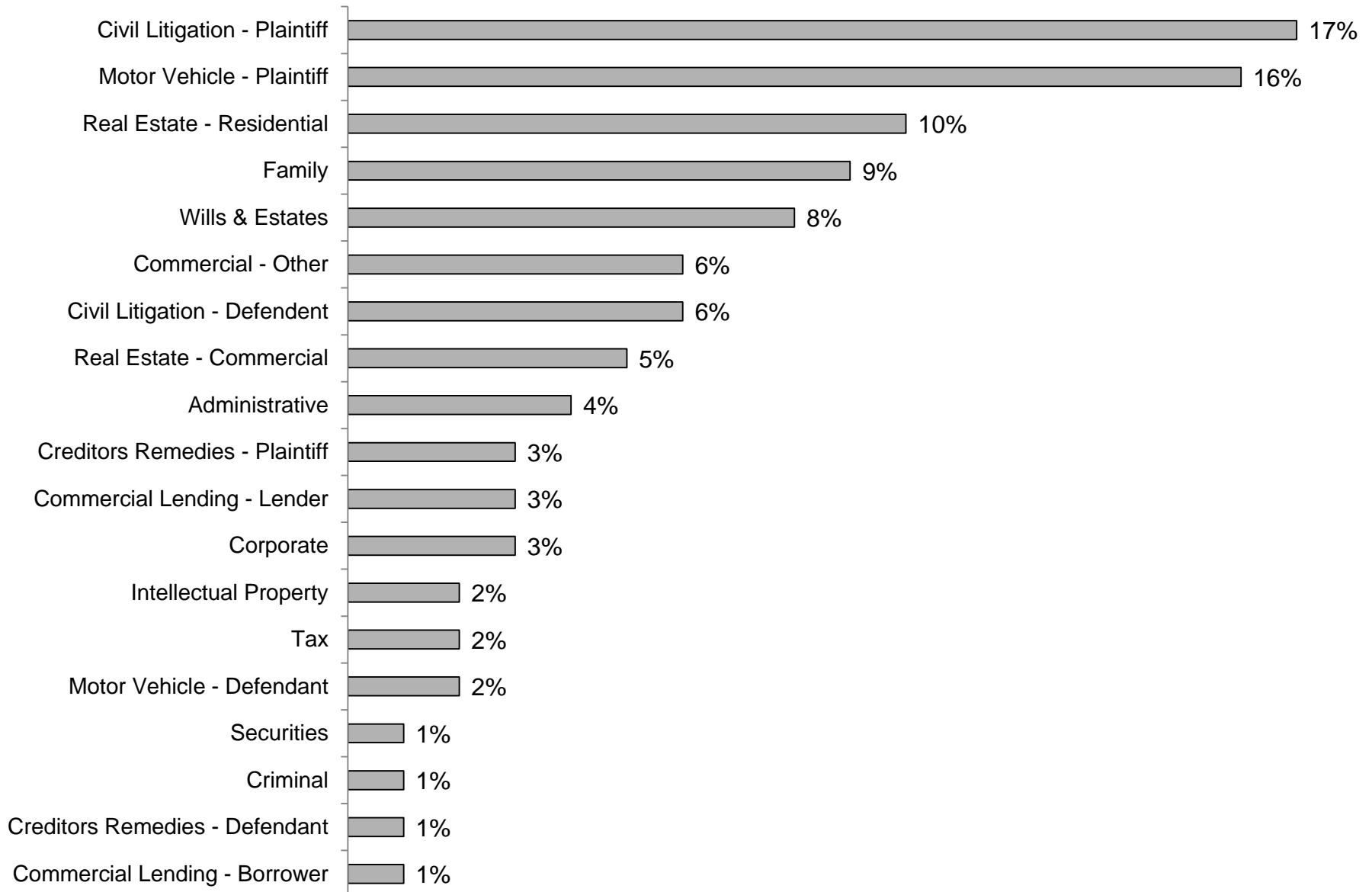
Full and Part Time Insureds



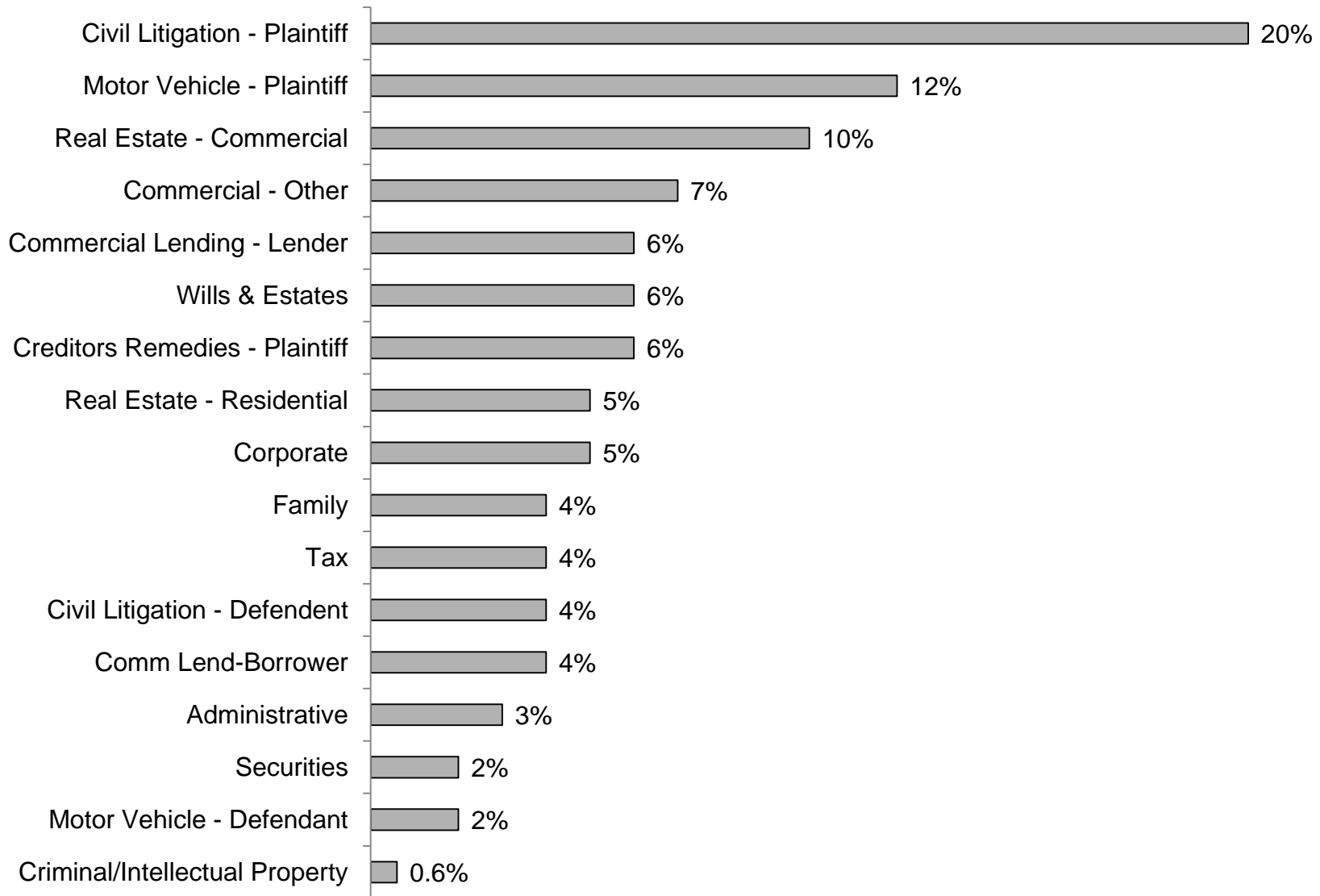
Number and Frequency of Reports



Frequency by Area of Practice

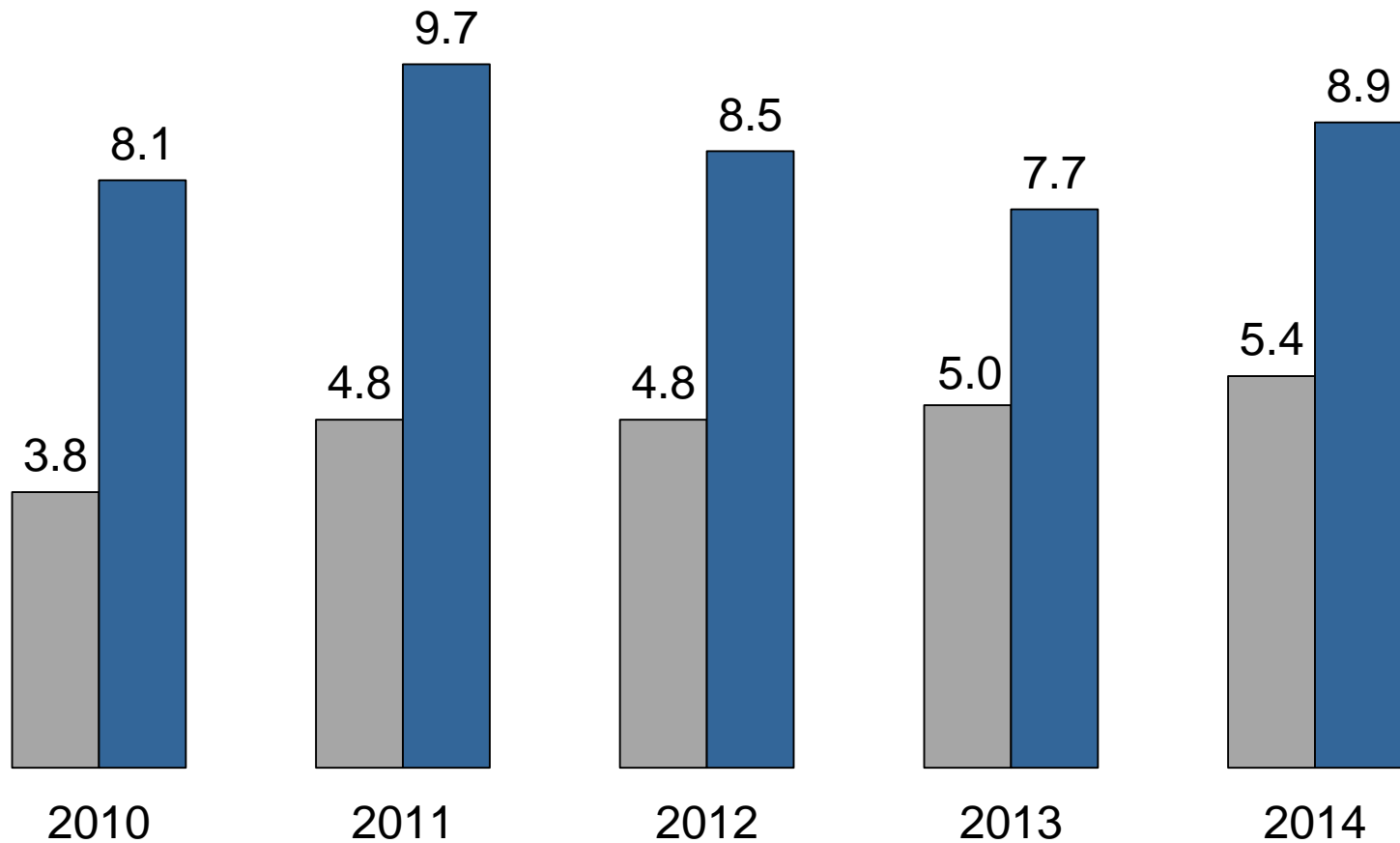


Severity by Area of Practice



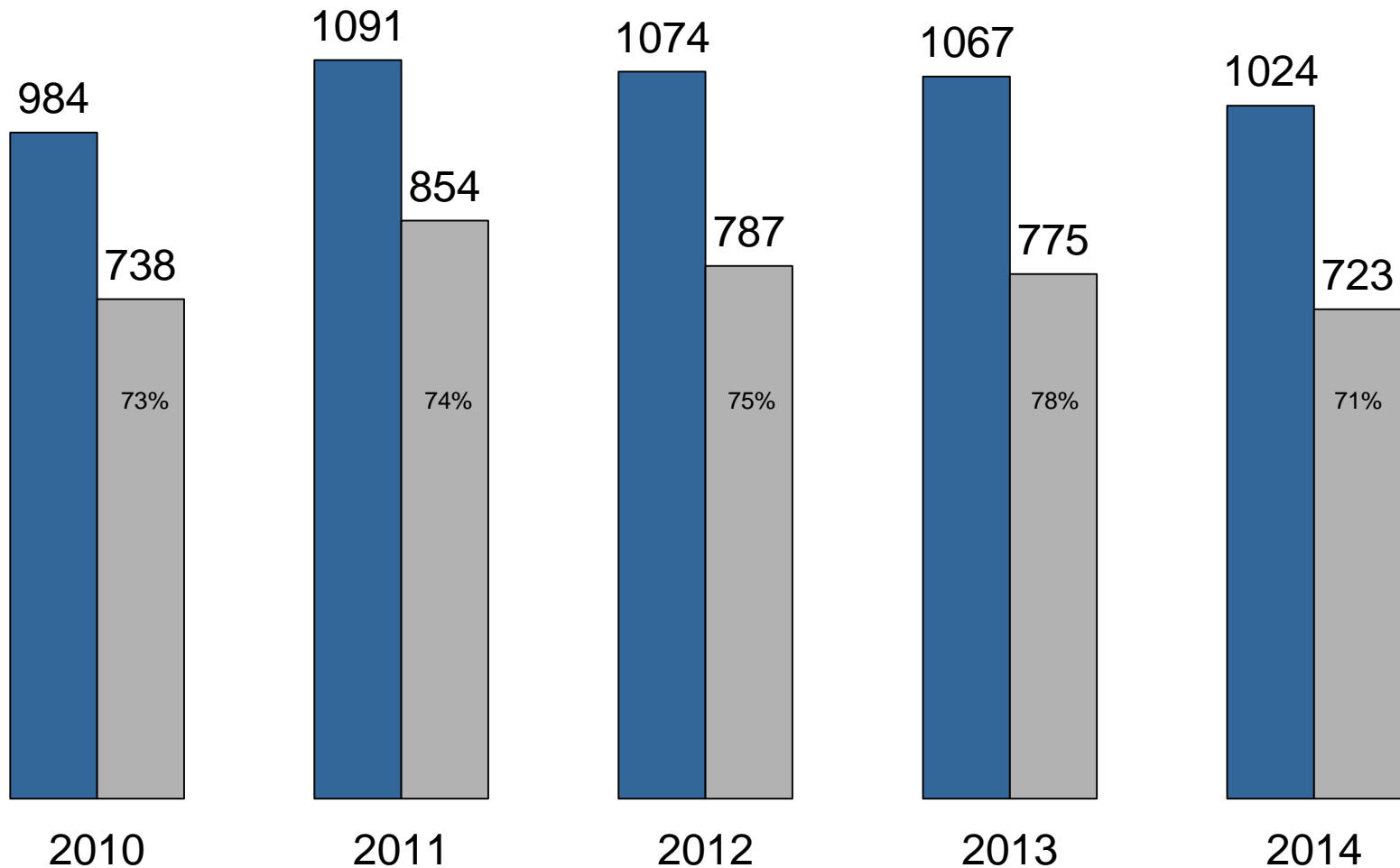
Claim Payments

Expense
Indemnity

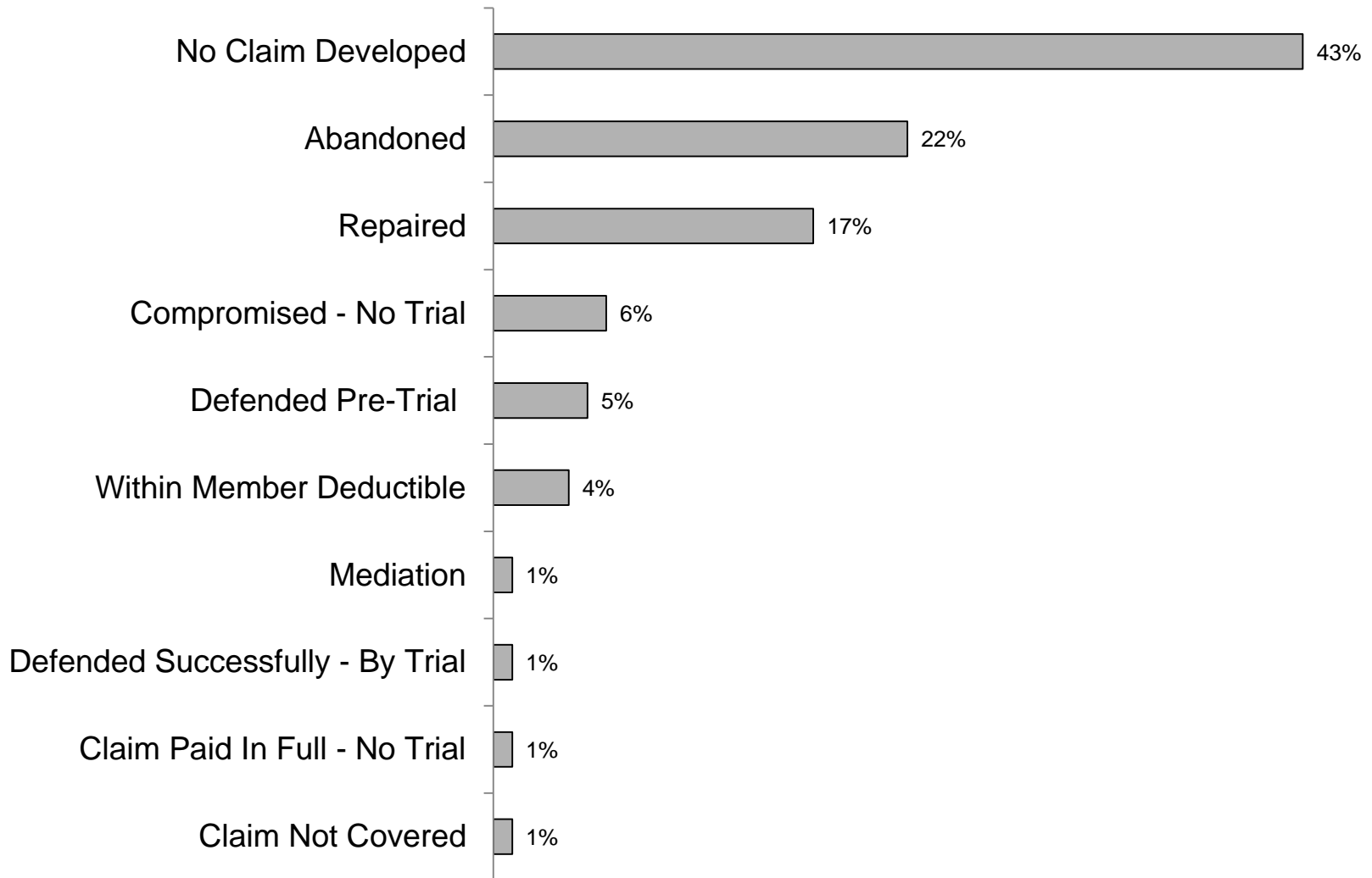


Closed Reports with No Payment

- Total Reports Closed
- Reports Closed with No Payment



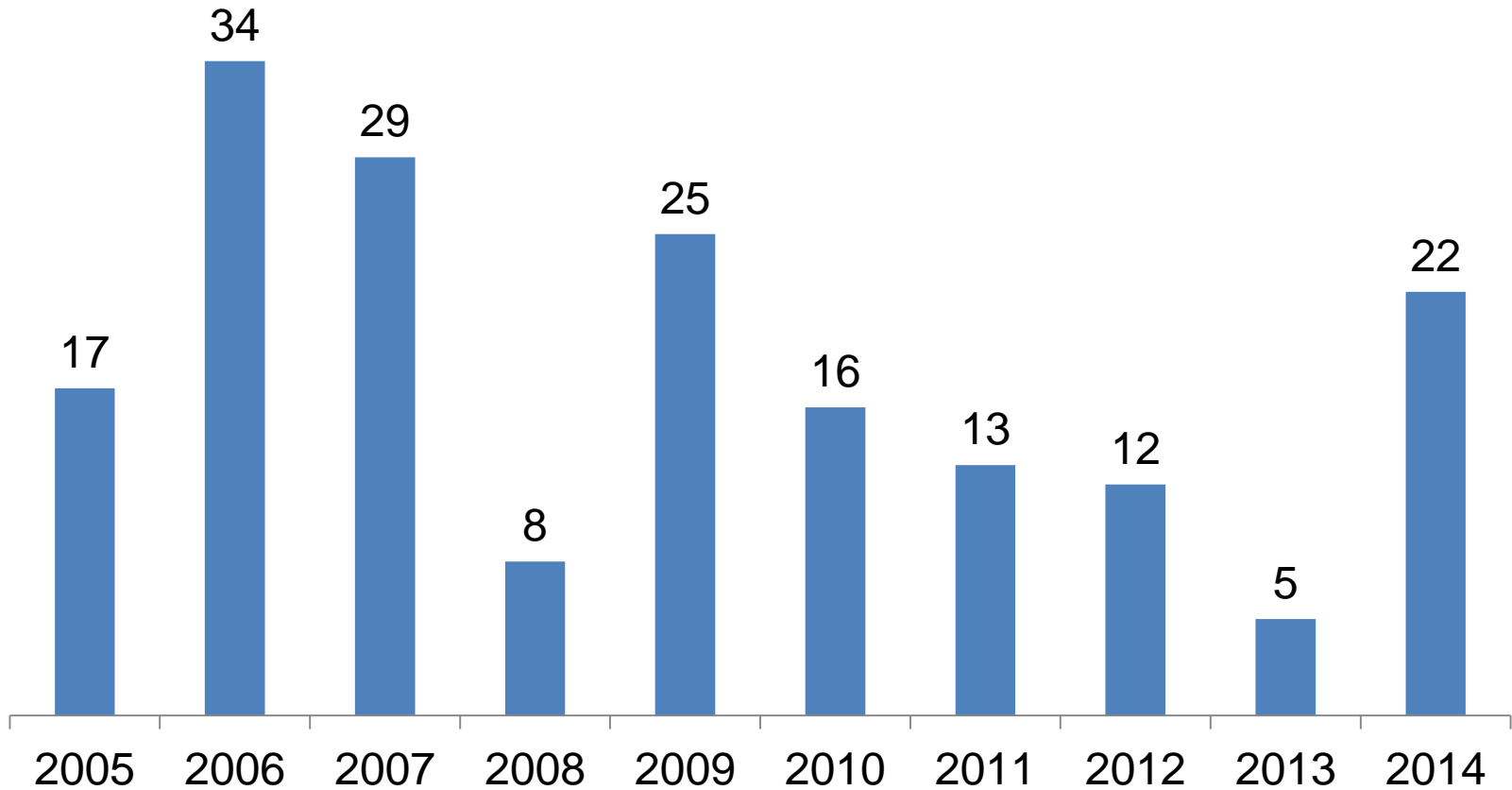
Results of Reports



Other Results in 2014

	2013	2014
Indemnity payments	124	137
Excess payments (settlements over \$1 million)	1	0
Number of risk management presentations	8	22
Matters tried	10	3
• Trials won	8	3
• Trials lost	2	0
• Appeals won	0	1
• Appeals lost	1	0

Part B Claims: 2005 - 2014

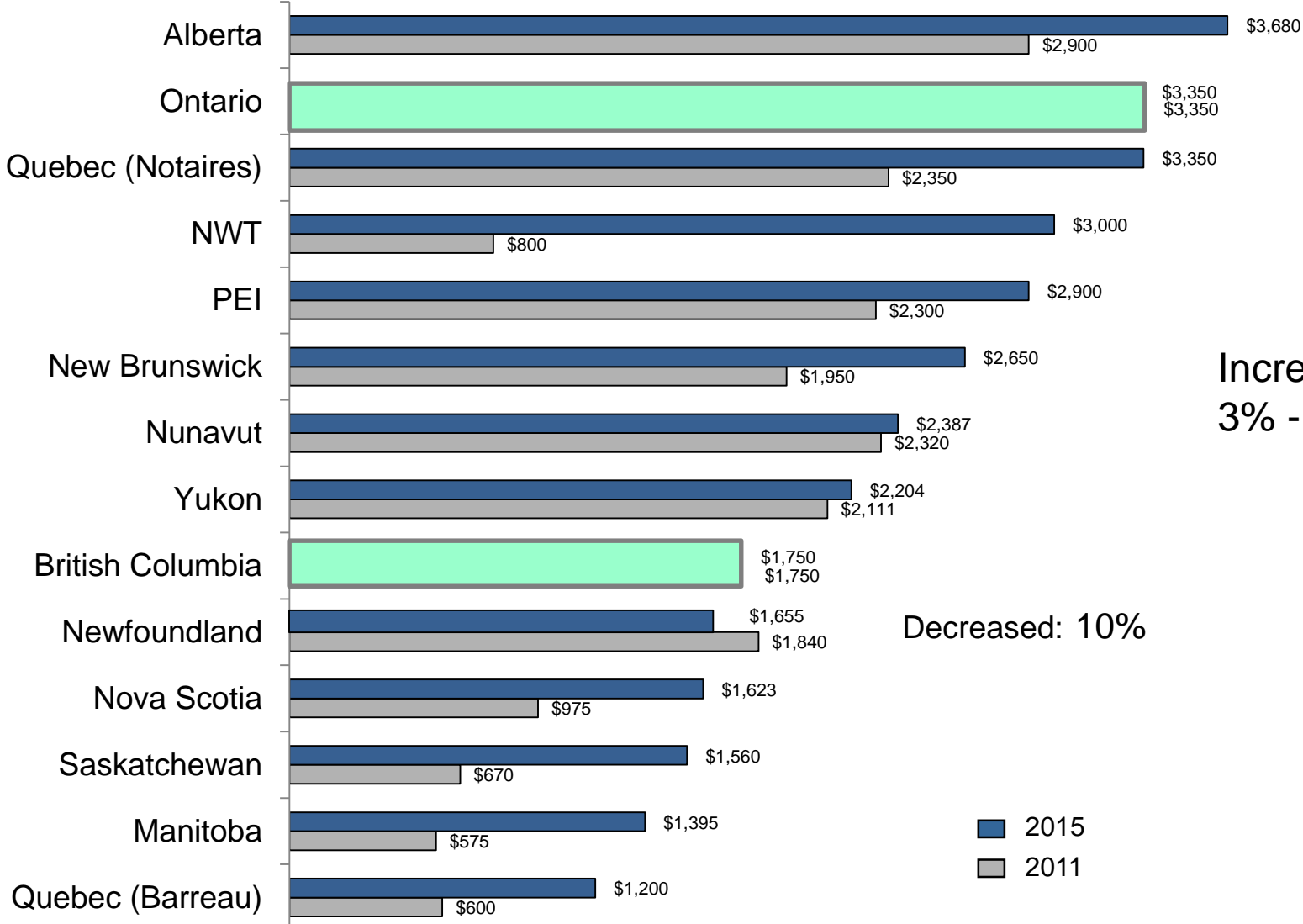


Part B

In 2014:

- 22 reports
- 2 claims – 2 lawyers – totaling \$132,900
- 2 actions against former members - 2 default judgments
- \$53,500 was recovered

Insurance Fee Comparison



Increased:
3% - 275%

Decreased: 10%

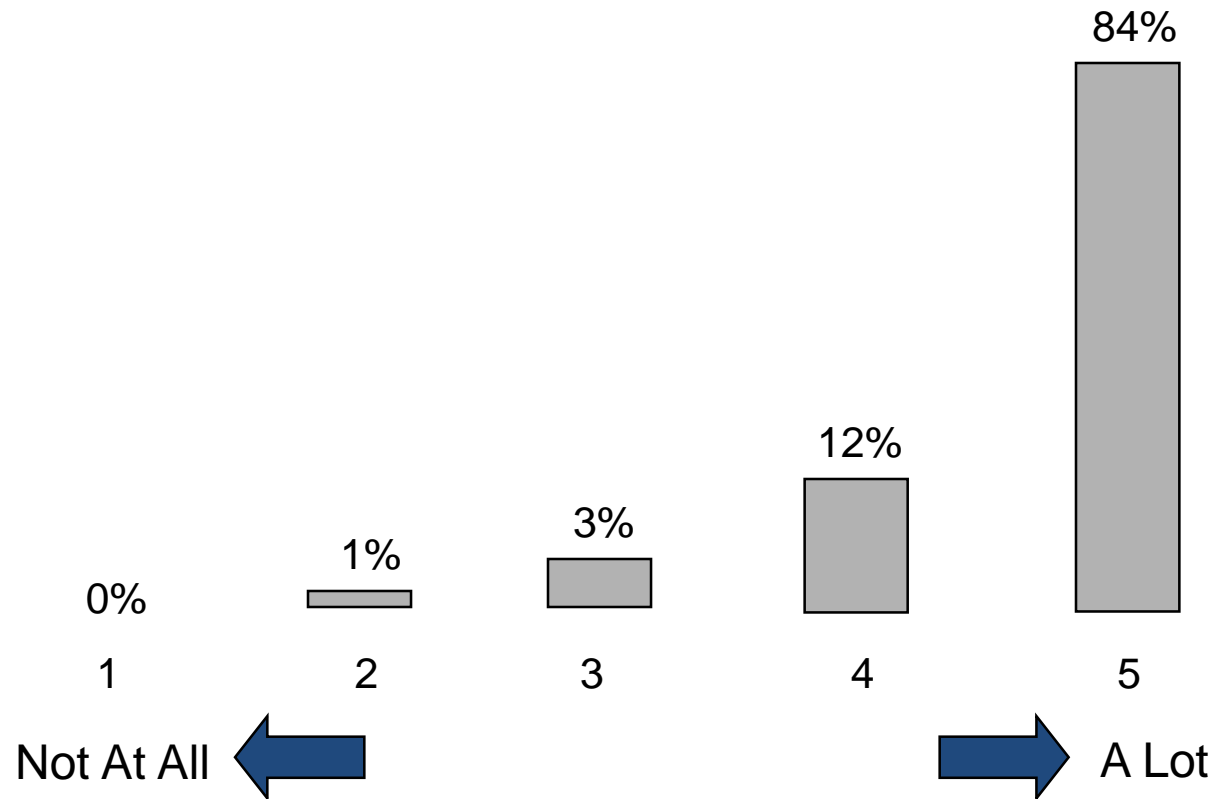
■ 2015
■ 2011

Service Evaluation Forms

- SEFs completed – 268
- Kudos (good) – 190
- Grumbles (bad) – 7

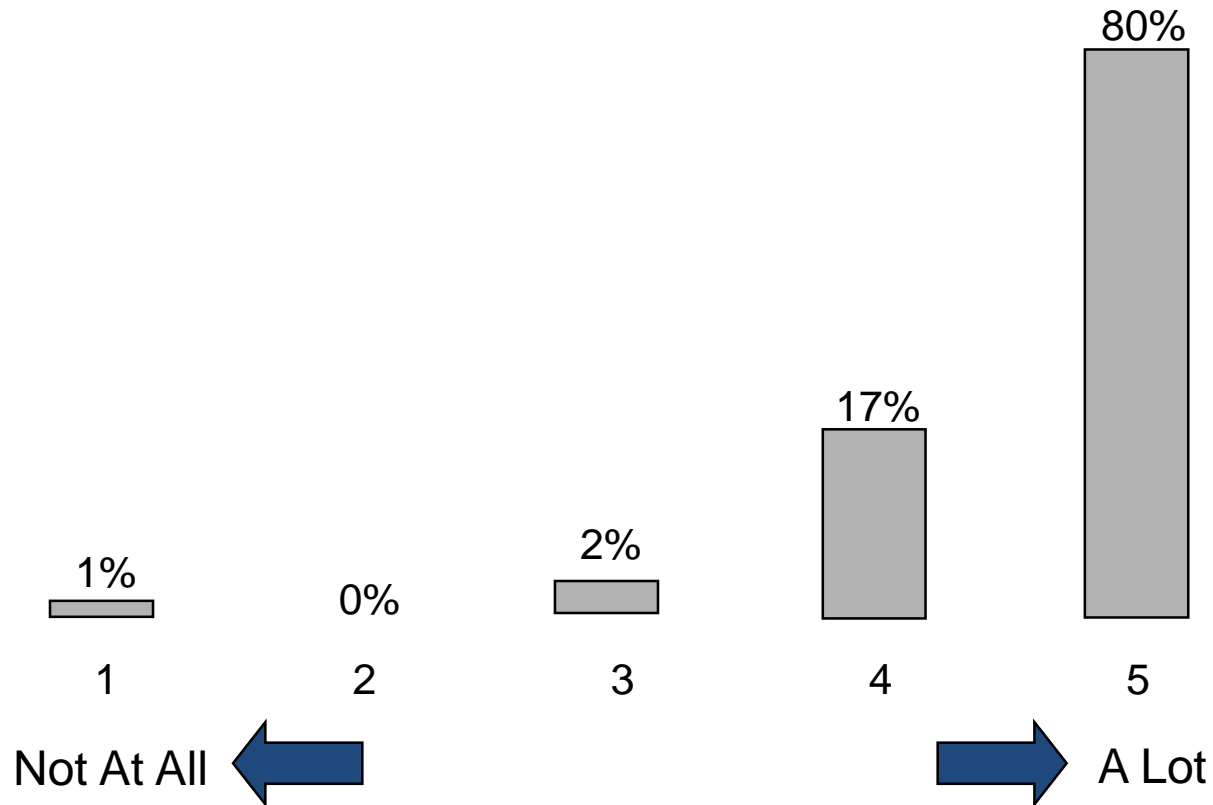
Service Evaluation Form Results

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



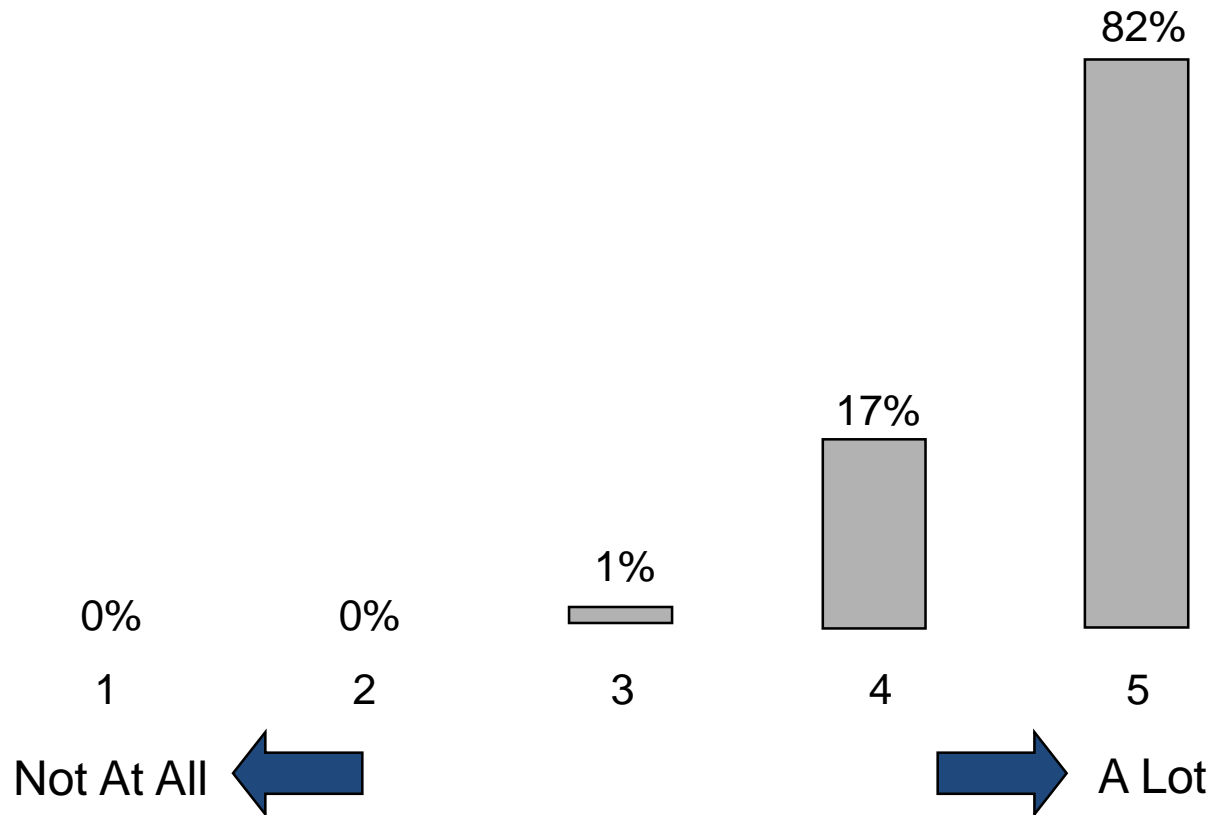
Service Evaluation Form Results

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



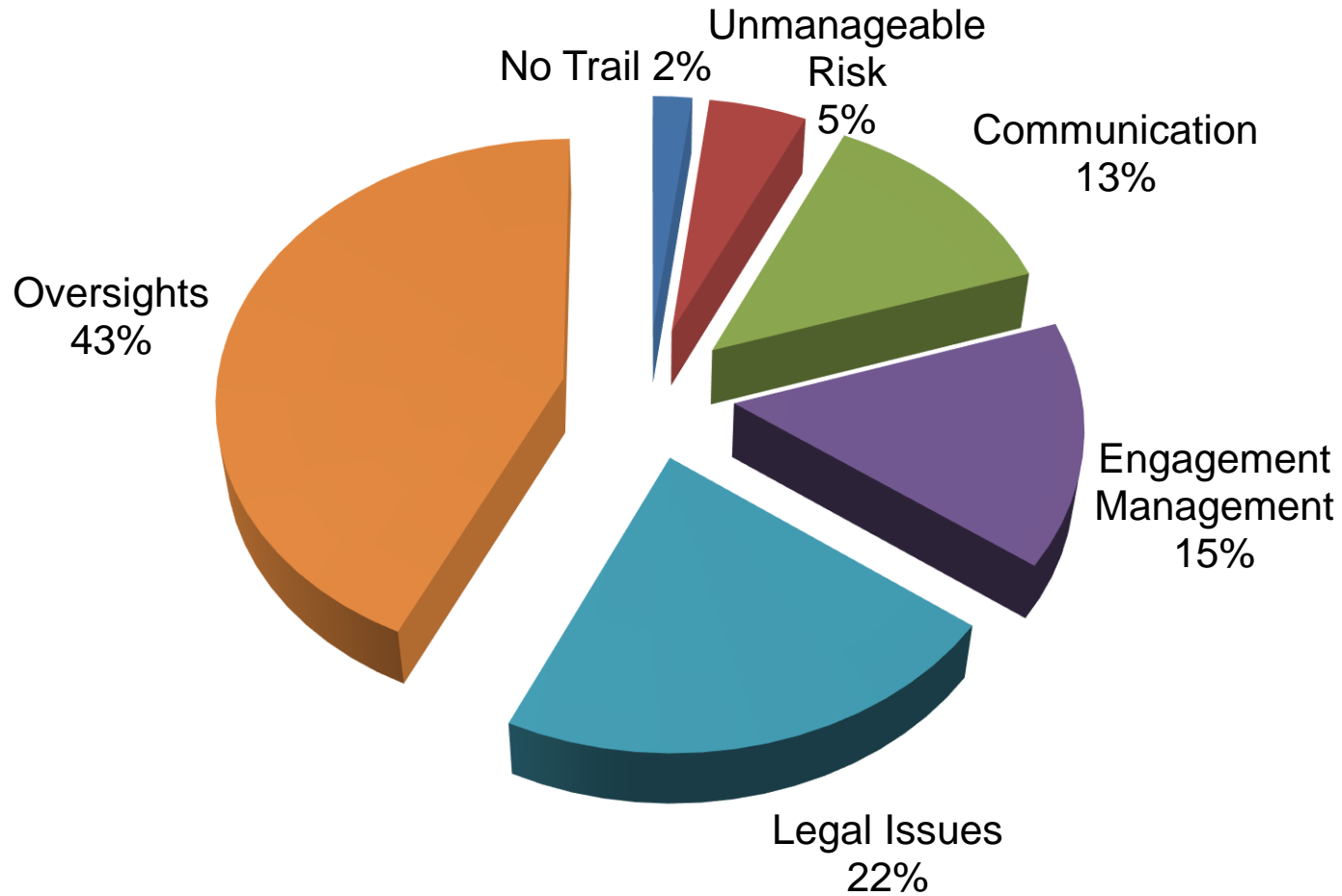
Service Evaluation Form Results

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



Risks of Malpractice

Risks of Malpractice Tips to Avoid



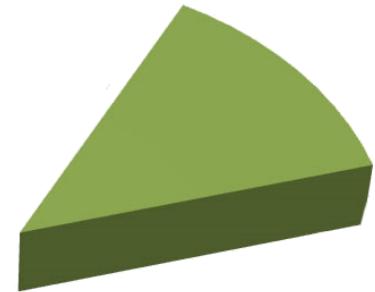
No Trail – 2%



Tip:

“This claim arose because of my poor ILA note taking. My advice? Be more thorough – very thorough – in recording details of the legal advice that you provide.”

Communication
13%



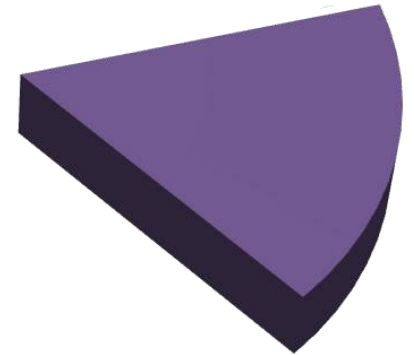
Tip:

“Refuse to draft a will without a direct, in person, meeting with the will maker and insist on attending on the execution.”

Tip:

“Fee disputes are sometimes inevitable, particularly when clients are so entrenched in positions that they are not prepared to listen to or accept anything that is negative. It is important to keep these types of clients informed at all times and to keep current on billings and maintain proper records of phone calls, meetings and emails.”

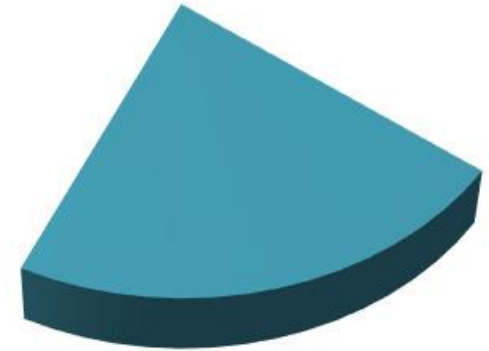
Engagement
Management
15%



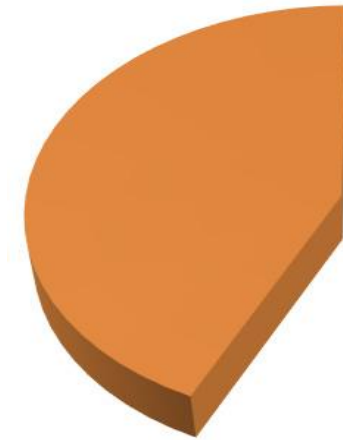
Tip:

“Slow down and think it through and discuss with more specialized counsel. Usually your instincts give you some pause - best to listen to the niggling concerns and at least discuss the matter with colleagues. You may get good advice.”

Legal Issues
22%



Oversights
43%



Tip:

“If you feel that your practice is failing, for whatever reason, get help. I felt like a deer caught in the headlights. Hoping things would get better was no way to deal with my future.”

Unmanageable
Risk
5%



Tip:

“Nothing can be done except ensure that all bases are covered.”

Unmanageable
Risk
5%



Tip:

“There is no way to avoid this claim being threatened although it was doomed from the start.”

Tip:

“Impossible to avoid.”

Unmanageable
Risk
5%



Unmanageable
Risk
5%



Tip:

“The claimant is mentally ill. The lawsuit against me and many others could not have been avoided unless we paid her the millions of dollars that she was demanding.”

Unmanageable
Risk
5%



Tip:

“I have no meaningful suggestions,
short of ceasing to practise law.”

Unmanageable
Risk
5%



Tip:
“Pray”

New on the horizon....

2013 - My Insurance *Policy*: Questions and Answers
Webinar - "*The Naked Lawyer*:"

Big data reveals why risk leaves you bare and what
2014 - My Insurance *Claim*: Questions and Answers
you can do to protect yourself"

2015 - My Insurance *Program*: Questions and Answers



*Lawyers
Insurance
Fund*

Thank you



CEO's Report to the Benchers

February 2015

Prepared for: Benchers

Prepared by: Timothy E. McGee

Report on 2014 Key Performance Measures

The Law Society's report on 2014 Key Performance Measures (KPM's) has been distributed to the Benchers as part of the meeting agenda package.

The KPM's were first adopted by the Benchers in 2007 to serve as a dashboard to help monitor the desired high level outcomes of our regulatory processes. The KPM's are also one of the principal tools management uses to assess the efficacy of our methods of operations. We also publish the KPM results each year on our website as part of our commitment to accountability and transparency as a public interest regulator. The KPM's have been reviewed and modified in several respects since their inception. I will highlight relevant trends and provide our analysis of current results at the meeting. As always, I encourage the Benchers to review the KPM's and to ask any questions of me or senior management.

Federation of Law Societies of Canada March 26-29, 2015 Spring Semi-Annual Conference: Governance Review Phase II

In 2014 the Federation Council authorized a broad Federation governance review. Phase I consisted of recent visits by members of the Federation's Governance Review Committee to meet law societies' leaders and listen to their views. A group of Benchers met with representatives of the Governance Review Committee in Vancouver on January 29 and exchanged views and addressed questions on a broad range of topics related to the Federation. Ken and I will speak to the highlights at the Benchers meeting.

Phase II: On March 26 to 29, law societies' Presidents, Vice Presidents, CEOs and senior staff, and Council members, will meet in Ottawa to participate in a series of workshops to shape a preliminary consensus on how Federation structures and processes might be improved. I expect that law society delegates will grapple with how they view their relationships with the Federation and each other, as well as with their expectations of the roles to be played by the Federation, including, the respective roles of the law societies' Benchers and staff.

Bencher Retreat Planning

Vice-President David Crossin, QC and Michael Lucas, Manager, Policy & Legal Services, have been actively planning this year's Bencher Retreat to be held at Sun Peaks Resort on May 7-9, 2015.

The theme of this year's Retreat will be focused on "How is Section 3, and in particular, Section 3(a) of the Legal Profession Act to be interpreted?" The focus will be to provide an understanding of the scope of Section 3(a) and how to go about meeting the challenges it prescribes. The ultimate focus will be on "What specific activities or types of activities could be seen as answering the call of Section 3(a)?"

The purpose of the discussion from the Retreat will be:

1. To have the Benchers explore this rather undefined corner of the Law Society's mandate, and begin to identify and understand some of the issues associated with meeting the challenge of the section; and
2. To assist the work of groups such as the Rule of Law and Lawyer Independence Advisory Committee and the Governance Committee, and inform recommendations they may bring to the Benchers to help the Law Society better meet its statutory mandate.

Financial Statements for Fiscal Year 2014

The Finance and Audit Committee has completed its review of the audited 2014 Financial Statements and Peter Lloyd, Chair of that Committee and Jeanette McPhee our CFO will present the Committee's report at the Bencher meeting. I will also be available together with other members of senior management to respond to any questions arising from the report.

CEO Succession Planning

I have presented and discussed with the Executive Committee a proposed plan for ensuring that mechanisms are in place to deal with my succession in various possible scenarios. This is standard good governance. My report is included in your Bencher agenda package. The Executive Committee is supportive of the plan and I

would be pleased to discuss it and to answer any questions at the Bencher meeting.

CSAE -Tecker Symposium for Chief Elected and Chief Staff Officers

Ken and I attended the 2015 CSAE Symposium for Chief Elected and Chief Staff Officers in Toronto on February 21-23, 2015 given by Glenn Tecker. This symposium is a very well attended and useful conference for Presidents and CEOs of organizations like ours. In attendance in Toronto were also the Presidents and CEOs of the Law Societies of Nova Scotia, New Brunswick, and Saskatchewan as well as the Society of Notaries Public of BC and the Law Foundation of BC. This gave us an extra opportunity to compare notes on common governance issues with our sister and related organizations. Ken and I will share the highlights of the interactive sessions at the Bencher meeting.

Benchers Teaching PLTC Professional Responsibility

The PLTC staff extend special thanks to the following for teaching Professional Responsibility on February 12:

Ken Walker, QC; Jamie Maclaren; Phil Riddell; Past President Anna Fung, QC; Past President Bruce LeRose, QC; Past President Gordon Turriff, QC and Bill Maclagan, QC.

Timothy E. McGee
Chief Executive Officer



Admission Program Review

March 6, 2015

Lawyer Education Advisory Committee

Strategic Plan Initiatives

- 2-1 Improve the admission, education and continuing competence of students and lawyers
- 2-1 (a) Evaluate the current admission program (PLTC and articles), including the role of lawyers and law firms, and develop principles for what an admission program is meant to achieve.
- 2-1 (b) Monitor the Federation's development of national admission standards and the need for a consistent approach to admission requirements in light of interprovincial mobility.
- 2-1 (c) Review the CPD program.
- 2-1 (e) Examine alternatives to articling, including Ontario's new LPP and Lakehead's integrated co-op law degree program, and assess their potential effects in BC.

OK....The Show So Far



2014 - 2015

1. Commenced initial review of admission program pursuant to the Strategic Plan.
2. Developed survey questionnaire for those called for two years to three years on the value of PLTC program and articling.
3. Fine-tuned survey questions.
4. Survey has been sent. We should have results in April.

An example of the survey questions

1. How effective was PLTC in preparing you to practise law?
2. What were PLTC's strengths and weaknesses?
3. What changes would you recommend?
4. How effective was articling in preparing you to practise law?
5. What were the strengths and weaknesses of your articles?
6. What changes would you recommend to the articling program?

2014 - 15 (continued)

- Anticipating National Admission Standards
Implementation proposals from Federation of Law Societies.
- By way of background, the Federation points out that national admission standards are desirable in light of Canadian lawyer mobility.
- The first phase of the Federation project was to develop a national profile of the competencies required for entry into the profession.

2014 – 15 (continued)

- The Benchers approved the competency profile on the understanding that implementation will be based on nationally acceptable implementation plan.
-
- Tim and Alan are on the Federation committee.
- Development of Federation proposals for an implementation plan is a work in progress (timing uncertain).

2014 - 15 (continued)

- We're engaged in information gathering on PLTC, and "bar admission programs" in all provinces and territories and some other countries.
- We're engaged in information gathering on articling in all provinces and territories.
- Considerable discussion of Ontario's LPP at Ryerson U and the Lakehead U program, and the lack of a meaningful "bar admission" training program for the mainstream of Ontario students.

2014 - 15 (continued)

- Considerable discussion of whether BC can anticipate a problem with increases in the number of law students looking for articling positions, including out of province students and NCA students.
- Considerable discussion of underpaid or unpaid articles, including the desire by some students who say “leave me alone.”

Other provinces

1. CPLED

- Joint professional legal training course for the three Prairie provinces.
- Predominantly online. Takes place while students complete 12 months of articling.
- Skills focused.
- No traditional examinations except in Professional Ethics. Students assessed by written and performance tests.
- Under review.

2. Ontario's Three Streams

1) Articling Program Stream

- No bar admission training program (that is to say no skills or practical training program like we have in PLTC, and no CPLED).
- Two rigorous multiple choice 7 hour exams.
- 10 months of articling

2) Law Practice Program stream (LPP)

- Offered for first time in 2014-15 through Ryerson U in English and Ottawa U in French.
- LPP is a pilot project to deal with too many students who couldn't find articles.
 - Anticompetitive issue?
 - Perhaps students didn't want to go to rural Ontario if they couldn't article on Bay Street?
- Four months of mainly online learning (similar to SFU notaries, CPLED)

Ontario LPP stream (continued)

- Followed by four months “experiential learning”, where students could be placed in law firms, but could also be placed in legal clinics or public interest advocacy centers.
- No articles in the traditional sense
- The two Law Society 7 hour exams
- Criticized by President of Law Students Society of Ontario

3) Lakehead University stream

- Integrated three year law degree program that includes two summer terms, practical training and work placements, and the two Law Society 7 hour multiple choice exams.
- Graduates then eligible for Call in Ontario.
- No articling and no further professional training course.

We are comparing all of the programs

1. Should all or part of PLTC be taught online?
2. Competing issue... Don't fix it if it's not broken.
3. Other law societies may be inclined to go to online education because they lack the physical resources (classrooms) that BC has been blessed with.
4. What changes do law firms want (if any) if they're paying for PLTC?

PLTC Today

1. PLTC offered 3 times yearly in Vancouver.
2. Once a year in Kamloops immediately after law school ends. Priority given to students articling in Kamloops and vicinity.
3. Once a year in Victoria. Priority to students articling in Victoria.
4. 460 students went through PLTC in 2014. For 2015, budgeted for 485 students.

PLTC Today (continued)

5. Ten week face-to-face training and assessment program.
6. Predominantly skills-based training, including professional responsibility, advocacy, dispute resolution, interviewing, drafting, writing, practice management.
7. Four skills assessments and two examinations, plus assignments.

Articling

- No articling in USA
- Articling for U.K. solicitors lasts two years (“training contract”).
- Nine months in BC. Articling ranges between nine and 12 months in Canada. Special dispensation for shorter periods, if practised abroad or clerked.

Articling (continued)

- Is it valuable? Should we retain it or, like Jim Middlemiss suggests in *Canadian Lawyer*, should it be discarded in favour of the American model?
- What do we do if we experience a tsunami of law students coming to BC who seek articling positions, but can't get them?

Articling (continued)

- Are law schools generating too many law students?
- Are NCA students creating an articling availability problem?
- Or should we, as former Chief Justice Finch suggests, create more positions in law schools, and shorten or eliminate articling, so that the cost of legal services responds to supply and demand?

Problems with articling?

1. Not everyone may get articles.
2. But is this because of low marks, bad fit, unfortunately poor interview skills or, due to family commitments, they cannot go elsewhere for articles?
3. Uneven quality. You might have excellent articles in a small suburban firm (in court every day), or poor articles in a big firm where all you do is research and prepare lists of documents.

The elephant in the room



The White Spot Idea

(Thinking out of the Pirate Pak)

- Treat the admission program like a graduated driver's license.
- Those with certain courses (and pass rigorous exams) can only practise and will only be insured for particular practice areas... where there is a shortage lack of available service. i.e. poverty law/family law, etc.
- They still take PLTC.
- Whether there is no articling, or three months articling, they practise with a restricted license for a year in the "at need," areas, and their licenses convert to a full practice certificate after one year.
- Maybe this involves additional funding for justice access centers.

Finally

Please contact us with your
ideas. Thank you!

