

THE LAW SOCIETY OF BRITISH COLUMBIA

MINUTES

MEETING: Benchers

DATE: Friday, March 5, 2010

PRESENT:

Glen Ridgway, QC, President	Peter Lloyd, FCA
Gavin Hume, QC, 1 st Vice-President	David Loukidelis
Bruce LeRose, QC, 2 nd Vice-President	David Mossop, QC
Haydn Acheson	Suzette Narbonne
Rita Andreone	Thelma O'Grady
Kathryn Berge, QC	Lee Ongman
Joost Blom, QC	David Renwick, QC
Patricia Bond	Alan Ross
Robert Brun, QC	Catherine Sas, QC
E. David Crossin, QC	Richard Stewart, QC
Leon Getz, QC	Herman Van Ommen
Carol Hickman	Dr. Maelor Vallance
Patrick Kelly	Art Vertlieb, QC
Stacy Kuiack	Kenneth Walker
Barbara Levesque	

ABSENT: Jan Lindsay, QC

STAFF PRESENT:

Tim McGee	Bill McIntosh
Andrea Brownstone	Jeanette McPhee
Barbara Buchanan	Doug Munro
Stuart Cameron	Lesley Pritchard
Lance Cooke	Susanna Tam
Charlotte Ensminger	Alan Treleaven
Su Forbes, QC	Adam Whitcombe
Jeffrey Hoskins, QC	Carmel Wiseman
Michael Lucas	

GUESTS:

Dom Bautista, Executive Director, Law Courts Center
Mark Benton, QC, Executive Director, Legal Services Society
Johanne Blenkin, Executive Director, BCCLS
Dean Mary Ann Bobinski, Faculty of Law, University of BC
Ron Friesen, CEO, CLEBC
Dean Donna Greschner, Faculty of Law, University of Victoria
Stephen McPhee, Vice-President, CBABC
Jane Mundy, Reporter, Lawyers Weekly
Caroline Nevin, Executive Director, CBABC
Wayne Robertson, QC, Executive Director, Law Foundation of BC

BENCHER'S OATH OF OFFICE

President Glen Ridgway, QC administered Patricia Bond's affirming of the Benchers' Oath of Office, pursuant to Rule 1-1(2).

CONSENT AGENDA

1. Minutes

The minutes of the meeting held on January 22, 2010 were approved as circulated.

Consent Resolutions

The following resolutions were passed unanimously and by consent.

2. *BE IT RESOLVED* to amend the Law Society Rules

1. *By rescinding Rule 2-2 and substituting the following:*

2-2 A member of the Society is a member in good standing unless suspended under section 38(5)(d) of the Act or under these Rules.

2. *By adding the following Rule:*

Extraordinary action to protect public

3-7.1 (1) This Rule applies to a lawyer or articled student who is

- (a) the subject of an investigation or intended investigation under Rule 3-5, and
- (b) not the subject of a citation in connection with the matter under investigation or intended to be under investigation.
- (2) If they are satisfied that extraordinary action is necessary to protect the public, 3 or more Benchers may
 - (a) suspend a lawyer,
 - (b) impose conditions on the practice of a lawyer, or
 - (c) suspend the enrolment of an articled student.
- (3) The Benchers referred to in subrule (2) must not include a member of the Discipline Committee.
- (4) Before Benchers take action under this Rule, there must be a proceeding at which 3 or more Benchers and discipline counsel are present.
- (5) The proceeding referred to in subrule (4) may take place without notice to the lawyer or articled student if the majority of the Benchers present are satisfied that notice would not be in the public interest.
- (6) The lawyer or articled student and his or her counsel may be present at a proceeding under this Rule.
- (7) All proceedings under this Rule must be recorded by a court reporter.

- (8) Subject to the Act and these Rules, the Benchers present at a proceeding may determine the practice and procedure to be followed.
- (9) Unless the Benchers present order otherwise, the proceeding is not open to the public.
- (10) The lawyer or articled student or discipline counsel may request an adjournment of a proceeding conducted under this Rule.
- (11) Rule 4-29 applies to an application for an adjournment made before the commencement of the proceeding as if it were a hearing.
- (12) Despite subrule (11), the Executive Director is not required to notify a complainant of a request made under subrule (10).
- (13) After a proceeding has commenced, the Benchers present may adjourn the proceeding, with or without conditions, to a specified date, time and place.
- (14) An order made or varied under this Rule is effective until the first of
 - (a) final disposition of a citation, or
 - (b) rescission, variation or further variation under subrule (15).
- (15) An order made under this Rule may be rescinded or varied by the Benchers who made the order, or a majority of them, on the application of the lawyer or articled student or discipline counsel.
- (16) On an application under subrule (15) to vary or rescind an order,
 - (a) both the lawyer or articled student and discipline counsel must be given a reasonable opportunity to make submissions in writing, and
 - (b) the Benchers present may allow oral submissions if, in their discretion, it is appropriate to do so.
- (17) If, for any reason, any of the Benchers who made an order under this Rule is unable to participate in the decision on an application under subrule (15), the President may assign another Bencher who is not a member of the Discipline Committee to participate in the decision in the place of each Bencher unable to participate,

3. In Rule 4-17:

- (a) In subrule (1) by striking the phrase “with or without notice to the respondent”; and**
- (b) By adding the following subrule:**

- (1.111) The proceeding referred to in subrule (1.11) may take place without notice to the respondent if the majority of Benchers present are satisfied that notice would not be in the public interest.

3. BE IT RESOLVED to amend the *Professional Conduct Handbook* Chapter 4, Rule 5, footnote 2 as follows:

Errors and omissions

- 5. A lawyer must comply with the terms of each professional liability insurance policy.²

FOOTNOTES:

2. Under both the Lawyers' Compulsory Professional Liability Insurance Policy and any excess professional liability insurance policy in effect, a lawyer is contractually required to give written notice to the insurer immediately after the lawyer becomes aware of any actual or alleged error or any circumstances which could reasonably be expected to be the basis of a claim or suit covered under the policy. A lawyer who fails to comply with this contractual requirement risks having coverage denied, assuming personal liability for any damages awarded. Rule 5 imposes an ethical duty to report to the insurer. Imposing such an ethical obligation is necessary, in the public interest, to reduce the risk of coverage being denied.
4. ***BE IT RESOLVED* to amend Section 1.3 of the Statement of Investment Policy and Procedures as follows:**

Section 1.3 – Pooled Funds

The change authorizes the Finance Committee to review non-compliance issues reported by the investment managers of Pooled Funds, to accept the non-compliance, or take such further action as may be required, and to report any such action to the Benchers on a quarterly basis.

REGULAR AGENDA – for Discussion and Decision**5. President's Report**

Mr. Ridgway referred the Benchers to his written report — circulated by email prior to the meeting — for an outline of his activities as President during the month of January (Appendix 1).

Mr. Ridgway also thanked Mr. Kuiack for his thoughtful reminder that all three of Canada's goals in the Olympic men's semi-final hockey game were scored by former residents of Saskatchewan.

6. CEO's Report

Mr. McGee provided highlights of his monthly written report to the Benchers (Appendix 2), including the following matters:

- 2009 Annual Financial Statements
 - Ms. McPhee added details, reporting that
 - the Law Society's overall financial results for 2009 were as forecast
 - the draft 2009 financial statements show a positive variance of \$740,000, largely resulting from higher than projected revenues in the following areas:
 - Membership
 - Electronic filing
 - Interest revenue
 - Discipline costs recovered

- 2009 TAF revenue came in as expected at about \$2.4 million, and about \$860,000 was drawn from the TAF reserve to balance the budget for the Law Society's trust accounting and forensic audit operations over the past year.
- 2009 Report – Key Performance Measures (KPMs)
- Update – Core Processes Review Project
- Recent Senior Staff Appointments and Re-organization

Mr. McGee also thanked Ms. Hickman, Mr. Hume and Life Bencher Karl Warner for participating in the Professional Responsibility program of PLTC's 2010 Spring Session.

7. Report on Outstanding Hearing and Review Reports

The Benchers received a report on outstanding hearing decisions.

STRATEGIC PLANNING AND PRIORITIES MATTERS – for Discussion and/or Decision

8. 2009 AGM Members Resolutions on Participation of Aboriginal Lawyers in the Profession: Update

Mr. Lucas updated the Benchers on the progress of implementation of the three member resolutions passed at the 2009 annual general meeting:

- Resolution #1 has been implemented
- Resolution #2 has been substantially implemented
- Resolution #3 has not been implemented, pending further research by the Law Society

Mr. Lucas referred the Benchers to the staff memorandum at page 800 of the meeting materials (the Memorandum, attached as Appendix 3) for background on the resolutions, and for an outline of the approach he proposed for communication of the Benchers' decision regarding implementation of Resolution #3:

The resolutions passed at the AGM directed that the Law Society:

- Amend the 2009-2011 Strategic Plan so as to include the retention of Aboriginal lawyers as a priority at Strategy 1-3 on page 4;
- Strike a working committee comprised of Benchers, Aboriginal lawyers and Aboriginal law students that will review and update the 2000 report on *Addressing Discriminatory Barriers Facing Aboriginal Law Students and Lawyers*; and
- Establish a full-time staff lawyer position whose sole purpose is to support Aboriginal law students, articling students and lawyers.

...

Resolution 3

Resolution 3 has not yet been implemented. The Equity & Diversity Advisory Committee plans to make recommendations to support Aboriginal lawyers and law students after considering the data currently being gathered and reports that have been released since the 2000 report. While a full-time staff lawyer position may be an effective response, it may also be only one of several responses that can be developed and considered. Alternatively, the data and research being gathered and developed through other equity and diversity activities may identify other, possibly more effective, solutions that would be a better use of resources.

...

Staff has already heard from members who are concerned about implementation of the resolutions, Resolution 3 in particular. If the Benchers choose to defer implementing Resolution 3 until recent research and potential responses are identified and considered as described above, then this decision and the reasons for it should be explained to the members.

Mr. Brun moved (seconded by Ms. O'Grady) that the Benchers approve the course of action proposed in the Memorandum, and direct the Law Society to proceed as recommended therein.

Several points were raised in the ensuing discussion, including:

- Importance of Aboriginal law students' involvement in the Equity and Diversity Advisory Committee's deliberations
- Importance of giving partner organizations time to complete their research militates against setting a firm deadline for decision on implementation of Resolution 3

The motion was carried.

9. Discipline Guidelines Task Force: Proposed Mandate

Mr. Van Ommen briefed the Benchers on the background of the formation of the Discipline Guidelines Task Force and on the issues underlying the task force's proposed mandate, as set out at page 900 of the meeting materials:

(A) To review the function and processes of the Discipline Committee and to make recommendations regarding the guidance and information that may be provided to members of the Discipline Committee to assist them in reaching appropriate and consistent dispositions of the professional conduct matters before them; and

(B) To review the Law Society's processes for professional conduct investigations, and the processes leading from directions to issue citations through to subsequent disciplinary hearings and results, and to make recommendations aimed at reducing the timelines currently required for these investigation and discipline processes, without sacrificing the Law Society's responsibility that its investigations and

adjudications be careful and thorough and observant of the legal requirements of fairness and natural justice.

Mr. Van Ommen advised that the task force intends to address Part A of its proposed mandate first, noting the dependence of the task force's Part B work on information to be derived from management's organization-wide review of the Law Society's operational processes.

Mr. Van Ommen moved (seconded by Ms. Berge) that the Benchers approve the Discipline Guidelines Task Force proposed mandate as set out at page 900 of the meeting materials.

There was discussion of the task force's proposed time lines for reporting to the Benchers, focusing on whether the task force might report with draft Discipline Committee policies and abeyance guidelines before September 2010. Mr. Van Ommen confirmed that the Discipline Guidelines Task Force will endeavor to report at the July 2010 Benchers meeting.

The motion was carried.

REGULAR AGENDA – Other Matters for Discussion and/or Decision

10. A&RS and Ethics Committee – Proposed Amendments: Ungovernability, R. 4-35 and PCH Ch 13 R. 3

Mr. Getz reported to the Benchers, referring them to the memorandum at page 1000 of the meeting materials, and particularly to the draft resolutions set out at pages 1012-1013:

BE IT RESOLVED to amend the Rule 4-35 by adding the following subrules:

- (5) Regardless of the nature of the allegation in the citation, the panel may impose a penalty based on the ungovernability of the respondent by the Society.
- (6) The panel must not impose a penalty under subrule (5) unless the respondent has been given at least 30 days notice that ungovernability may be raised as an issue at the penalty hearing.
- (7) The panel may adjourn the penalty hearing to allow compliance with the notice period in subrule (6).

BE IT RESOLVED to amend Chapter 13 of the Professional Conduct Handbook by rescinding rule 3 and substituting the following:

Regulatory compliance

3. A lawyer must

- (a) reply promptly to any communication from the Law Society;
- (b) file documents or reports with the Law Society as required;
- (c) cooperate with Law Society investigations and audits;
- (d) comply with orders of panels, committees or Benchers;

- (e) not obstruct or delay or otherwise interfere with investigations, audits and inquiries involving the lawyer or a member of the lawyer's firm; and
- (f) otherwise comply with the Law Society's regulation of the lawyer's practice.

Mr. Getz advised that the Act and Rules Subcommittee decided not to define "ungovernability" in the draft amendment, deferring to hearing panels (in BC and in other jurisdictions) to develop that definition through jurisprudence.

Mr. Getz moved (seconded by Mr. Kelly) that the Benchers approve the resolution amending Rule 4-35 set out at page 1012 of the meeting materials.

Issues raised in the ensuing discussion included:

- Whether the policy requirements of flexibility and fairness have been met by the proposed amendment's
 - avoidance of a definition of "ungovernability"
 - use of an appropriate notice provision
- Whether the commission of chronic, low level offences offends the public interest and should, in itself, be a ground for disbarment
- Whether "ungovernability" should operate
 - as a distinct ground for penalty
 - quantitatively, as the aggregation of minor offences
 - qualitatively, as disregard for or defiance of the Law Society's discipline process
- Whether "ungovernability" requires a new Rules provision at all (i.e. whether the current Rule 4-35(4) is sufficient)

The motion was carried by a two thirds majority (18 for and 6 against).

Mr. Ridgway then asked for a motion to approve the proposed amendment of Section 3, Chapter 13 of the *Professional Conduct Handbook*. Discussion of the draft amendment's language followed, particularly subsection (e):

Regulatory compliance

3. A lawyer must ...

- (e) not obstruct or delay or otherwise interfere with investigations, audits and inquiries involving the lawyer or a member of the lawyer's firm

Mr. Getz moved (seconded by Mr. Hume) that the draft *Handbook* amendment be referred back to the Act and Rules Subcommittee for re-working the language of subsection (e).

The motion was carried.

11. Publishing Benchers Agenda Packages to Law Society Website

Mr. McGee briefed the Benchers on the background of this matter, noting that:

- The Benchers reached a consensus at the December 2009 meeting regarding the desirability of publishing the public portion of Benchers agenda packages to the Law Society website shortly before each meeting in question
- The Benchers made a contrary decision at the February 2006 meeting and passed the following resolution at that meeting
 - It was moved (Preston/Zacks) to publish information considered by the Benchers at a Benchers meeting in open session *after* the minutes of the meeting have been approved. (emphasis added).
- The Executive Committee has reviewed the materials considered by the Benchers before passing the February 2006 resolution, and has recommended that the current Benchers be asked re-consider that resolution.

Mr. Walker moved (seconded by Mr. Vertlieb) that the Benchers resolution passed at the February 2006 meeting be rescinded, and that effective immediately, the Law Society publish the public portion of each Benchers agenda and supporting materials to the Law Society website, with such publication generally to take place two or three days before the meeting during which that material is to be reviewed, but in any event after the Benchers have received it.

The motion was carried.

12. Other Business

a. Election of a New Law Society Representative on the Council of the Federation of Law Societies of Canada

Mr. Ridgway updated the Benchers on the proposed nomination of John Hunter, QC to replace Ian Donaldson, QC as the Law Society's representative on the Council and Executive Committee of the Federation of Law Societies of Canada. Mr. Ridgway advised that:

- The presidents of the other western law societies have approved the presentation of Mr. Hunter's nomination to the Federation Council at its March meeting
 - If Mr. Hunter's nomination to the Federation's Executive Committee is confirmed
 - on November 15, 2010 he will become the FLS First Vice President and cease to be the Law Society's representative on the FLS Council
 - before that date the Benchers will be asked to elect a new FLS Council representative

Mr. Ridgway asked that briefing material on the process to be followed in electing a new FLS Council representative be circulated to the Benchers. Mr. Treleaven undertook to do so.

b. UVic Faculty of Law Thanks Benchers Berge and Stewart

Dean Greschner thanked Victoria Benchers Berge and Stewart for their recent attendance at UVic Law to discuss the report and recommendations of the Retention of Women in Law Task Force.

FOR INFORMATION

13. Lawyers Insurance Fund Annual Review

Director of Insurance Su Forbes, QC presented the Benchers with a summary and analysis of the performance of the Lawyers Insurance Program in 2009.

15. Report on National CBA Council Conference

Mr. LeRose reported briefly, referring the Benchers to his written report at page 1500 of the meeting materials for details.

16. 2010 Benchers' Retreat Planning Update

Mr. McIntosh reported briefly, referring the Benchers to his memorandum at page 1600 of the meeting materials for details.

IN CAMERA SESSION

The Benchers discussed other matters *in camera*.

WKM

2010-03-15

PRESIDENT'S REPORT

February, 2010

This is volume two of my report as to my activities as President, subsequent to the Benchers' meeting of Friday, January 22, 2010.

On the 22nd, after a rushed lunch, I walked down to the Yaletown/roundabout Canada Line Station and journeyed out to the Bridgeport Station aka the River Rock Casino. There I spent some time at the CBA BC Branch Local and County Bar Presidents' meeting. Disproving the theory that lightning never strikes twice, my presentation was cut short by the ringing of a fire alarm, requiring us to clear out of the building. You will recall that the night before, I spent an hour and a half sitting on the curb in front of my hotel as the Vancouver Fire Department dealt with a fire on the 17th floor of the fabulous Rosedale Hotel, apparently caused by someone from the Cariboo drying a towel in a microwave.

I then journeyed back on the Canada Line, along with James Bond of Canal Flats, British Columbia, and we both attended and were judges at the Robert Guile debate at the Law Courts Inn. This debate involves UBC students debating the proposition that essentially says, Is it better to get a decision or to get the right decision?

Hopefully, Benchers in 2010 will be able to get the right decision quickly.

I then journeyed home on the evening of Friday, January 22.

On January 26, I received a not unexpected but unwanted telephone call from Ian Donaldson indicating that he and his family had made certain decisions, the outcome of which is that he must resign as our member of the Federation Council and must leave the "ladder" of that organization. In other words, he will not be advancing through to be President of the Federation of Canadian Law Societies.

After consultation with members of the Executive Committee and staff, we wrote to the Law Societies of Alberta, Saskatchewan and Manitoba, and to the Federation, setting out this position and indicating that we proposed that our Council member to replace Ian would be John Hunter, Q.C., our former beloved President, and that we proposed that he would advance through to be President of the Federation of Canadian Law Societies. We are grateful to John for agreeing to do this on our behalf and on behalf of the lawyers and citizens of Canada.

We felt it was necessary to achieve a consensus between ourselves, Albert, Saskatchewan and Manitoba, as although we felt that British Columbia was "entitled" to the presidency, it was a regional decision. I can indicate to you that all three provinces have reacted positively to this approach, once again proving that there are wonderful people from the prairie provinces. Accordingly, a resolution will go forward at the Federation meeting proposing John Hunter in these capacities, which will be moved by our compatriots from the prairies.

I can indicate to you that I have expressed to Ian the regrets that all of us have with respect to his decision, but our understanding in his making the decision and our acceptance thereof.

We are hopeful to have John Hunter journey with us to the sophistication of Toronto in March for the next Federation meeting.

On January 28, I had my regular meeting with Mr. McGee, followed up by a Town Hall meeting of Law Society staff, where I said a few words about myself and what I felt the year would hold

for the Law Society. This reminds me—we have to get together and arrange for me, Mr. Hume and Mr. LeRose to tour the building in a fashion similar to a royal or papal tour, which has been put off become of some sporting event in Vancouver.

On February 3, I journeyed to the capital city to meet with Kimanda Jarzebiak at Ascent Public Affairs. Also in attendance were Mr. McGee and Mr. Whitcombe, and we discussed various matters with respect to our relationship with the Government, which I will report on in Benchers' Concerns, as will Mr. McGee. After that meeting, I had my regular update meeting with Mr. McGee in a remote location, namely the Ascent office in Victoria.

On February 4, I participated in a telephone call with Dean Bobinski of the UBC Law School. She is setting up a Dean's Advisory Committee and requested that the President of the Law Society be a member of that Advisory Committee. I, of course, accepted on my own behalf and on behalf of future Presidents.

In return, you will be pleased to know that I have been retroactively awarded the gold medal for the 1971 graduating class of UBC Law. We also took the opportunity of discussing some other issues, particularly Aboriginal students and their participation in the legal community, as well as the next steps in the accreditation process for Canadian Law Schools. I have indicated to Dean Bobinski that our Law Society's position is that in order for this to work, it is essential that there be significant involvement of the Law Faculties in the implementation process of the accreditation work.

On February 5, I commenced a journey to eastern BC by driving to the Victoria airport and boarding a plane, which went first to Vancouver and then on to Cranbrook. While waiting for the Cranbrook plane, I spent some quality time at Gate 34 with His Honour Judge Dev Dley of the Provincial Court in Kamloops and our esteemed colleague, Ken Walker. I then flew on to Cranbrook, arriving at approximately 11:30 at Rocky Mountain International Airport. I was met by Life Bencher, Gerry Kambeitz, and spent the time between then and a wonderful bowl of goulash at Frank's Restaurant touring Cranbrook, a community that has quite phenomenal house prices. I then wandered the streets of Cranbrook for awhile and paid a visit to the Cranbrook Courthouse. All I need to say is that Cranbrook needs a new Couthouse. While wandering the streets of Cranbrook, I came upon the LeRoses, who, after meeting with the in-laws, took me to Fairmont Hot Springs, where we spent most of the evening in the hot springs.

The Kootenay Bar Association meeting was held Saturday morning. In attendance were members from several generations. Both Bruce and I spoke.

They seemed to be content with the activities of the Benchers, but had some questions about continuing professional development, which did not appear to be fact-based. Bencher Bruce LeRose responded to that admirably. As is usual, the President of the Law Society heaps significant praise and credit on the local Bencher, and I, of course, did that with Bruce LeRose, indicating to the membership how much work Bruce does and that he is the person primarily responsible, at least according to him, for (1) the continuing professional development requirements and (2) the maintenance of the TAF fee levy at its present level, with the corresponding significant increase in fees to members.

The AGM included some CLE/CPD programs, including a presentation on the new family Rules and a presentation by Derek LaCroix of LAP. These were well-received, although I was not able to attend, as the aforesaid Mr. LeRose indicated that I did not need any professional development.

Since we could not snowshoe, the three of us headed up to Invermere for lunch and then went for a drive on frozen Lake Windermere. It was a bit like the TV show, "Ice Road Truckers";

however, you would not have caught me driving my own BMW X5 out on the ice—maybe my 2000 Chevy Venture, but not a Bimmer. There were a bunch of ice fishing huts on the lake, in addition to a road that apparently goes the length of the lake. Three or four parts of the lake were cleaned up and, I think, flooded to make skating rinks for people who wanted to skate or play hockey or whatever, and then there appeared to be a golf tournament being played on the lake. Most of the vehicles on the lake appeared to be pickup trucks, which there seemed to be many more of than “green” alternatives. There was even a couple walking across the lake, carrying their groceries home to the other side.

We then returned to Fairmont Hot Springs for another several hours in the hot springs and then the annual banquet. At the banquet we learned that James Bond of Canal Flats, BC, has a sister who was named “Miss Canal Flats.” He regrets telling me that.

In the morning we got up and I was returned to Rocky Mountain International Airport to await my flight home. I sat down for a coffee at a table with three other participants in the Kootenay Bar meeting, who were returning home to the Lower Mainland. Unfortunately, a Liberal Party of Canada meeting broke out, and I had to leave to maintain my sanity. I got home to Vancouver Island in time to participate in the Super Bowl.

Nothing happened on February 8, 9 or 10.

On February 11, Gavin Hume and I spent some time with the two finalists for the position of Chief Legal Officer of our Law Society. In the afternoon I met with Diana Papove about events for our retreat. I then met with various people to deal with the issue before our Credentials Committee, followed by my weekly meeting with Mr. McGee late in the afternoon. I then returned to Vancouver Island and did nothing for the Law Society until February 18 when I again went to Vancouver for my meeting with Mr. McGee. That meeting was over at approximately 10 o'clock. I then set out to participate in Olympic activities by visiting the “pavilions” or buildings. There were huge lineups and I don't like waiting in line, be it for one of these events or a buffet. In particular, the lineup to get into the Saskatchewan pavilion appeared to have no end. The crowds were lining up to attend the hockey game between the USA and Norway. I saw our former leader, John Hunter, wearing a Norway jersey and heading to the game. Inspired by this, I located a small businessman on an adjoining street and as a result, was able to attend the hockey game between the USA and Norway. After the hockey game, I returned to the Law Society building for the Executive Committee meeting and was able to get the 8:15 ferry back to Duke Point.

On February 22, I attended a Call Ceremony in Duncan, BC. All those in attendance were very impressed that the President of the Law Society would attend ceremonies such as this in small communities.

On February 25, I had my regular meeting with Mr. McGee, followed by a meeting with the Justice Education Society and a further meeting with Diana Papove to finalize events for our retreat in fabulous Parksville.

On February 26, I was very pleased to journey up to Kamloops to attend the Welcoming Ceremony for Master Meg Shaw.

On March 1, I attended for the opening of the PLTC spring course, with some remarks to the class.



Chief Executive Officer's Monthly Report

A Report to the Benchers by

Timothy E. McGee

March 5, 2010

Introduction

With the Vancouver 2010 Olympic Winter Games now successfully behind us we are back into our regular public office hours and focused on the busy year ahead. My report this month will cover the annual report to the Benchers on the 2009 financial statements, as well as our report on Key Performance Measures (KPMs) for 2009. Jeanette McPhee our CFO will present the financials at the March 5 Benchers' meeting and will address any questions you may have; members of the Management Board will be available to respond to any questions regarding the KPMs. I am also pleased in this report to provide details regarding the hiring of our new Chief Legal Officer and our new Manager, Communications and Public Affairs. Finally, there are several items which I will be covering in the *in camera* portion of Friday's meeting.

1. 2009 Annual Financial Statements

A copy of the draft 2009 Annual Financial Statements together with Management's report thereon is attached (see Appendix 1). The Audit Committee will be meeting later this month to receive the Report of the Auditors on the financial statements, and to formally approve the statements for publication and distribution. In accordance with our governance policies the draft financials are being presented to the Benchers for review and information.

2. 2009 Report – Key Performance Measures (KPMs)

The KPMs were approved by the Benchers in 2007 as the dashboard for measuring how we are doing in pursuing the goals we have set for regulating the legal profession in the public interest. The KPMs focus on what the Benchers and Management believe are the most important outcomes for each of our regulatory departments. The KPMs are not measuring everything we do, but rather whether what we are doing is achieving the desired results. For example, the KPMs in the complaints area measure whether complainants feel that the handling of their complaint was timely, thorough and fair.

2008 was the first full year of reporting under the KPMs and the results were included in our 2008 Annual Review which was distributed publically. The 2009 report attached hereto (see Appendix 2) includes some additional data that was not available in the past but is now incorporated into the results. Overall, we are tracking well to our desired outcomes and there are no major areas on concern. We look forward to reviewing the results with you and to your comments and questions.

The Audit Committee has been delegated the authority by the Benchers to work with Management to monitor and oversee the continuing development of the KPMs and to recommend modifications and changes

as may be desirable. Because of timing constraints in the first few months of 2010, the Audit Committee has not had an opportunity to meet to discuss the 2009 KPM results, however, an advance copy of the report attached as Appendix 2 has been shared with them. The Committee will be meeting later this year to review the KPMs generally, and at that time will also have the benefit of the results of the Core Processes Review (not available now) which is being undertaken by Management this year to identify opportunities to better support our regulatory departments.

3. Update – Core Processes Review Project

As reported at the January 22 Benchers meeting, we are undertaking a comprehensive operational review this year of each of our core regulatory areas. The purpose is to assess how our processes, resources, operational policies and budget allocations are supporting our efforts to achieve our KPMs and to identify opportunities where they are not. This type of review is a hallmark of well-run organizations and should be undertaken approximately every three to five years.

The key to a successful core process review is to engage and consult with the staff who are actually doing the work and to capture their insights and experiences in a meaningful and useful way. To do this, we need a dedicated project leader properly supported by expert help. I am pleased to report that Kensi Gounden will take on this project as a special assignment this year acting as Project Leader, and he will be assisted in this work by Marion McAdam of Fourthwall Consulting Inc. in Vancouver. Ms. McAdam was chosen over several competitive candidates because of her extensive experience in this area and her work with organizations of similar operational profiles to that of the Law Society.

The first stage of the Project, to be completed by April, will outline the scope of work and develop the consultation and engagement plan for the organization. The second stage will be conducting the consultations and performing the reviews and this is scheduled for completion by the Fall. We are targeting to have a final report including any recommendations available by year end.

We will be communicating with staff and Benchers regularly on plans and progress on the Core Processes Review as the year unfolds.

4. New Senior Staff Appointments

Chief Legal Officer

As reported earlier, I am very pleased that Deborah Armour has accepted our offer to become the new Chief Legal Officer of the Law Society effective April 8 2010. Deb brings to the Law Society more than 20 years

experience as lawyer in a variety of roles including 15 years of compliance leadership in regulated industries. Most recently, Deb has been the Director of Legal and Compliance Services for Powerex Corporation. Prior to joining Powerex, Deb worked as a Senior Vice President at Raymond James Ltd and as General Counsel at the Vancouver Stock Exchange, where she frequently acted as counsel in disciplinary hearings before the Securities Commission.

Deb is a graduate of Dalhousie Law School and was called to the British Columbia Bar in 1986. She began her legal career at Russell & DuMoulin and later practiced litigation at Ladner Downs.

In addition to her extensive professional background, Deb has a long record of service as a volunteer, and has been a member of the Audit Committee of the Law Society as well as a board member of the Canadian Corporate Counsel Association.

Deb's reputation is as a strong, positive, strategic and principled leader and communicator, all of which will be of benefit to the Law Society.

Manager, Communications and Public Affairs

After an extensive search, we have been fortunate to find Robyn Crisanti to fill the position of Manager, Communication and Public Affairs, effective March 8, 2010. Robyn brings solid experience in a variety of communications management roles at QLT Inc., Terasen Gas Inc. and the British Columbia Automobile Association. Most recently, Robyn has been working on a consulting basis with a variety of small to medium size businesses, developing strategic marketing and internal communication strategies, as well as web-based solutions for her clients.

Robyn has a Bachelor of Arts from UBC, and a Masters in Business Administration from McGill University. She has been described as having a passion for strategic solutions, being a good listener and mentor, as well as being very detail oriented and willing to roll up her sleeves and get the job done.

Please join me in welcoming both Deb and Robyn to the Law Society.

Timothy E. McGee
Chief Executive Officer

2009 FINANCIAL REPORT

Attached please find a copy of the **draft** financial highlights and statements for the 2009 fiscal year. The financial statements will be finalized during the upcoming PWC audit and Audit Committee meetings which occur in the March/April time period.

General Fund (No TAF Included)

The General Fund operating results for the year had a positive variance to budget of \$482,000.

Revenue for the year was \$17,916,000, \$962,000 (5.7%) ahead of budget. Membership numbers for 2009 tracked slightly ahead of budget, with an average of 10,213 members for the year. Interest revenue was ahead of budget due to higher than expected cash balances during the year. There were a total of 400 PLTC students this year, another record year. Electronic filing revenue was received at a similar level to 2008.

The operating expenses were \$480,000 (3.0%) over budget, which is fully offset by the revenue gains noted above.

External counsel fees were \$250,000 over budget due to both the number and size of professional conduct, intervention and legal defense files. Custodianships included \$130,000 in non-recurring staffing costs, plus additional file storage costs of \$70,000 transferred from Special Fund.

Education and Practice was under budget in PLTC supplies, the number of practice review conducted and on-line course expenditures. The IS off-site server decision was delayed, resulting in savings of \$70,000. 845 Cambie results were positive by \$120,000, due to additional lease revenue of \$30,000 and savings of \$90,000 in building operating expenses.

TAF-Related Revenue and Expenses

TAF revenue was \$2,436,000, very close to our projection, but less than the original TAF budget. This is a 7% decrease from 2008 levels, compared to a 23% increase in real estate unit sales for the same period. We expect this difference may be due to a time lag in TAF transactions.

TAF operating expenses were \$3,288,000, \$238,000 under budget. The savings were related to the timing of staff hiring and reduced travel costs.

The shortfall between TAF revenue and costs was funded by \$852,000 of the TAF reserve, leaving the TAF reserve at \$127,000 at the end of the 2009 year.

General Fund Reserve

At the end of 2009, the General Fund Reserve is \$5,575,000, consisting of a General Fund operating reserve of \$4,492,000, a TAF reserve of \$127,000, and a Capital Allocation reserve of \$956,000.

General Fund Operating Reserve

As directed by the Benchers in November 2009, beginning January 1, 2010, the Forensic Audit department costs will no longer be funded by TAF. As the 2010 practice fee budget did not include the Forensic Audit department costs (approximately \$1.3 million), these costs will need to be funded by the General Fund operating reserve during 2010. During the 2011 fee and budget process in June/July of this year, the Finance Committee will need to consider this funding issue and adjust the General Fund Practice Fee as necessary.

TAF Reserve

Assuming current TAF revenue levels, it is expected that the 2010 TAF revenue will fund the Trust Assurance department during the year, and no use of reserve should be necessary.

Capital Allocation Reserve

The General Fund practice fee includes an allocation for the 10-year capital plan, with the balance of this reserve related to planned building maintenance and renovation capital projects.

Special Compensation Fund

With the Special Compensation Fund winding up, the operating results for the year were on track. Assessment revenue and expected recoveries came in as expected, and the LIF loan was paid down. For the 2010 year, there are a few outstanding claims to be reviewed, and a small reserve is expected at the end of the year.

Lawyers Insurance Fund (LIF)

The draft LIF financial results are being presented prior to the finalization of the Provision for Settlement of Insurance Deductibles. This provision will be adjusted by the actuarial valuation during the upcoming audit. For presentation purposes, the provision is assumed to equal budget.

Excluding investment income, the operating results had a positive variance for the year. Annual assessment revenues were \$10.4 million, very close to budget. Operating expenses were \$5.1 million, \$440,000 below budget. Staffing costs, office expenses and investment manager fees came in below budget.

The investment income shows a loss of \$1,449,000 for the year. With the transfer of the investments to new investment managers during March/April 2009, the realized market loss on transfer of \$3.5 million is included in this figure and recognized through the income statement. Offsetting this, there is a \$13.7 million unrealized gain on investments for the remainder of the year. According to accounting standards, this unrealized gain is recognized only through the statement of net assets/balance sheet, and is not recorded on the income statement until realized. If this gain was recorded on the income statement, the net investment gain for the year would be approximately \$12 million.

We are pleased that the overall investment return for 2009 was 14.7%, compared to a benchmark of 12.8%.



Summary of Draft Financial Highlights - 2009
(\$000's)

2009 General Fund Draft Results

	<u>Actual</u>	<u>Budget</u>	<u>\$ Var</u>	<u>% Var</u>
Revenue				
Membership fees	14,581	14,423	158 *	1.1%
PLTC and enrolment fees	999	906	93	10.3%
Electronic filing revenue	648	484	164	33.9%
Interest income	419	141	278	197.2%
Other revenue	1,269	1,000	269 **	26.9%
	<u>17,916</u>	<u>16,954</u>	<u>962</u>	<u>5.7%</u>
Expenses including 845 Cambie	<u>16,548</u>	<u>16,068</u>	<u>(480) ***</u>	<u>-3.0%</u>
	<u>1,368</u>	<u>886</u>	<u>482</u>	

* Membership numbers are 10,213

Includes Capital Allocation of \$1,797k (budget = \$1,778k)

** Discipline fines and recoveries over \$119

*** External counsel fees overage offset by other operating expense savings

2009 General Fund

	<u>Ave # of</u>	<u>Variance</u>
Practice Fee Revenue	<u>Members</u>	
2008 Actual	10,035	
2009 Budget	10,100	
2009 Actual	10,213	
Revenue		
Membership Practice Fee revenue slightly ahead of budget		156
PLTC Fee Revenue - Student attendance at 400 students, versus 360 budget		93
Electronic Filing Revenue - Revenue ahead of budget		164
Interest revenue ahead of budget due to larger cash balances		278
Higher discipline fines and recoveries than budgeted		119
Other revenue		<u>152</u>
		<u>962</u>
Operating Expenses		
REG + P&L: Additional counsel fees		(250)
REG: Custodianships - non-recurring salaries and storage		(200)
BG: Benchers meeting/event expenses		(63)
FLS Special Levy		(40)
CS: Recruiting Fees		(50)
ED & PRAC: PLTC/Practice reviews/On-line courses		150
IS & COMM: Elections		(35)
Juricert off-site server		72
845: 845 Cambie building results than budget		120
Net savings/additional accruals		<u>(184)</u>
		<u>(480)</u>
2009 General Fund - Positive Variance to Budget		<u>482</u>

Trust Assurance Program Draft Results

	2009 Actual	2009 Budget	Variance
TAF Revenue	2,436	3,045	(609)
TAP Expenses:			
Trust Administration	2,054	2,311	257
Forensic Audit	1,234	1,215	(19)
Total TAP Expenses	3,288	3,526	237
Trust Assurance Program	(852)	(481)	(371)
Use of TAF Reserve*	(852)	(481)	(371)
Net Trust Assurance Program	-	-	-

* TAF Reserve at December 31, 2009 = \$127k

2009 Lawyers Insurance Fund Long Term Investments

The market declined significantly during the first couple of months of the year, but the subsequent months have seen positive returns. The overall investment performance for 2009 finished at 14.7% compared to a benchmark performance of 12.8%.

Market Value	
December 31, 2009	95,359,569
December 31, 2008	83,151,337
Performance	14.7%
Benchmark Performance	12.8%

The Law Society of British Columbia
General Fund
Results for the Year ended December 31, 2009
(\$000's)

	2009 Actual	2009 Budget	\$ Var	% Var
Revenue				
Membership fees (1)	14,581	14,223		
PLTC and enrolment fees	999	906		
Electronic filing revenue	648	484		
Interest income	419	141		
Other revenue	1,269	1,200		
Total Revenues	17,916	16,954	962	5.7%
Expenses				
Regulation	5,841	5,442		
Education and Practice	2,950	3,106		
Corporate Services	2,496	2,528		
Bencher Governance	1,525	1,413		
Communications and Information Services	1,840	1,887		
Policy and Legal Services	1,830	1,481		
Depreciation	318	344		
Total Expenses	16,800	16,201	(599)	-3.7%
General Fund Results before 845 Cambie and TAP	1,116	753	363	
845 Cambie net results	252	133	119	
General Fund Results before TAP	1,368	886	482	
Trust Administration Program (TAP)				
TAF revenues	2,436	3,045	(609)	-20%
TAP expenses	3,288	3,527	239	7%
TAP Results	(852)	(482)	(370)	
General Fund Results including TAP	516	404	112	

(1) Membership fees include capital allocation of \$1.797m (YTD capital allocation budget = \$1.776m).

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The Law Society of British Columbia
General Fund - Balance Sheet
As at December 31, 2009
(\$000's)

	Dec 31 2009	Dec 31 2008
Assets		
Current assets		
Cash and cash equivalents	3	77
Unclaimed trust funds	1,440	1,286
Accounts receivable and prepaid expenses	1,373	822
B.C. Courthouse Library Fund	724	625
Due from Lawyers Insurance Fund	16,303	16,157
Due from Special Compensation Fund	-	2
	<u>19,843</u>	<u>18,969</u>
Property, plant and equipment		
Cambie Street property	11,886	12,148
Other - net	1,439	1,320
	<u>33,168</u>	<u>32,437</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	4,306	4,258
Liability for unclaimed trust funds	1,440	1,286
Current portion of building loan payable	500	500
Deferred revenue	14,893	14,490
Deferred capital contributions	93	103
B.C. Courthouse Library Grant	724	625
Due to Special Compensation Fund	9	-
Deposits	28	16
	<u>21,993</u>	<u>21,278</u>
Building loan payable	<u>5,600</u>	<u>6,100</u>
	<u>27,593</u>	<u>27,378</u>
Net assets		
Operating Results	4,619	4,602
Capital Allocation	956	457
	<u>5,575</u>	<u>5,059</u>
	<u>33,168</u>	<u>32,437</u>

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The Law Society of British Columbia
General Fund - Statement of Changes in Net Assets
For the Year ended December 31, 2009
(\$000's)

	Operating Results \$	Capital Allocation \$	Total \$
Net assets - December 31, 2008 (1)	4,602	457	5,059
Net (deficiency) excess of revenue over expense for the period	(1,282)	1,797	516
Repayment of building loan	500	(500)	-
Purchase of capital assets:			
LSBC Operations	542	(542)	-
845 Cambie	256	(256)	-
Net assets - December 31, 2009 (2)	<u>4,619</u>	<u>956</u>	<u>5,575</u>

(1) The remaining capital allocation for 2008 (capital allocation collected less capital purchases) has been separated out from the operating results.

(1) Includes TAF reserve of \$127k.

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The Law Society of British Columbia
Special Compensation Fund
Results for the Year ended December 31, 2009
(\$000's)

	2009 Actual	2009 Budget	\$ Var	% Var
Revenue				
Annual assessment	1,552	1,515		
Total Revenues	<u>1,552</u>	<u>1,515</u>	<u>37</u>	<u>2.4%</u>
Expenses				
Claims and costs, net of recoveries	(2,646)	(3,872)		
Administrative and general costs	309	269		
Loan interest expense	1	60		
Total Expenses	<u>(2,336)</u>	<u>(3,543)</u>	<u>1,207</u>	<u>-34.1%</u>
Special Compensation Fund Results	<u><u>3,888</u></u>	<u><u>5,058</u></u>	<u><u>(1,170)</u></u>	

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The Law Society of British Columbia
Special Compensation Fund - Balance Sheet
As at December 31, 2009
(\$000's)

	Dec 31 2009	Dec 31 2008
Assets		
Current assets		
Cash and cash equivalents	1	1
Due from Lawyers Insurance Fund	2,753	1,771
Due from General Fund	9	-
	<u>2,763</u>	<u>1,772</u>
	<u>2,763</u>	<u>1,772</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	8	49
Current portion of claims payable	1,886	1,886
Deferred revenue	505	1,473
Due to General Fund	-	2
	<u>2,399</u>	<u>3,410</u>
Claims payable	<u>-</u>	<u>1,886</u>
	<u>2,399</u>	<u>5,296</u>
Net assets		
Unrestricted net assets	<u>364</u>	<u>(3,524)</u>
	<u>364</u>	<u>(3,524)</u>
	<u>2,763</u>	<u>1,772</u>

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The Law Society of British Columbia
Special Compensation Fund - Statement of Changes in Net Assets
For the Year ended December 31, 2009
(\$000's)

	Unrestricted
	\$
Net deficit - December 31, 2008	(3,524)
Net excess of revenue over expense for the period	<u>3,888</u>
Net assets - December 31, 2009	<u><u>364</u></u>

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**The Law Society of British Columbia
Lawyers Insurance Fund
Results for the Year ended December 31, 2009**
(\$000's)

	2009 Actual	2009 Budget	\$ Var	% Var
Revenue				
Annual assessment	10,407	10,517		
Investment income (1)	(1,449)	5,773		
Other income	70	17		
Total Revenues	9,028	16,307	(7,279)	-44.6%
Expenses				
Insurance Expense				
Provision for settlement of insurance deductibles (2)	15,720	15,720		
Salaries and benefits	1,988	2,105		
Contribution to program and administrative costs of General Fund	1,389	1,342		
Office	589	630		
Actuaries, consultants and investment brokers' fees	389	624		
Allocated office rent	116	116		
Premium taxes	9	10		
	20,200	20,547		
Loss Prevention Expense				
Contribution to co-sponsored program costs of General Fund	638	731		
Total Expenses	20,838	21,278	440	2.1%
Lawyers Insurance Fund Results before 750 Cambie	(11,810)	(4,971)	(6,839)	
750 Cambie net results	270	296	(26)	
Lawyers Insurance Fund Results	(11,540)	(4,675)	(6,865)	

(1) Investment income includes loss of \$3.5m realized on transfer of long-term investment portfolio to new investment managers. Offsetting this, there is an unrealized gain of \$13.7m for the year recognized through net assets (not through income statement). See Statement of Changes in Net Assets.

(2) Actuarial valuation outstanding.

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**The Law Society of British Columbia
Lawyers Insurance Fund - Balance Sheet
As at December 31, 2009
(\$000's)**

	Dec 31 2009	Dec 31 2008
Assets		
Cash and cash equivalents	20,573	20,945
Accounts receivable and prepaid expenses	457	220
Due from members	40	52
Due from Special Compensation Fund	-	-
General Fund building loan	6,100	6,600
Investments	105,082	94,137
	<u>132,252</u>	<u>121,954</u>
Liabilities		
Accounts payable and accrued liabilities	1,758	648
Deferred revenue	6,076	5,302
Due to General Fund	16,303	16,157
Due to Special Compensation Fund	2,753	1,772
Provision for claims (1)	61,192	56,232
Provision for ULAE (1)	8,087	7,881
	<u>96,169</u>	<u>87,992</u>
Net assets		
Unrestricted net assets	18,583	16,462
Internally restricted net assets	17,500	17,500
	<u>36,083</u>	<u>33,962</u>
	<u>132,252</u>	<u>121,954</u>

(1) Actuarial valuation outstanding.

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The Law Society of British Columbia
Lawyers Insurance Fund - Statement of Changes in Net Assets
For the Year ended December 31, 2009
(\$000's)

	Unrestricted \$	Internally Restricted \$	Total \$
Net assets - December 31, 2008	16,462	17,500	33,962
Net deficiency of revenue over expense for the period	(11,540)	-	(11,540)
			-
Unrealized gains on available-for-sale financial assets arising during the period	13,661	-	13,661
Net assets - December 31, 2009	<u>18,583</u>	<u>17,500</u>	<u>36,083</u>

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The Law Society *of British Columbia*



Key Performance Measures

Report on 2009 Performance





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Background

This is the third time that the organization has reported on the entire set of key performance measures.

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

The Law Society *of British Columbia*



Professional Conduct and Discipline

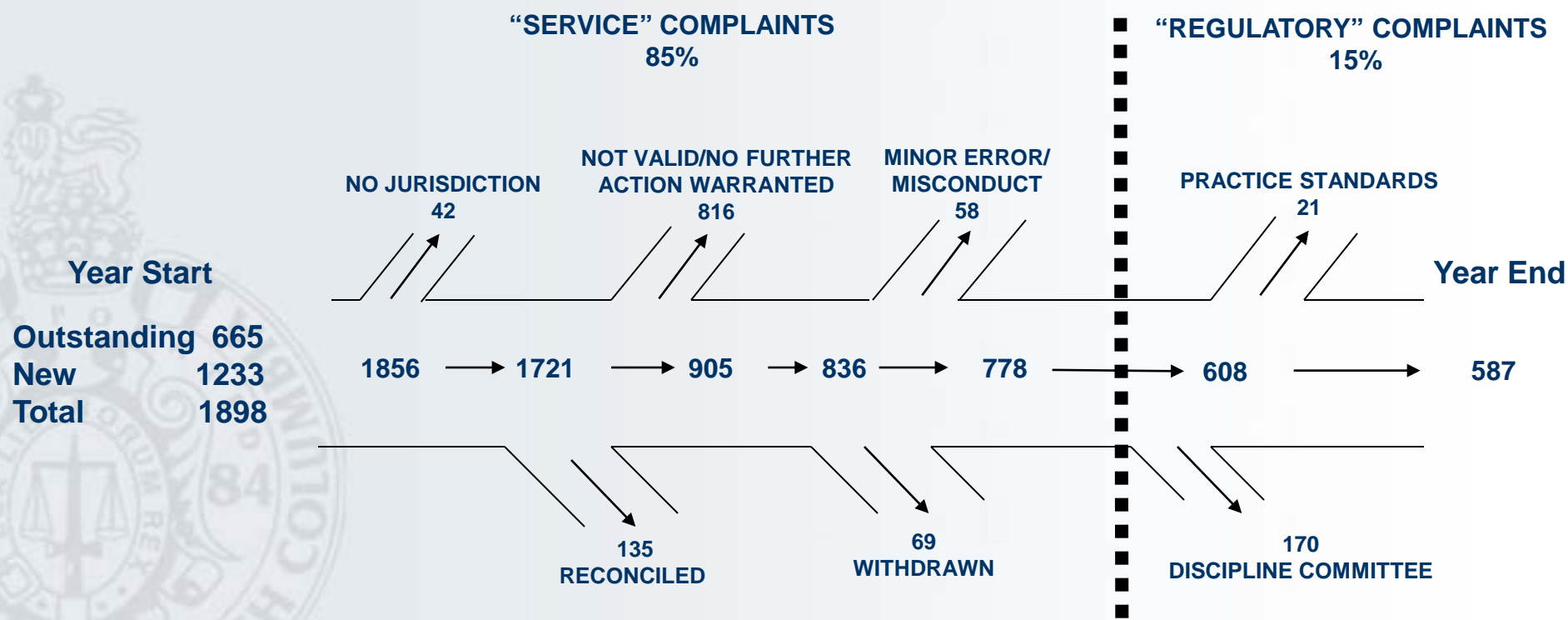


Department Highlights

- In 2009, the Professional Conduct Department closed more complaints than were opened, with 1,233 complaints opened and 1,316 complaints closed during the year.
- Although we received over 100 more complaints in 2009 than we did in 2008, there were 78 fewer open files at year end than at the start of the year.
- For 2009, the frequency of complaints did increase to 12.1% reflecting the increase in the number of complaints in 2009. Analysis of the complaints we received in 2009 does not show any change in the nature or types of complaints, and the increased frequency may be an anomaly.
- The Department met or exceeded the Key Performance Measures for thoroughness, courtesy, fairness, and whether a complainant would recommend our process to someone else.
- We continue to work on improving timeliness and during the year we reduced the number of open files older than one year by 60% compared with 2008
- Over the last two years, the number of files open at any given time has been reduced by approximately 18%
- Both the CRC and the Ombudsman continue to be satisfied with our complaints handling process and procedure

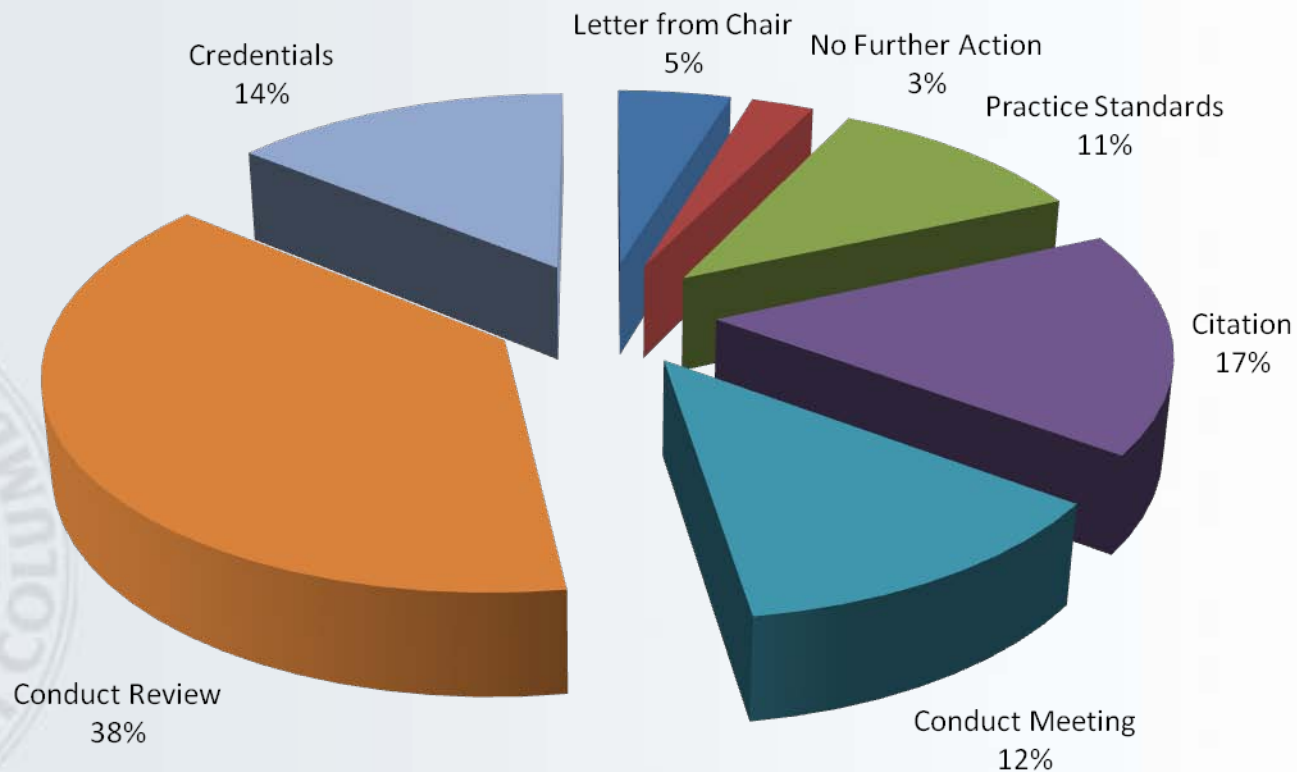


2009 Complaints Results





2009 Discipline Results



Key Activities

Number of Member Complaints Opened and Closed Each Year



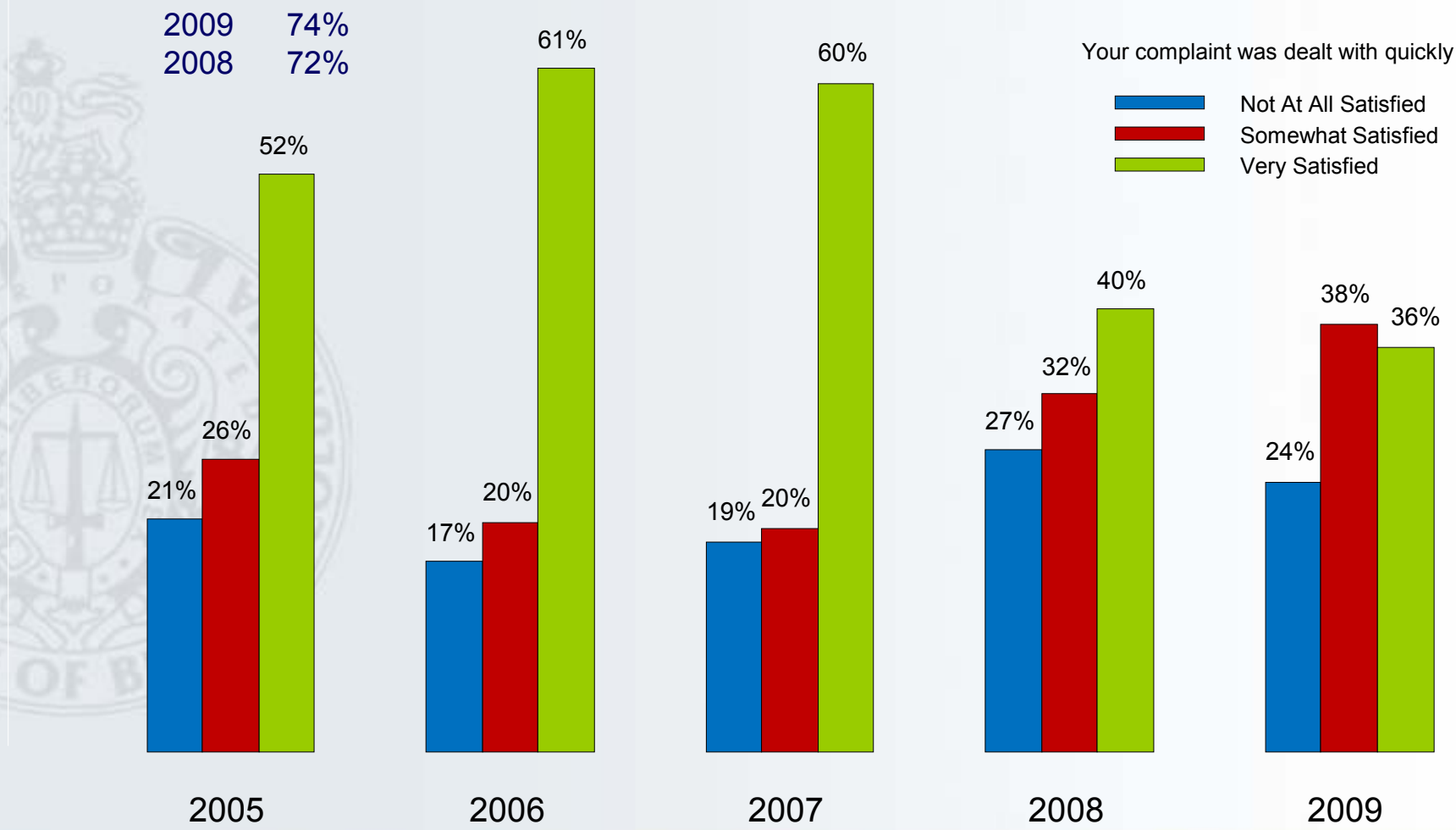
Key Performance Measures

Frequency of complaints does not increase over time



Key Performance Measures

At least 75% of Complainants express satisfaction with timeliness

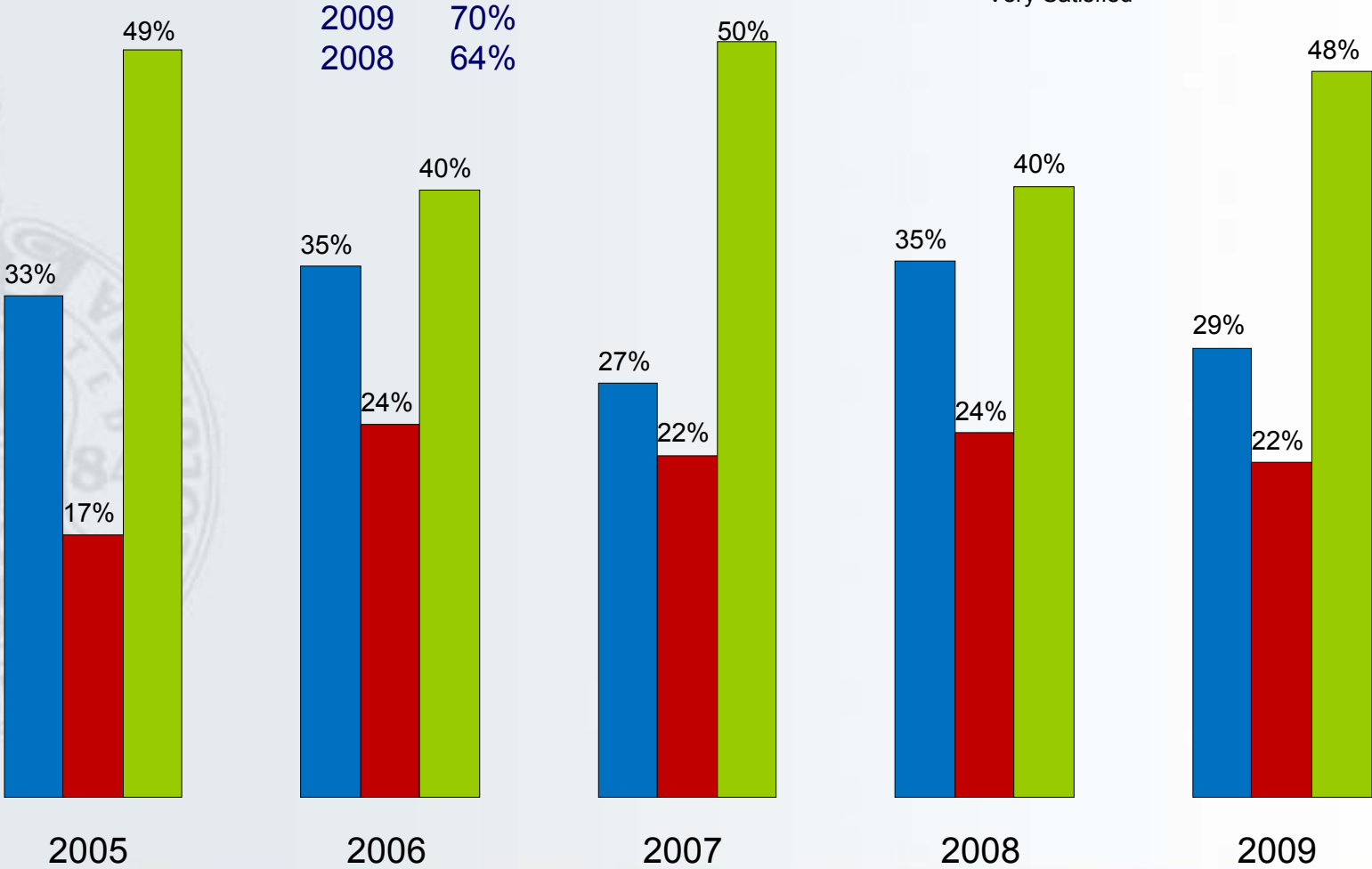


Key Performance Measures

At least 65% of Complainants express satisfaction with fairness

Your complaint was dealt with fairly

- Not At All Satisfied
- Somewhat Satisfied
- Very Satisfied





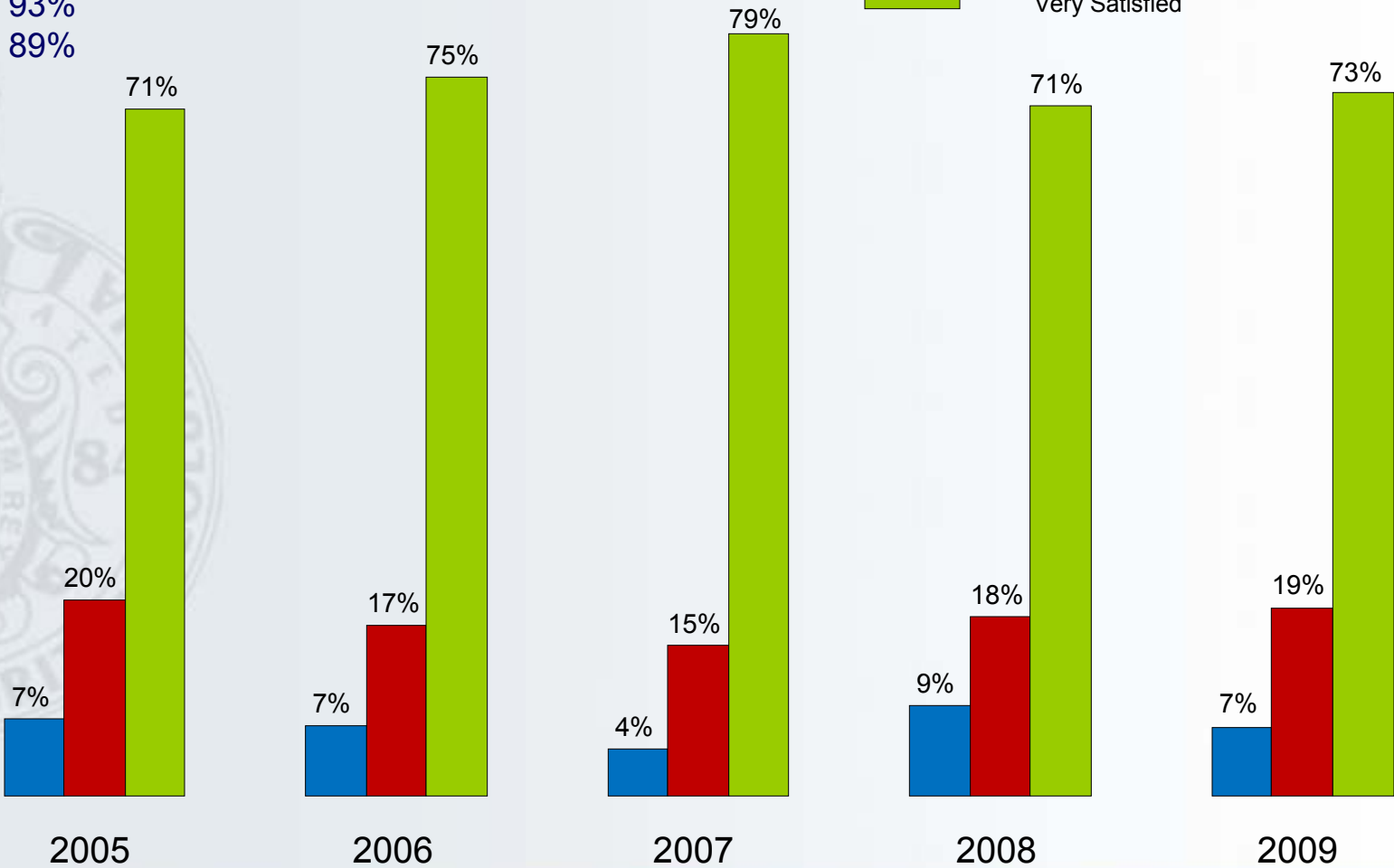
Key Performance Measures

At least 90% of Complainants
express satisfaction with courtesy

2009 93%
2008 89%

Your complaint was dealt with courteously

- Not At All Satisfied
- Somewhat Satisfied
- Very Satisfied



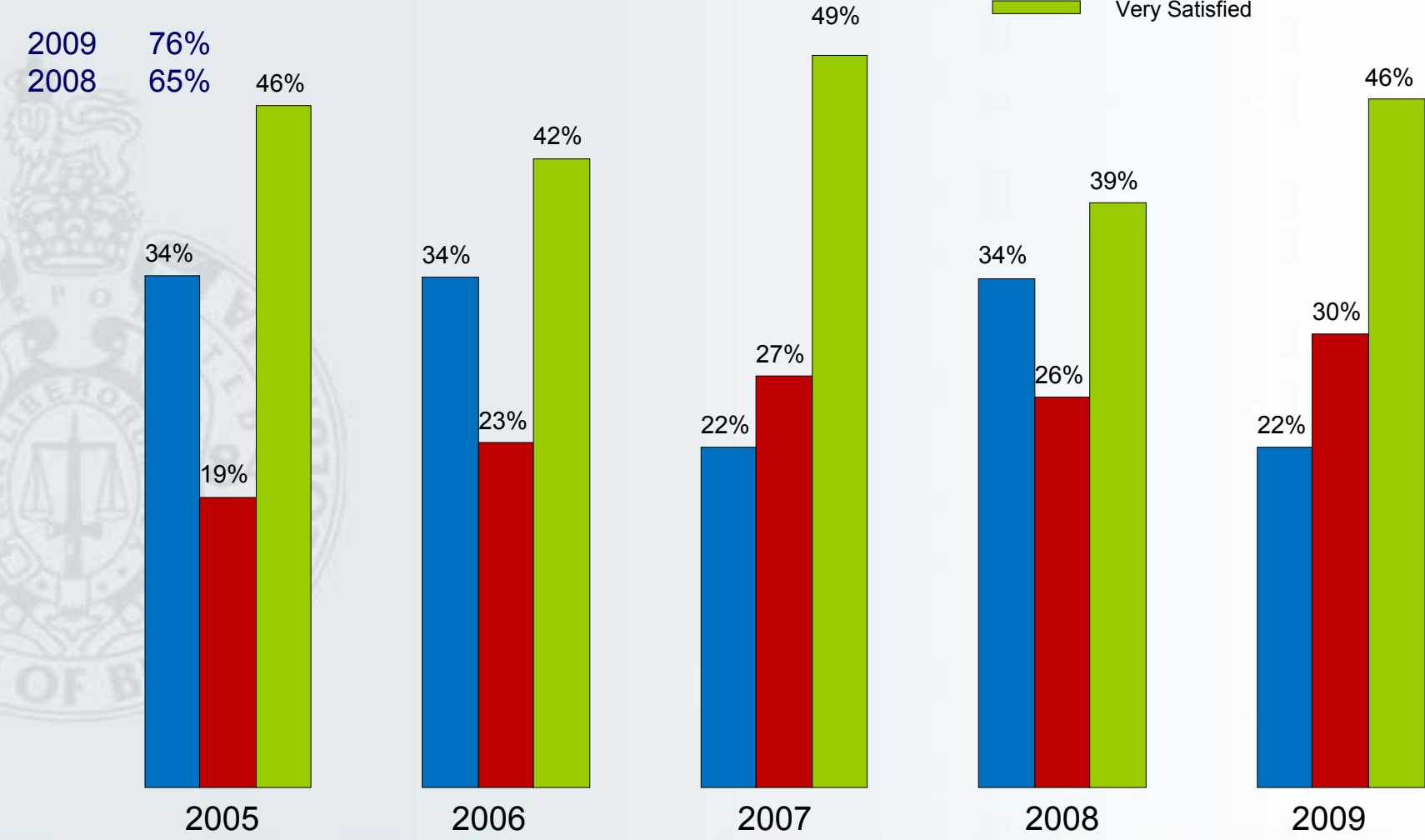


Key Performance Measures

At least 65% of Complainants express satisfaction with thoroughness

Your complaint was dealt with thoroughly

- Not At All Satisfied
- Somewhat Satisfied
- Very Satisfied



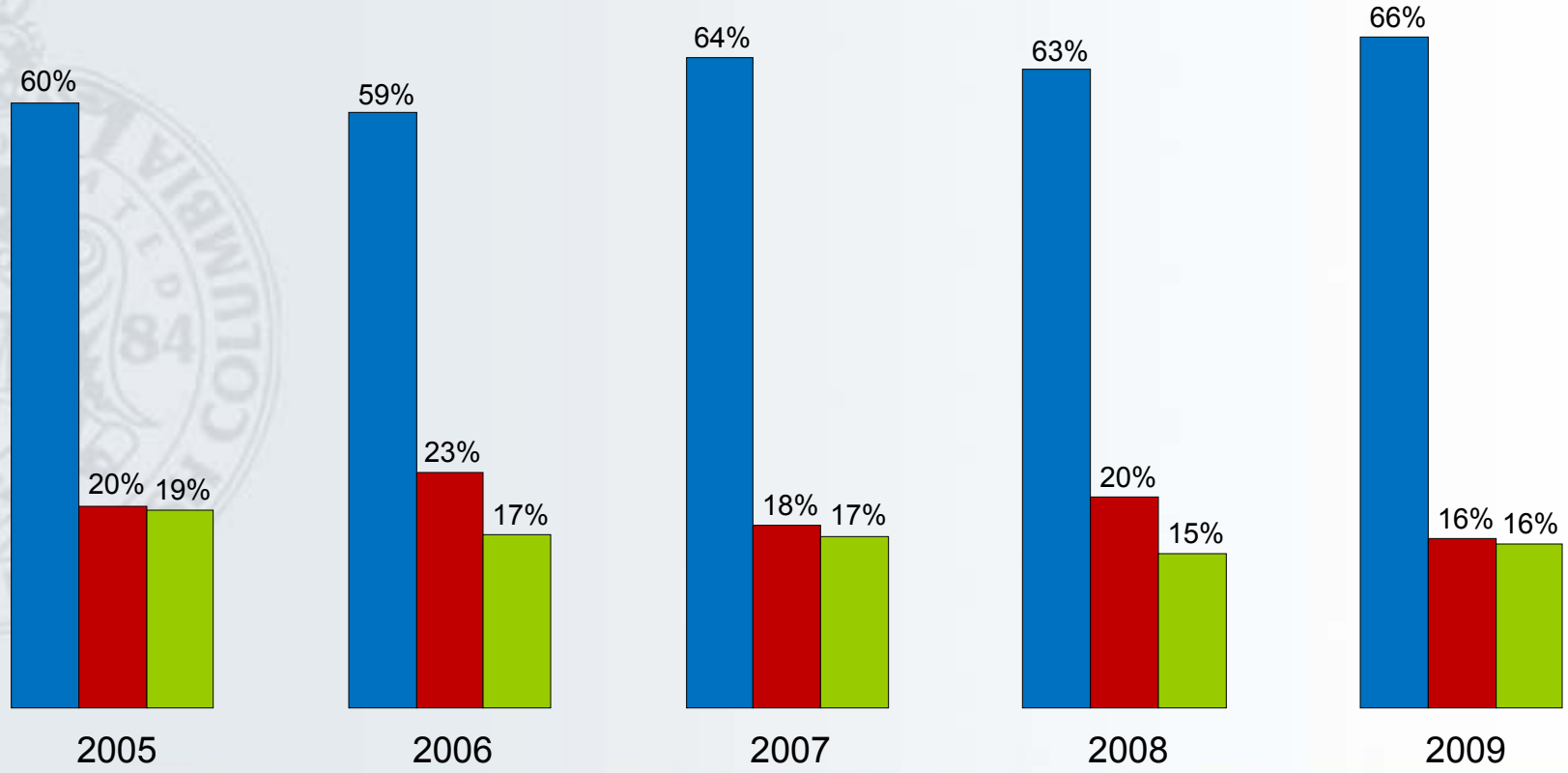


Key Performance Measures

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

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

- Yes
- No
- Not Sure





Key Performance Measures

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

In 2009, a total of 5 enquiries were received from the Office of the Ombudsperson concerning our complaint investigation process, compared with the 6 enquiries received in 2008. In each instance, the Law Society satisfactorily addressed the issues raised.

In 2009, the Complainants' Review Committee considered 73 complaints, resolving to take no further action on 70 of them on the basis the staff assessments made were appropriate in the circumstances. While no referrals to the Discipline or Practice Standards Committees were made in 2009, the Complainants' Review Committee did seek further information on 3 files before satisfying itself that no further action was required.

In 2009, the Committee expressed no concerns about the fairness or due process followed in the investigation of complaints.

The Law Society *of British Columbia*



Custodianships





Departmental Highlights

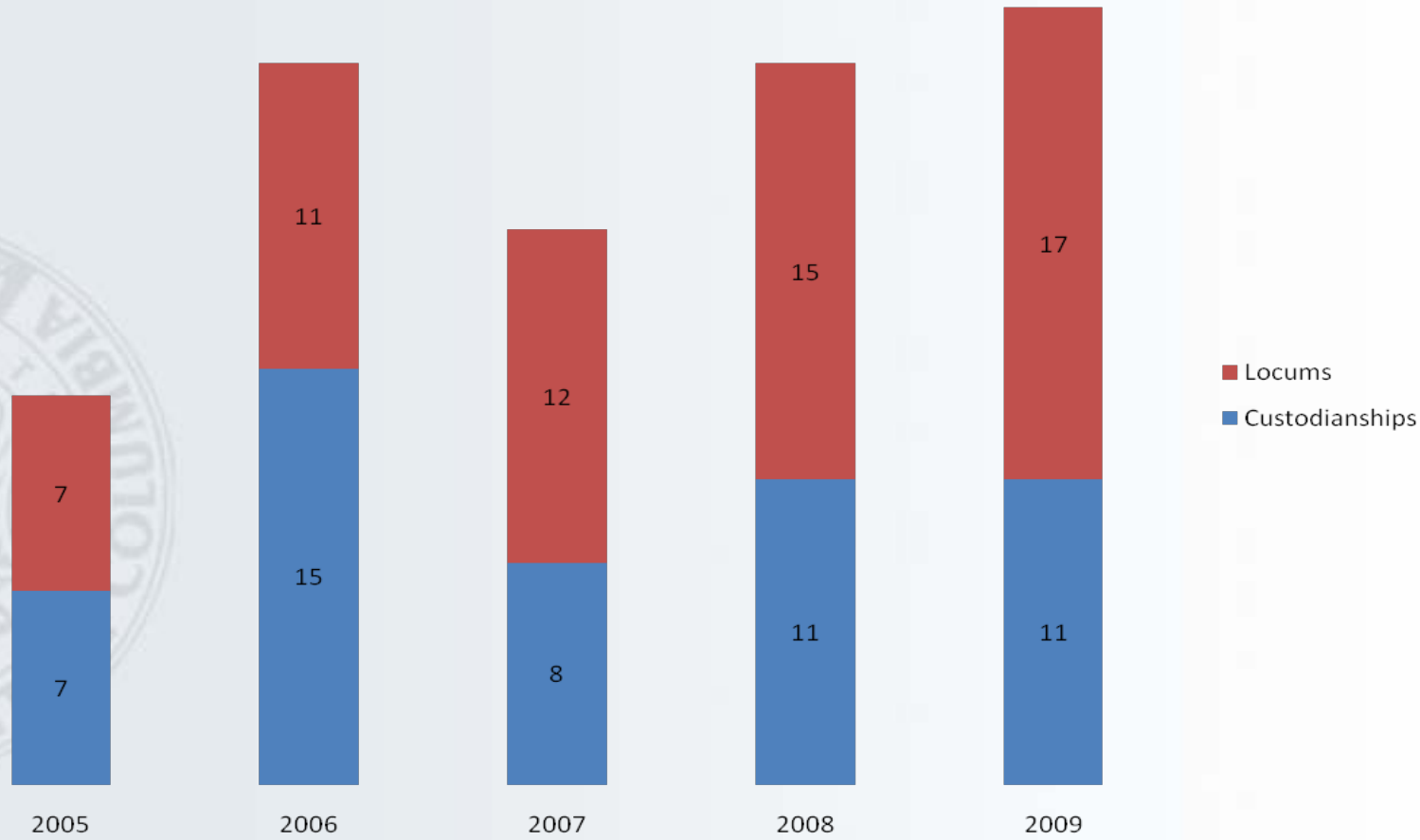
- In 2009, the Law Society was appointed as a custodian for 11 practices and staff coordinated 17 locum placements, eliminating the need for the appointment of the Law Society as a custodian.
- There were 39 custodianships under administration at year end compared with 43 at the end of 2008.
- We discharged 15 custodianships in 2009, 9 in-house custodianships and 6 outside custodianships.
- Overall, the total number of practices requiring the appointment of a custodian or placement of a locum has been growing fairly consistently since 2005.
- The average time to complete a custodianship decreased significantly in 2009 due to the more timely resolution of in-house custodianships compared with outsourcing.
- The average cost of custodianships increased in 2009 compared with 2008 and was higher than the comparable historical average, even when adjusted for inflation. The increase was largely due to about \$130,000 of non-recurring costs in 2009 relating to staffing and \$70,000 in file storage costs that did not form part of the historical average.
- If we factored in the use of locums in 2009 to manage practices in place of custodianships, the average cost in 2009 would be \$54,615 compared with an historical average of \$84,968.

Key Activities

The Law Society
of British Columbia

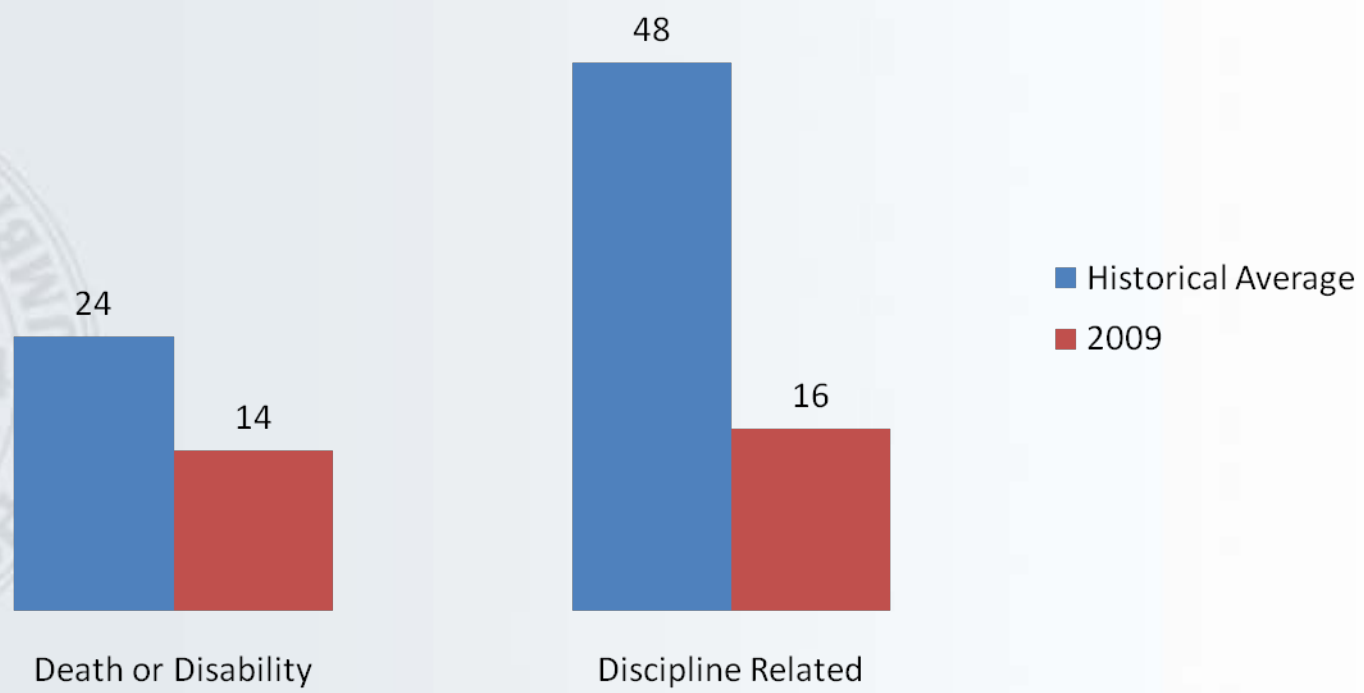


New Custodianships and Locums By Year



Key Performance Measures

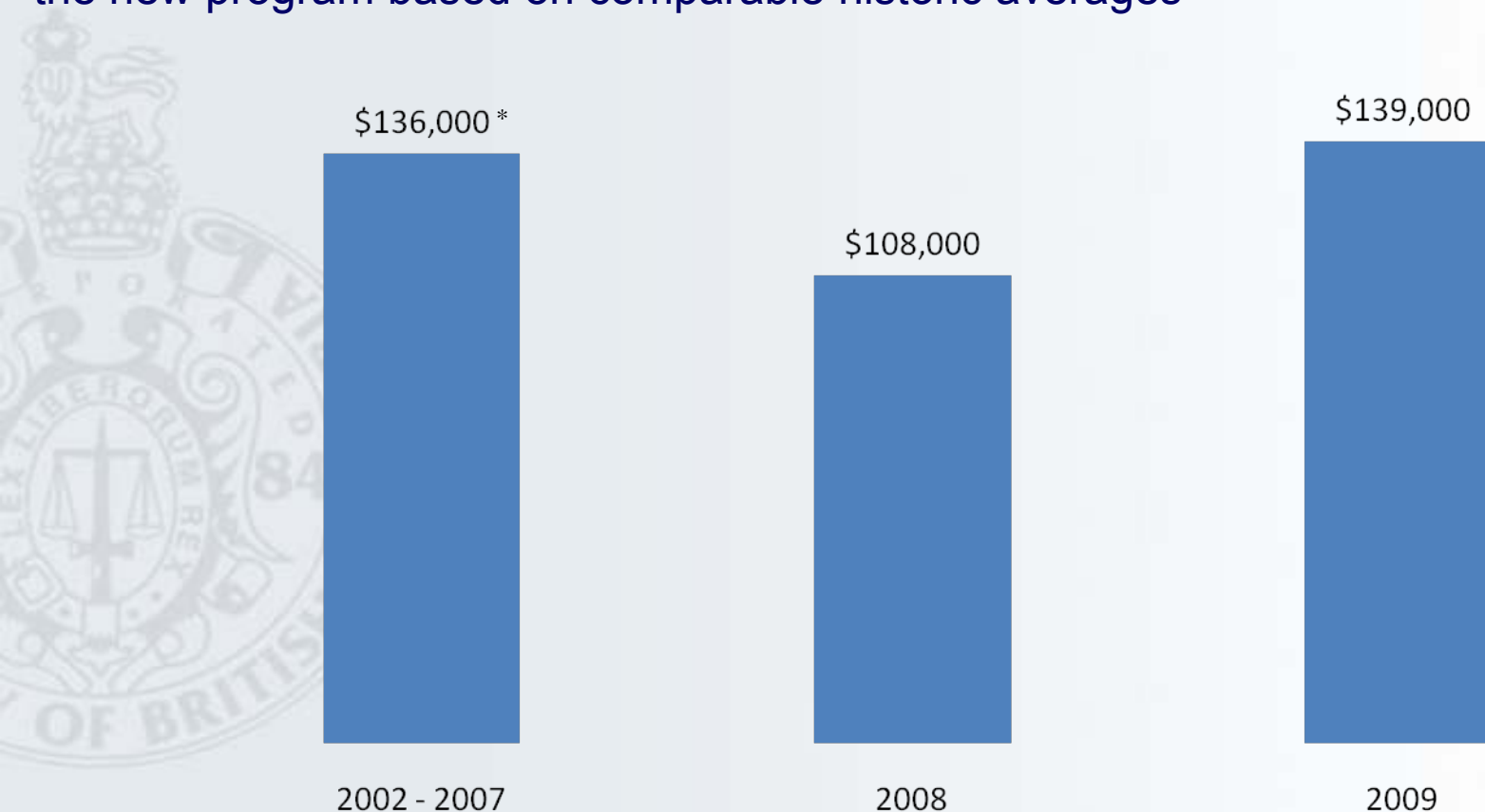
The length of time required to complete a custodianship will decrease under the new program based on comparable historic averages*



* Duration in months

Key Performance Measures

The average cost of a custodianship will decrease under the new program based on comparable historic averages



* Adjusted for inflation

The Law Society *of British Columbia*



Trust Assurance





Department Highlights

- Reviewed 3,258 trust reports in 2009, approximately the same as in 2008.
- Completed almost 1000 compliance audits since the inception of the trust assurance program and on target to complete a compliance audit for each firm every six years.
- Although there was no reduction in 2009 in the number of financial suspensions issued by the Trust Assurance department, the absolute number has remained very low and stable over the last 3 years.
- After an initial increase in 2008 following the full implementation of new trust assurance program, increased compliance with the trust accounting rules meant that only 29 referrals in 2009 compared with 49 in 2008
- Performance on key compliance questions improved in 2008 (the last complete year for trust reports) over 2007 as measured by the percentage increase in the number self-reports allowed compared with those who had to provide an accountant's report.
- Development of a Trust Assurance course, to be delivered in 2010.
- Collected over \$400,000 in unremitted interest for the Law Foundation, through compliance audit follow-up of exceptions.

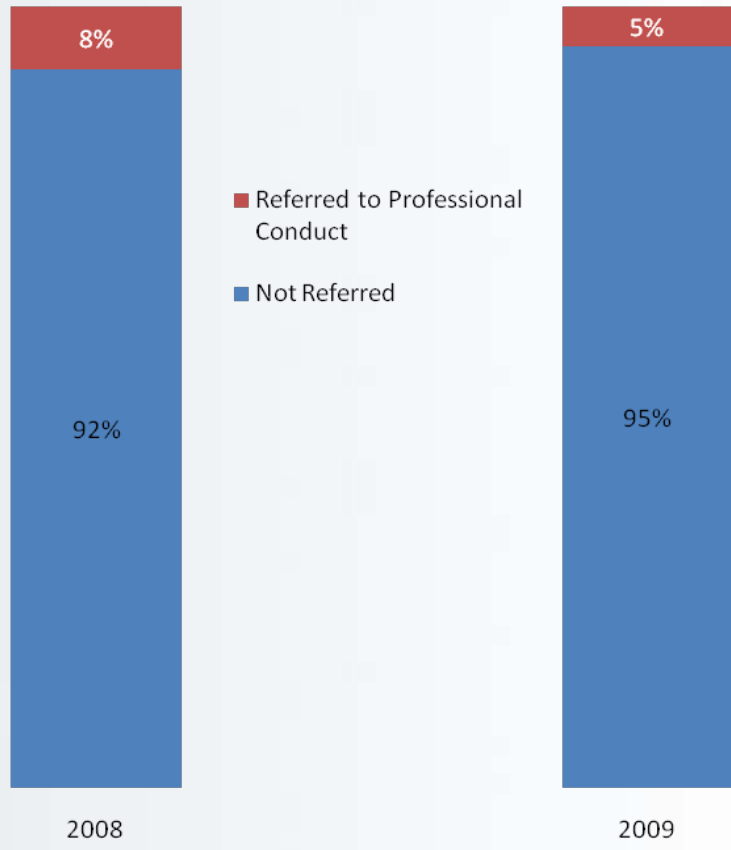
Number of Trust Reports



Compliance Audits



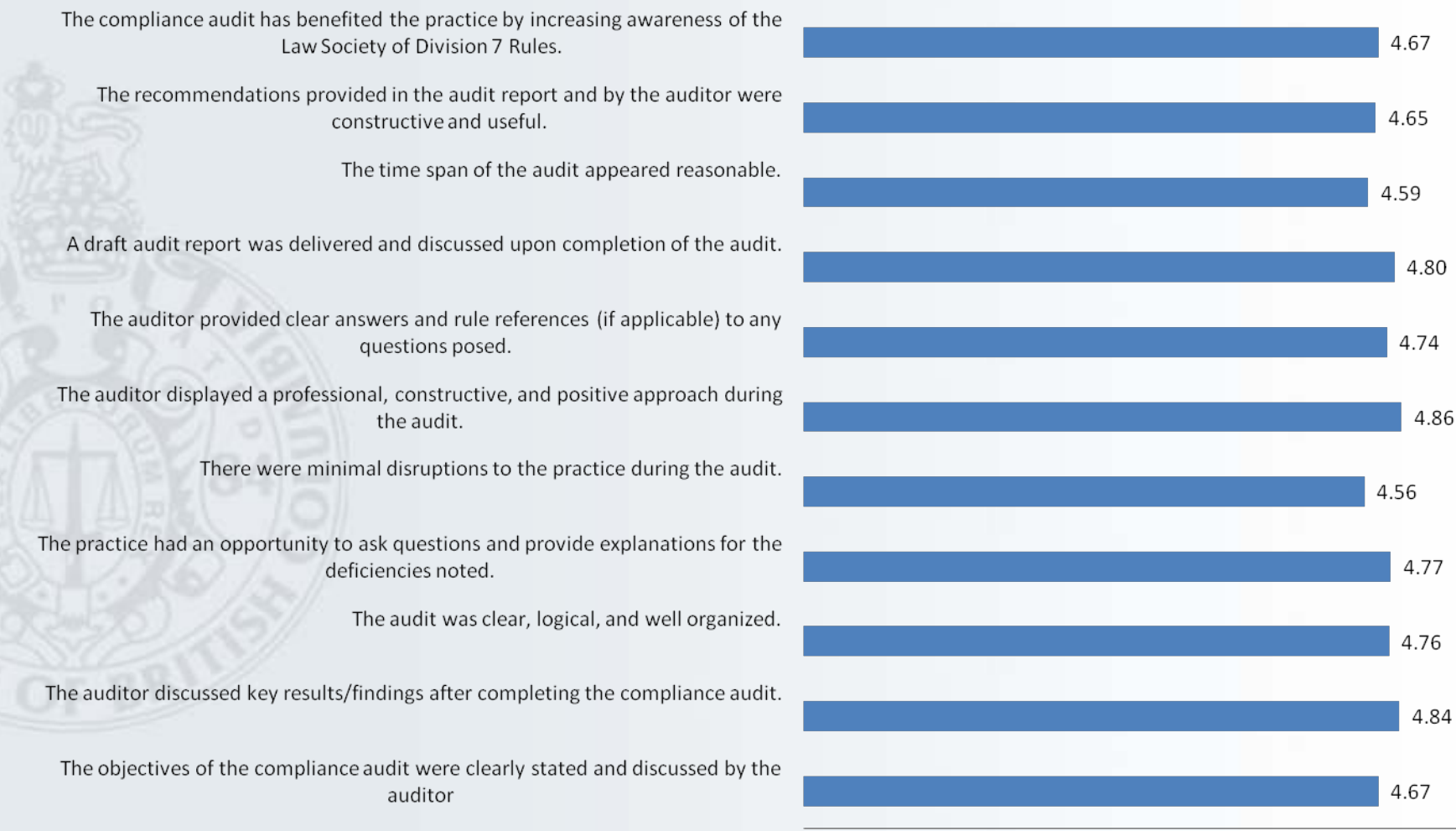
In 2009, we performed approximately 450 compliance audits



Key Activities

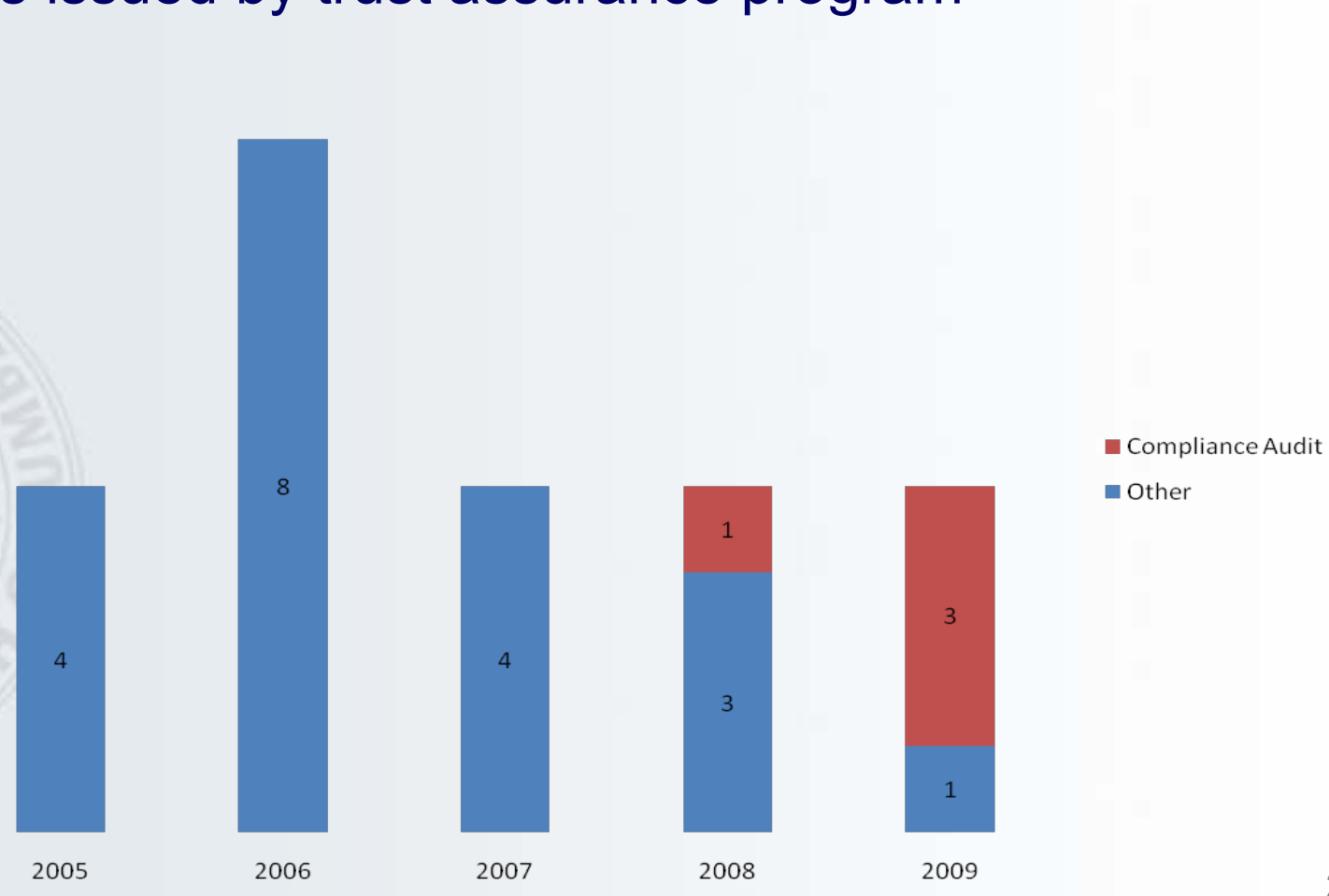


Trust Audit Survey Results (Average rating based on 5 point scale)



Key Performance Measure

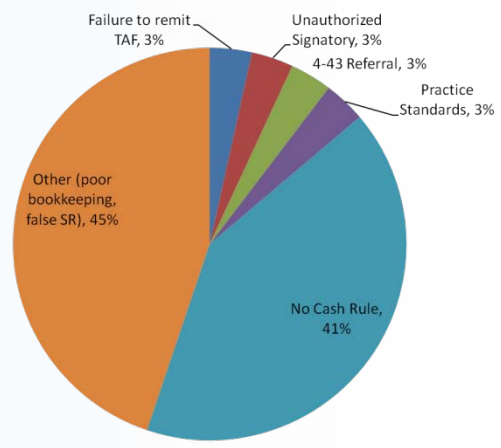
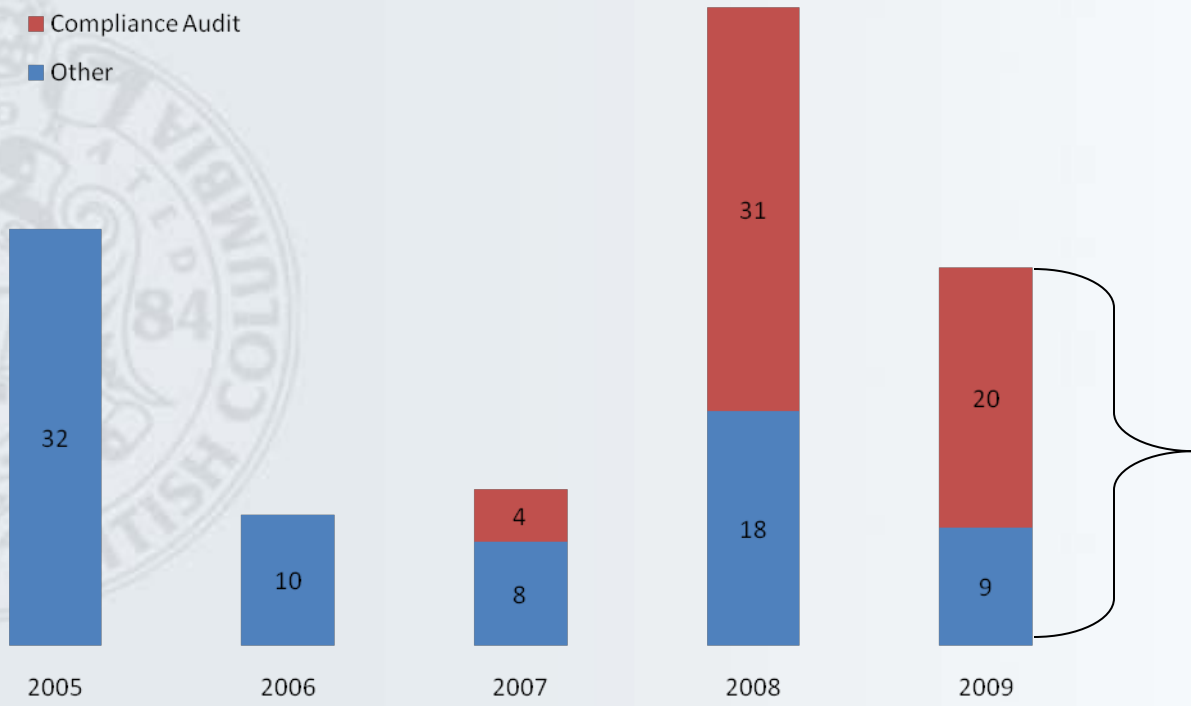
Long term reduction in the number of financial suspensions issued by trust assurance program





Key Performance Measure

Long term reduction of referrals to Professional Conduct





Key Performance Measure

Improved performance on key compliance questions from lawyer trust report filings

Increase in Self Reported Trust Report filings allowed

2007



- Self Report
- Accountant's Report

2008



- Self Report
- Accountant's Report

The Law Society *of British Columbia*



Credentials, Articling and PLTC





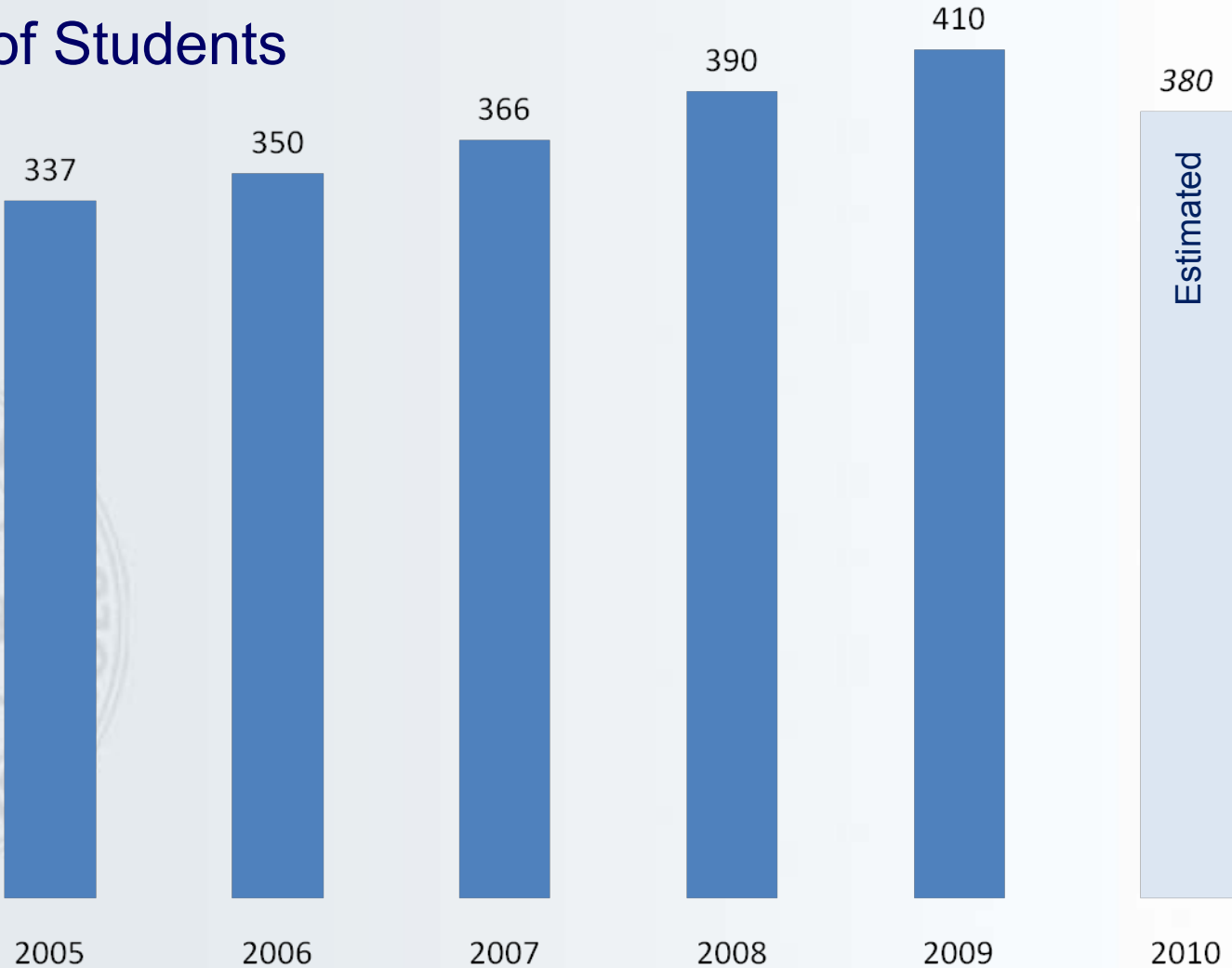
Department Highlights

- Between 2004 and 2009, the number of PLTC students increased steadily from 311 to 410.
- Early registration figures show that 2010 will likely be the first year in seven that the number of students declines; approximately 380 students are expected.
- The number of students achieving an initial pass exceeded the key performance measure of 85% in each of the last five years.
- While students rated PLTC's value at an average of 3.5 or higher this year, principals rated PLTC's value less than 3.5 on three questions out of four.
- Both students and principals rated the value of articles at an average of 3.5 or higher this year and last, and 100% of the principals declared that their students were fit to practice law in 2009.



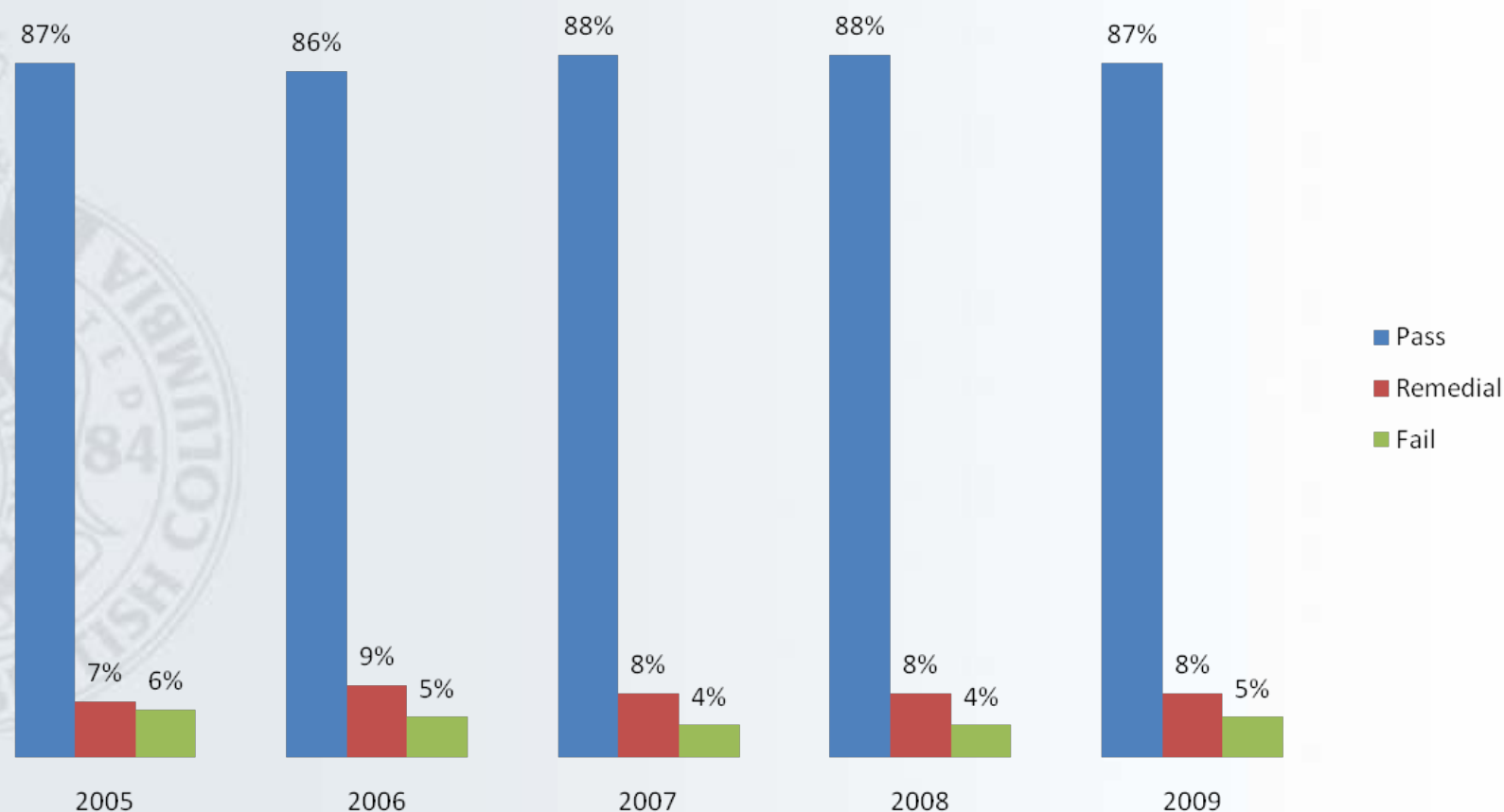
Key Activities

Number of Students



Key Performance Measures

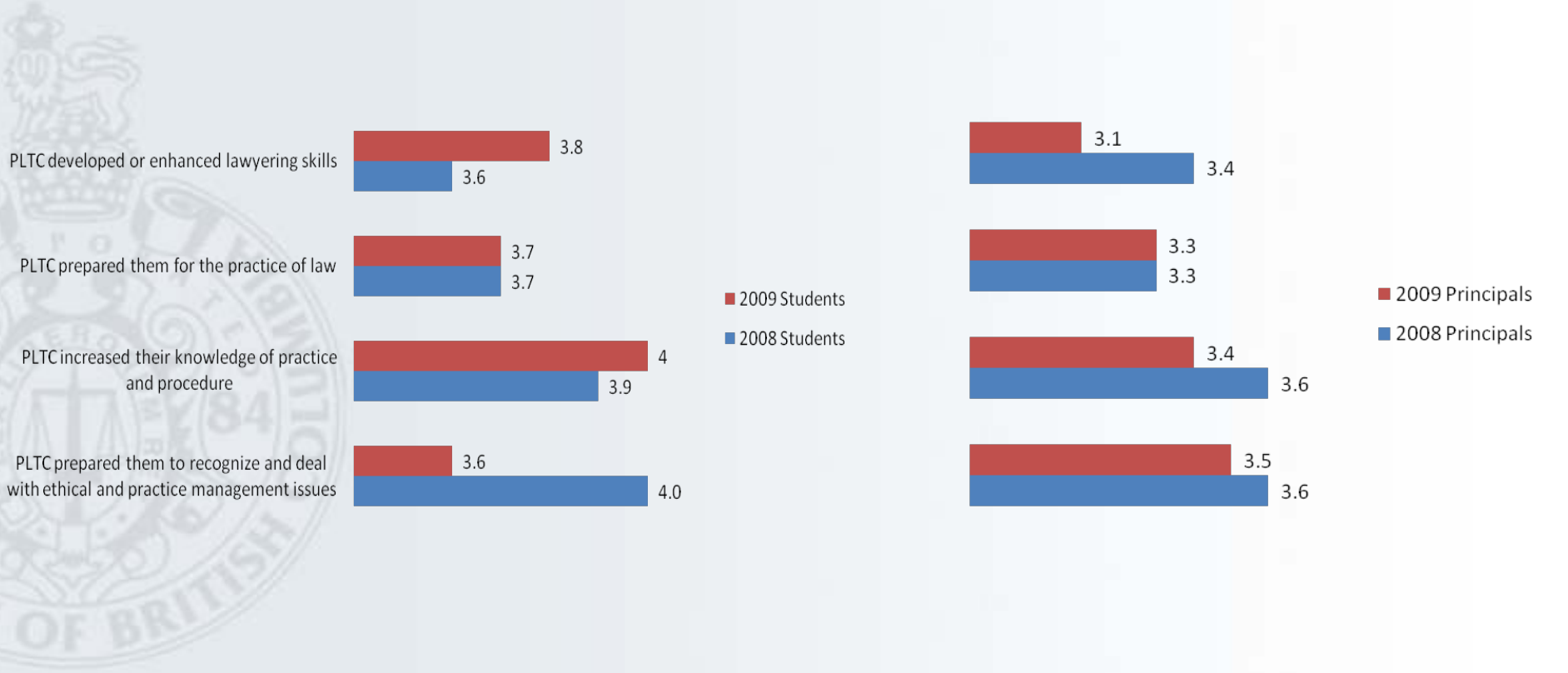
At least 85% of the students attending PLTC achieve a pass on the PLTC results





Key Performance Measures

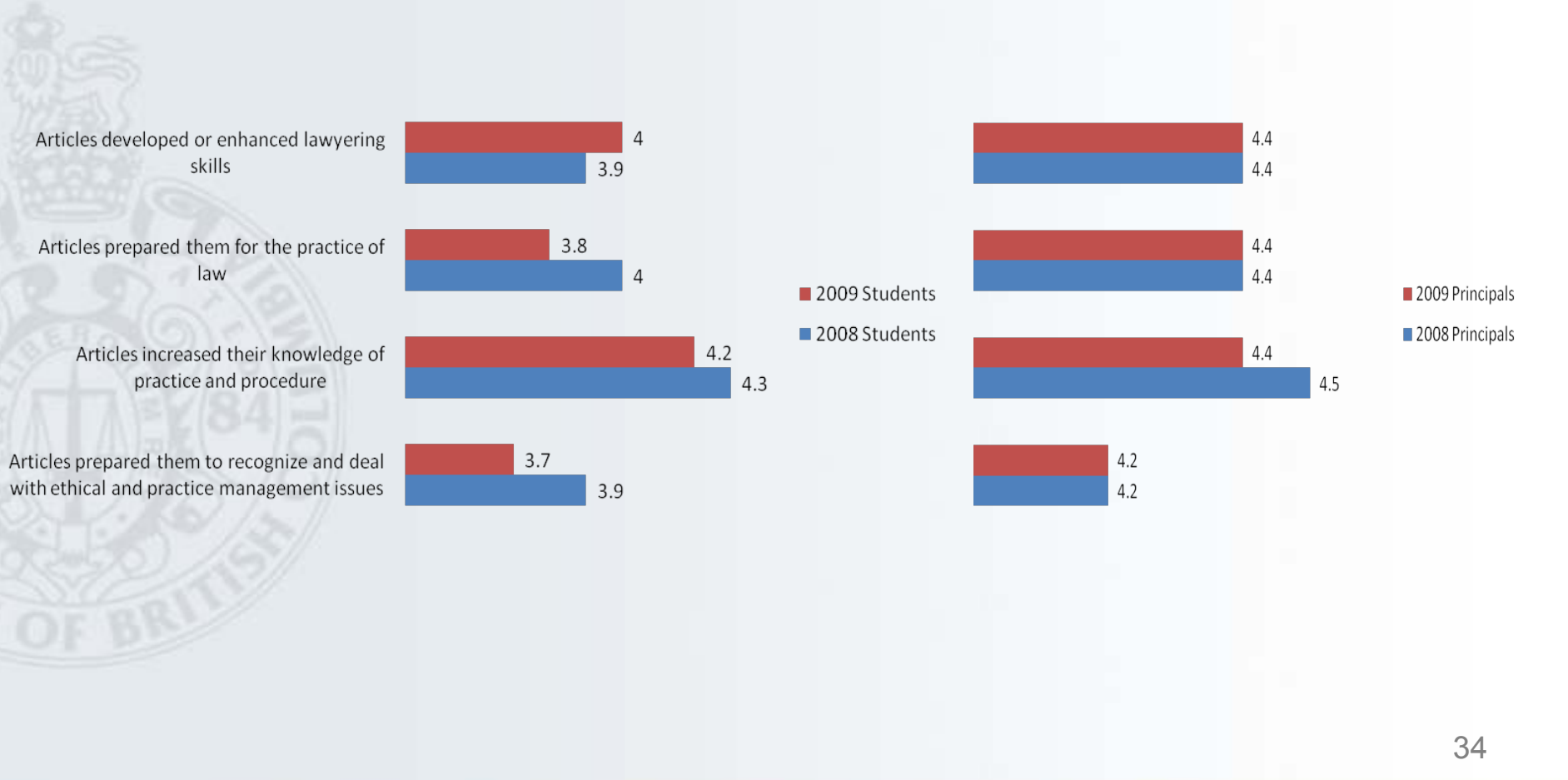
Students and Principals rate PLTC's value at an average of 3.5 or higher on a 5 point scale (1 = lowest and 5 = highest)





Key Performance Measures

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





Key Performance Measures

98% of principals declare their student fit to practice law at the end of the Admission Program

In 2007, 99.8% of the principals declared their students fit to practice law.

In 2008, 100% of the principals declared their students fit to practice law.

In 2009, 100% of the principals declared their students fit to practice law.

The Law Society *of British Columbia*



Practice Advice





Departmental Highlights

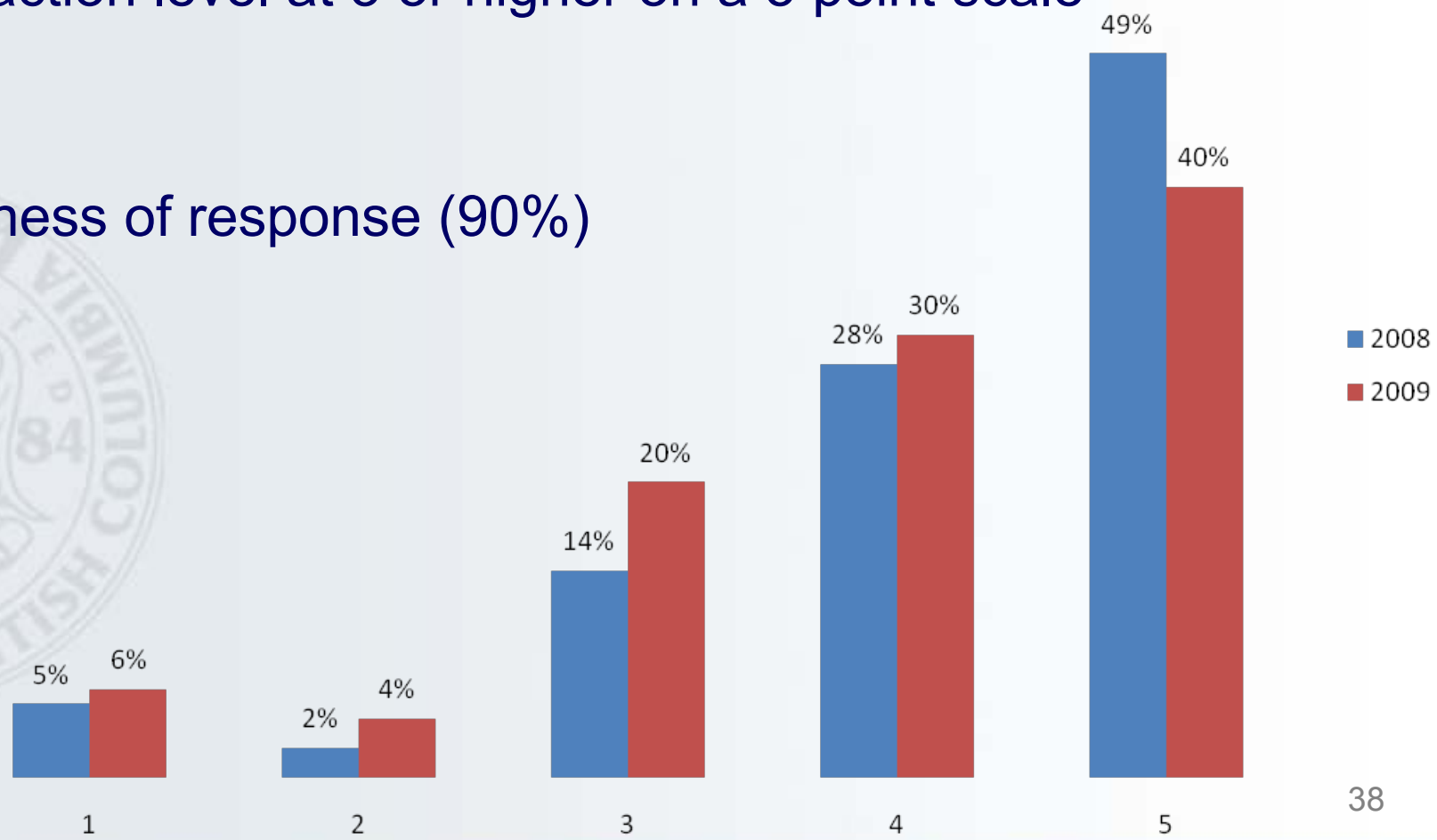
- The three Practice Advisors, and occasionally other staff lawyers, handled a total of 6,122 (5,996 by the Practice Advisors and 126 by other staff lawyers) telephone and email inquiries in 2009, an increase of 15% over the 5,322 in 2008.
- Although 90% of the lawyers who responded to our survey indicated rated timeliness of response at 3 or better, fewer rated it a 5 this year compared with last year.
- In rating the quality of advice, quality of resources and overall satisfaction with the advice, nearly 90% of the lawyers who responded provided ratings of 3 or better, a slight decline from the numbers for 2008.
- The significant increase in telephone and email inquiries handled in 2009 may have contributed to the decline in ratings for timeliness and overall satisfaction this year.



Key Performance Measures

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

Timeliness of response (90%)

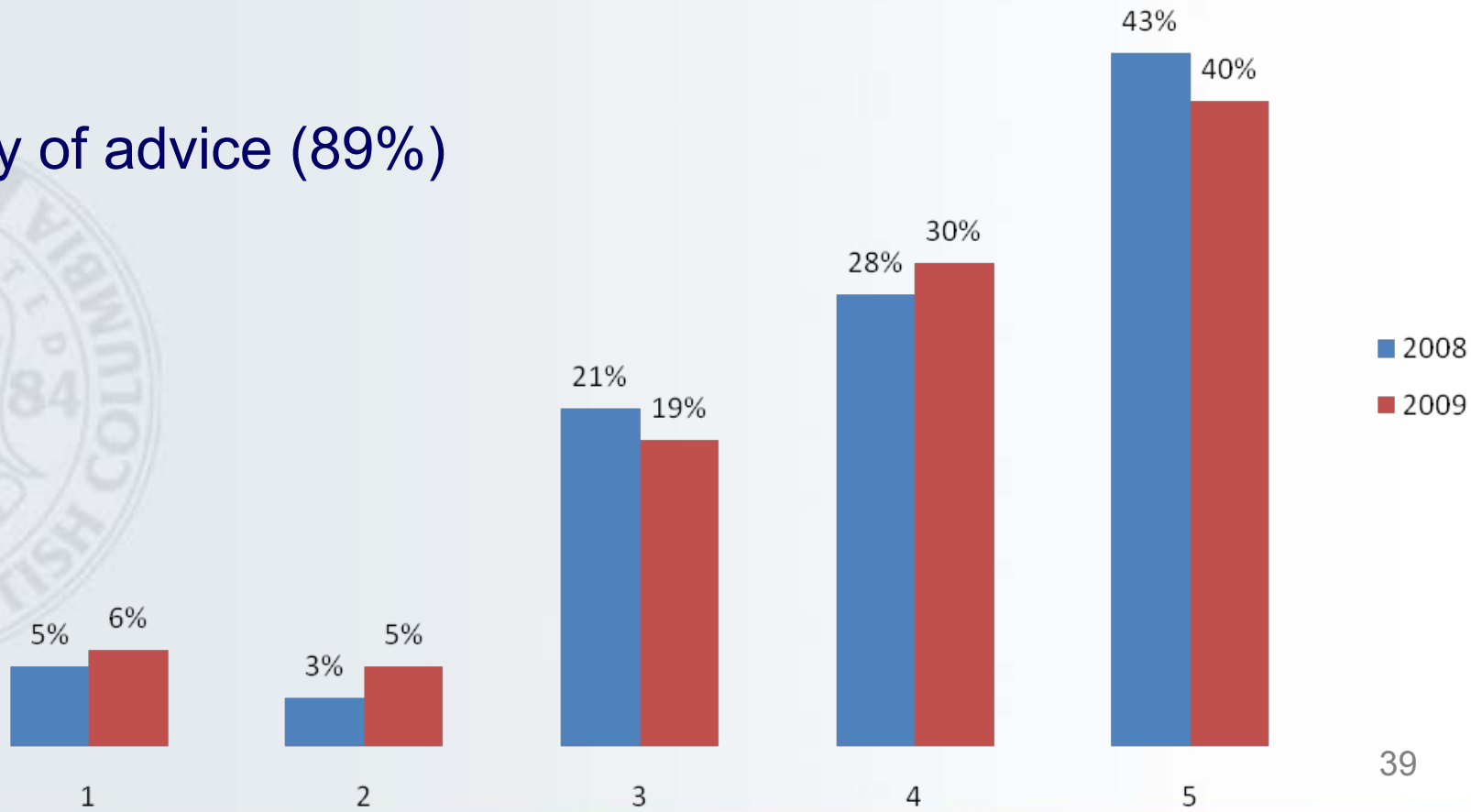




Key Performance Measures

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

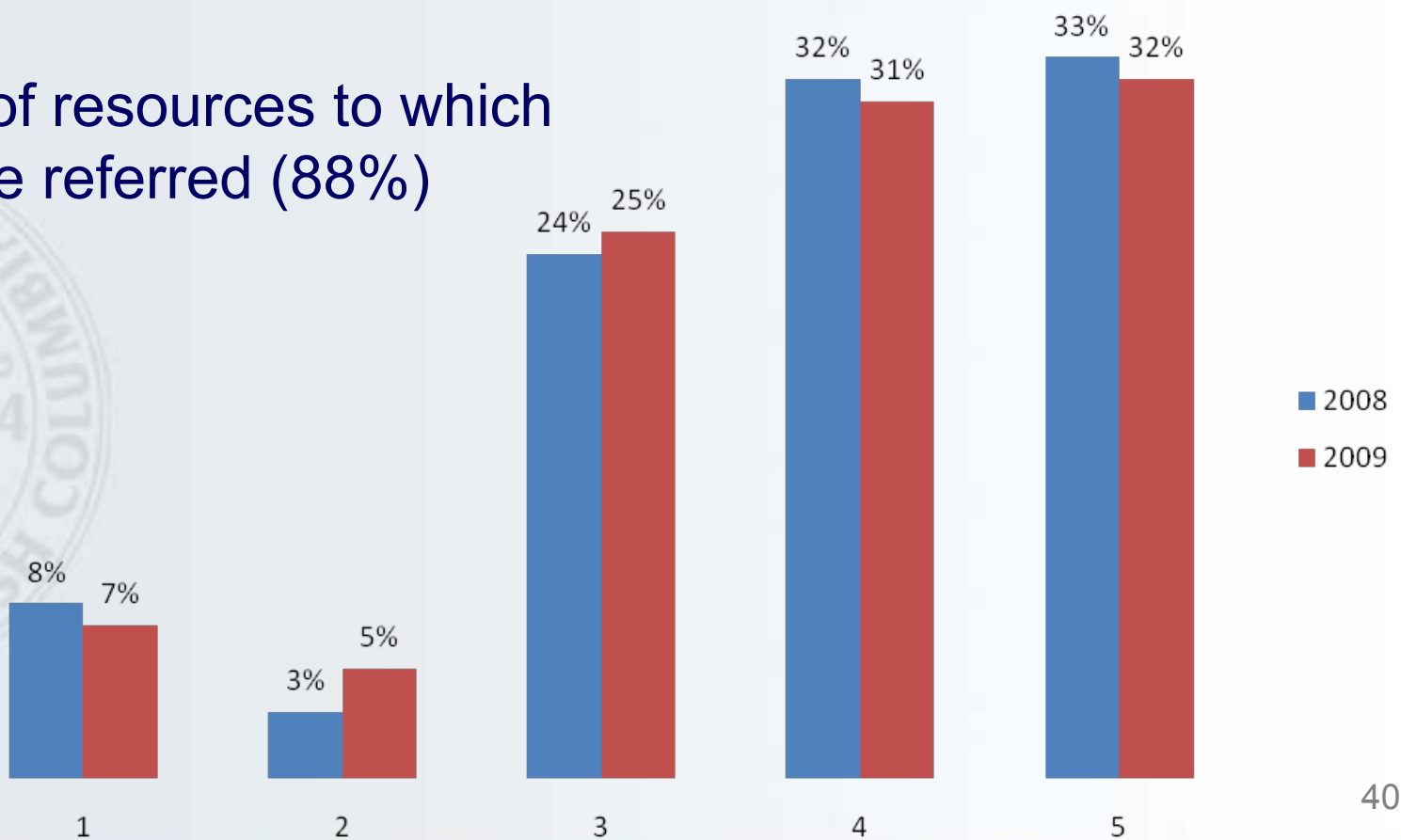
Quality of advice (89%)



Key Performance Measures

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

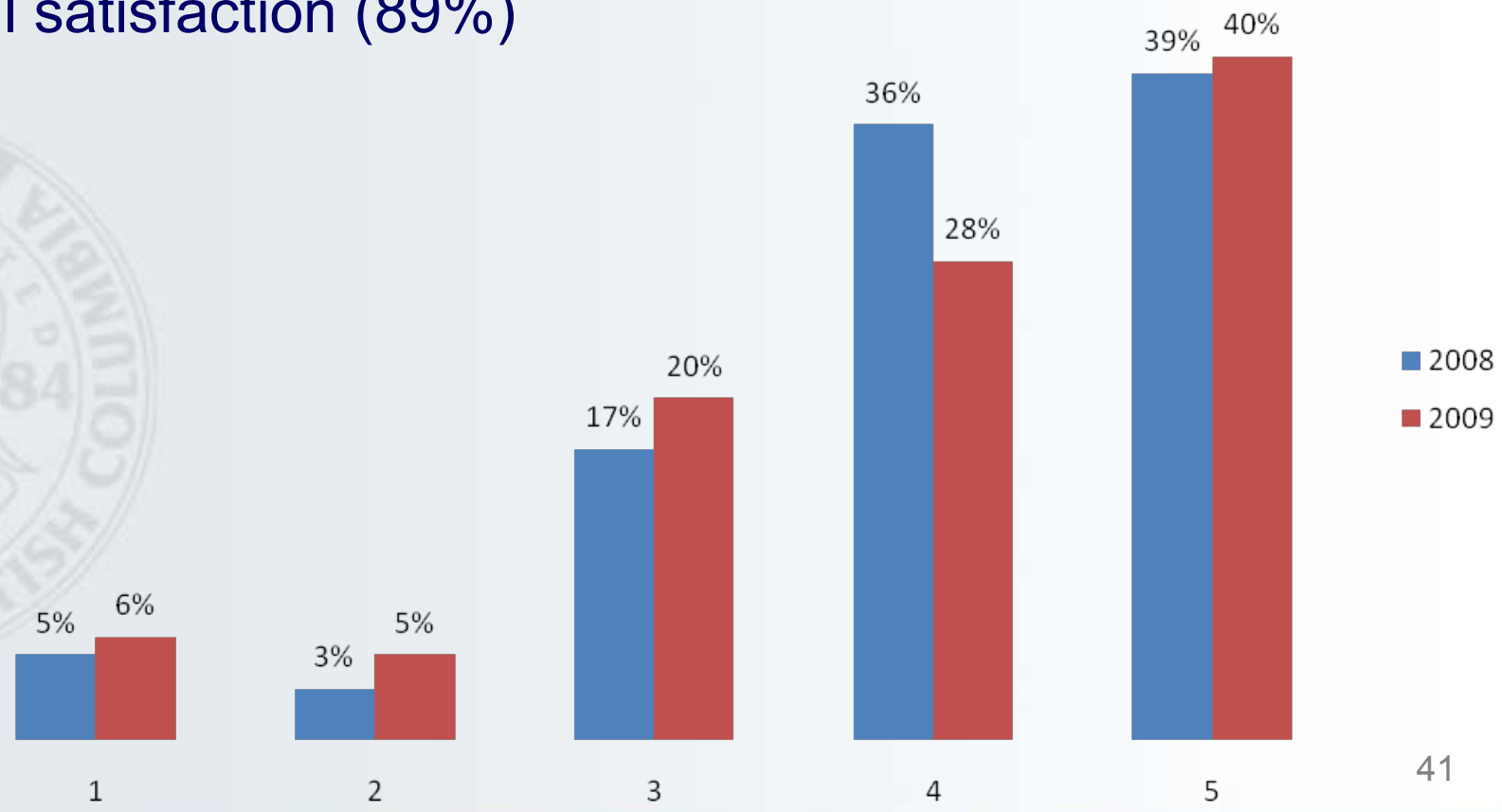
Quality of resources to which you were referred (88%)



Key Performance Measures

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

Overall satisfaction (89%)



The Law Society *of British Columbia*



Practice Standards





Departmental Highlights

- The Practice Standards Department conducts practice reviews , and then advises the Practice Standards Committee on whether lawyers referred to the program meet accepted standards in their law practices. Where lawyers do not meet accepted standards, the Department monitors remedial measures directed by the Committee.
- The Department also oversees the continuing operation and enhancement of several online support programs, including the Small Firm Practice Course and the Practice Refresher Course.
- The 17 lawyers who completed their referrals in 2009 all did so with an improvement of at least one point in their overall evaluation and an efficiency rating of 3 or higher.
- The ratings for the Succession and Emergency Planning Program, the Practice Refresher Course, the Practice Locums program and the Bookkeeper Support Program all improved in 2009 over 2008, although the percentage who rated these programs at 3 or higher was less than 90% threshold set for the key performance measures.



Key Performance Measures

At least two thirds of the lawyers who complete their referral demonstrate an improvement of at least 1 point on a 5 point scale

There were 17 lawyers whose Practice Standards files were completed and closed in 2009. All 17 lawyers improved by at least one point.



Key Performance Measures

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

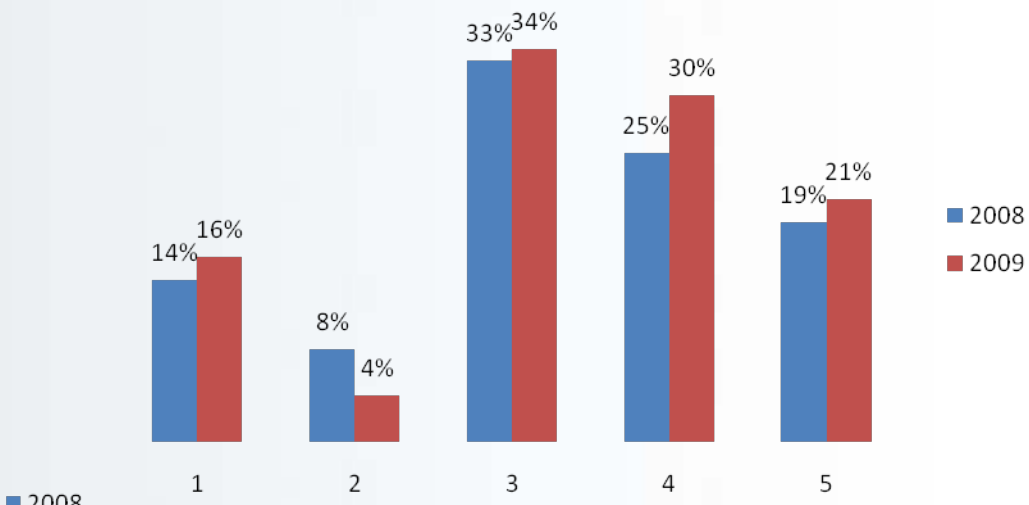
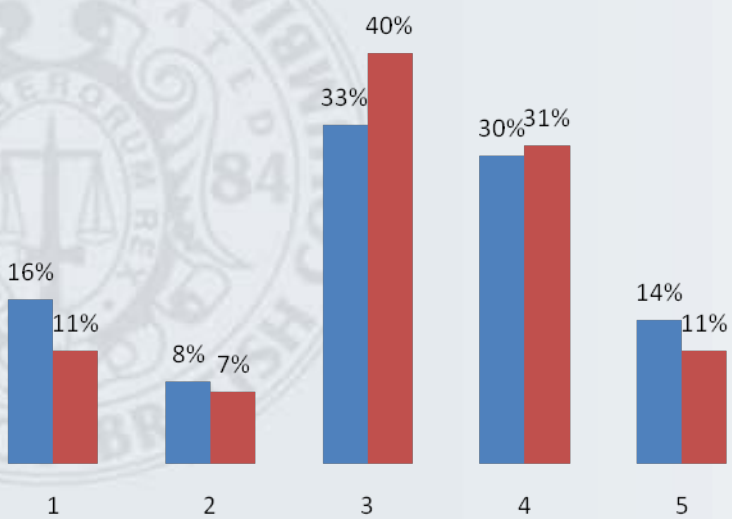
17 of the 17 lawyers finished at a rating of 3 or higher. The minimum threshold for a successful closure was a 3.



Key Performance Measures

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

Succession and Emergency Planning Assistance (82%)



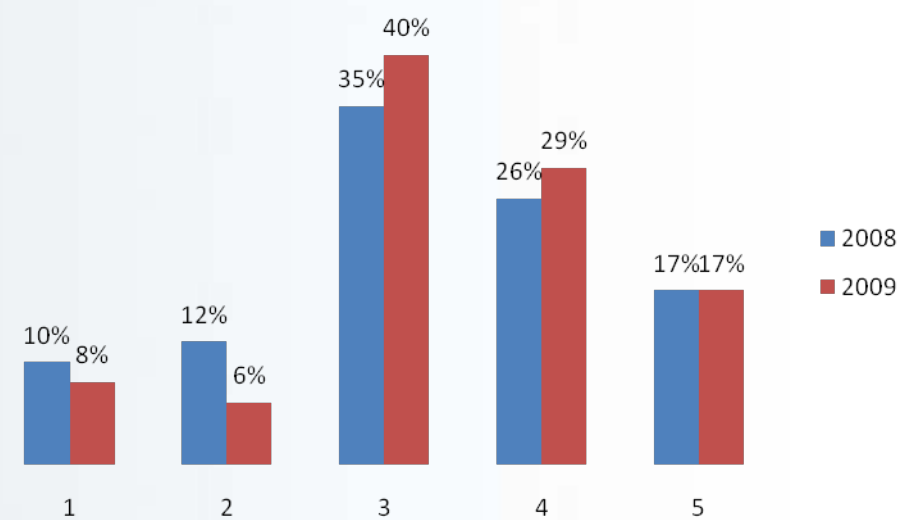
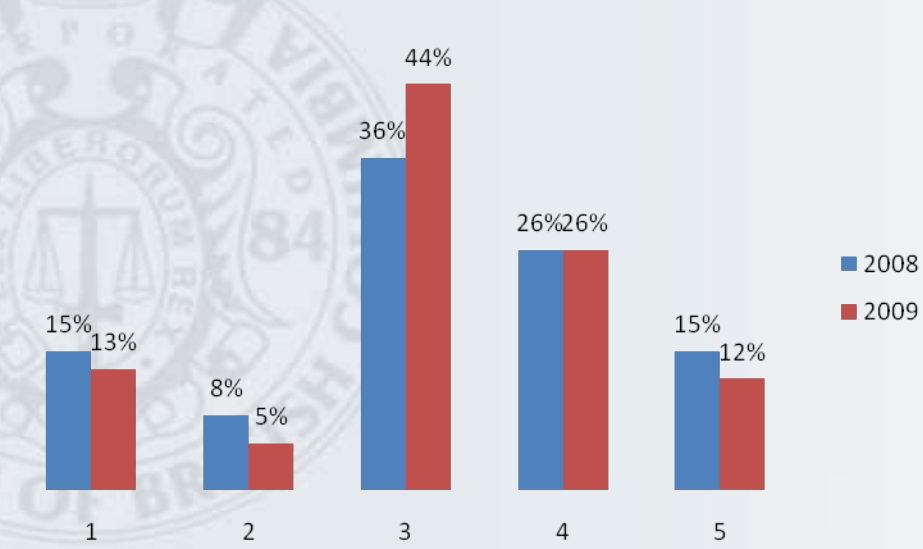
Practice Refresher Course (85%)



Key Performance Measures

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

Practice Locums Program (82%)



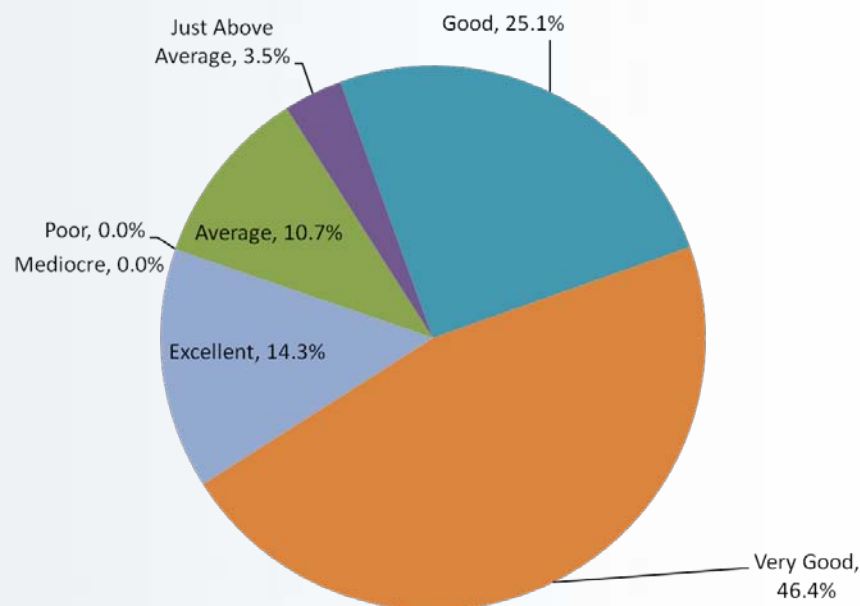
Bookkeeper Support Program (86%)



Key Performance Measures

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

Small Firm Practice Course*
(89.2% above average)



The Technology Support Program is being held in abeyance by the Practice Standards Committee while it assesses the uptake and response to Clio, a free web-based practice management tool targeted at the sole practitioners and small firms, accessed through the Law Society website.

* Evaluation has been conducted on a 7 point scale

The Law Society *of British Columbia*



Policy & Legal Services



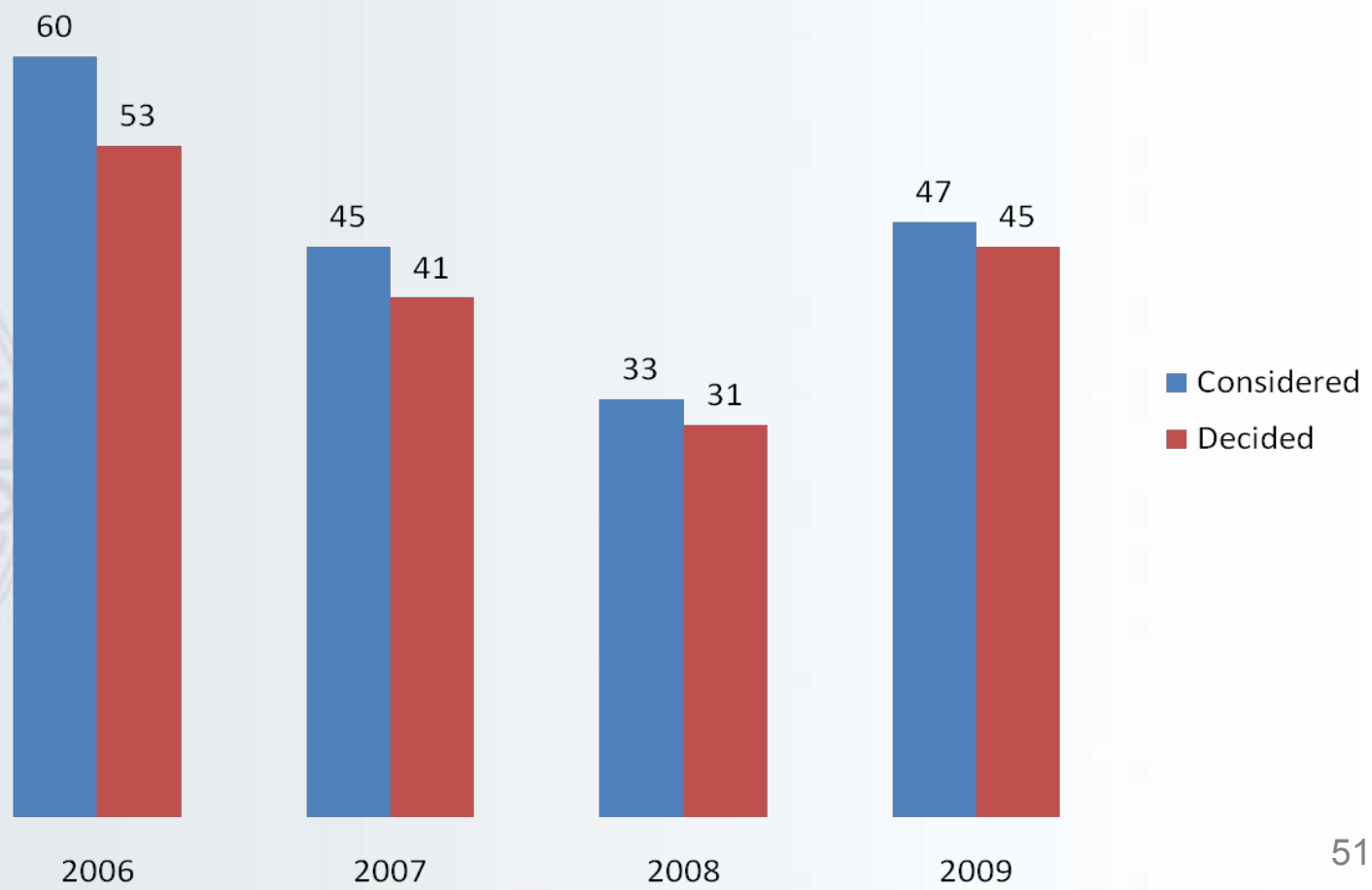


Departmental Highlights

- The Policy and Legal Services Department's principal function is to provide the Benchers with the information necessary for them to make informed policy decisions on matters important to the effective performance of the Law Society's mandate.
- If the Department has been successful, the Benchers will have been able, in the majority of cases, to make policy decisions without referring the matters back to staff for further information or analysis.
- The key performance measures used by the Department rely on a review of the Benchers minutes to determine whether the Benchers were able to make policy decisions on the information before them, and on the basis of an analysis of survey questions asked of the Benchers, which reflects their opinion, which may be different from objective fact.
- In 2009 the Department appears to have met the needs of the Benchers in the discharge of its responsibilities. The Benchers made a policy decision on the basis of the information before them 95 percent of the time.
- The survey questions also indicate that the Department has met its targets in connection with whether or not the Benchers believe that they have adequate information to fulfill their roles as adjudicator, that they have sufficient and timely information to keep them abreast of key issues, and that they have a full and common understanding of the rules and responsibilities, understand their mandate, and receive appropriate orientation and training.

Key Performance Measures

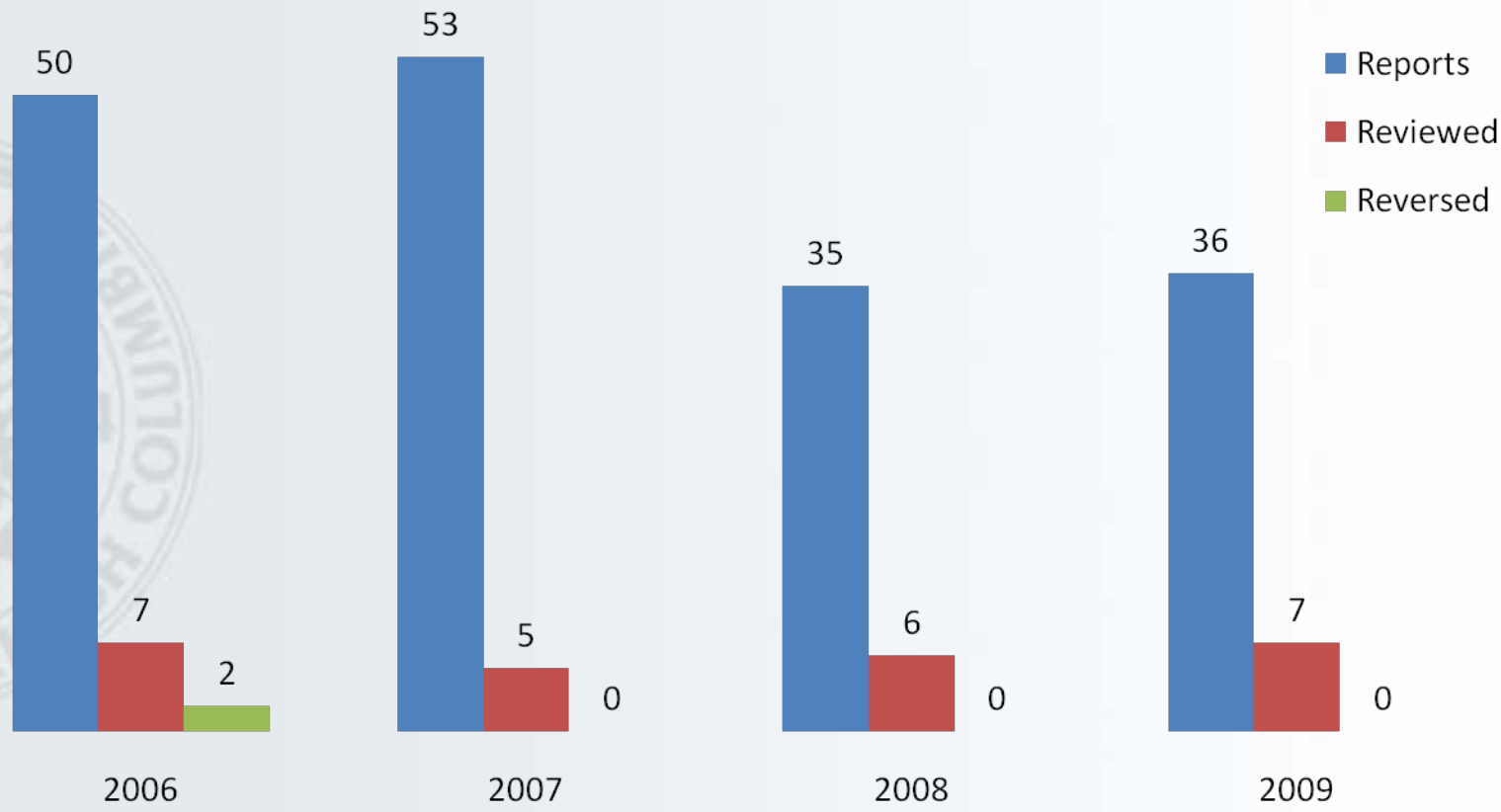
Ratio of policy matters prepared by or with the assistance of policy staff and considered by the Benchers to policy decisions made by the Benchers in respect of those matters. (Target 1:1)





Key Performance Measures

Ratio of the number of hearing reports issued to the number of times the decision of a hearing panel is reviewed to the number of times the decision of a hearing panel is reversed on review (Target 1 : 0 : 0)



Key Performance Measures



On the annual appraisal questionnaire, Benchers responses of 4 or greater (on 5 point scale) to questions concerning facilitation of planning and decision-making

The Benchers have adequate information and resources to effectively fulfill their roles as:

	2009	2008	2007
Directors of the Law Society	4.2	4	4.8
Policy makers and rule makers for the profession	4.6	4.5	4.8
Advisors to individual lawyers	3.8	4	4
Adjudicators in Discipline and Credentials matters	4.2	4.25	4.5



Key Performance Measures

On the annual appraisal questionnaire, Benchers responses of 4 or greater (on 5 point scale) to questions concerning orientation, training and timely information

	2009	2008	2007
The Benchers have a full and common understanding of their roles and responsibilities	4.33	4.4	4.8
The Benchers understand the Law Society's statutory mandate, its mission and objectives	4.72	4.4	4.8
The Benchers receive appropriate orientation and training	3.23	3.6	3.9
Benchers receive sufficient, timely information to keep them abreast of key issues	4.16	N/A	4.2

The Law Society *of British Columbia*



Lawyers Insurance Fund





Departmental Highlights

LIF's Goal

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

Key Performance Measures

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

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

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

At \$1,600, our premium compares very favourably, especially considering that ours alone includes the risk of theft claims. All others charge a separate fee for this.



Departmental Highlights

Key Performance Measures cont.

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

Claimants have an unfettered right to proceed to court for a decision on the merits of their claim. However, if they obtain a judgment against a lawyer for which the policy should respond but does not due to a policy breach by the lawyer, we are failing to reasonably protect them. If that occurred, the claimant would sue the Captive directly under the Insurance Act, for compensation. There were no suits by claimants against the Captive in 2009. All meritorious claims were settled with the consent of the claimant or paid after judgment.

3. Every five years, third party auditors provide a written report rating LIF's claims management as effective.

Third party auditors declared that LIF is "doing an excellent job, even by its own high standards", and the Canadian Bar Excess Liability Association opined that "The lawyers in BC are being well-served by this group."

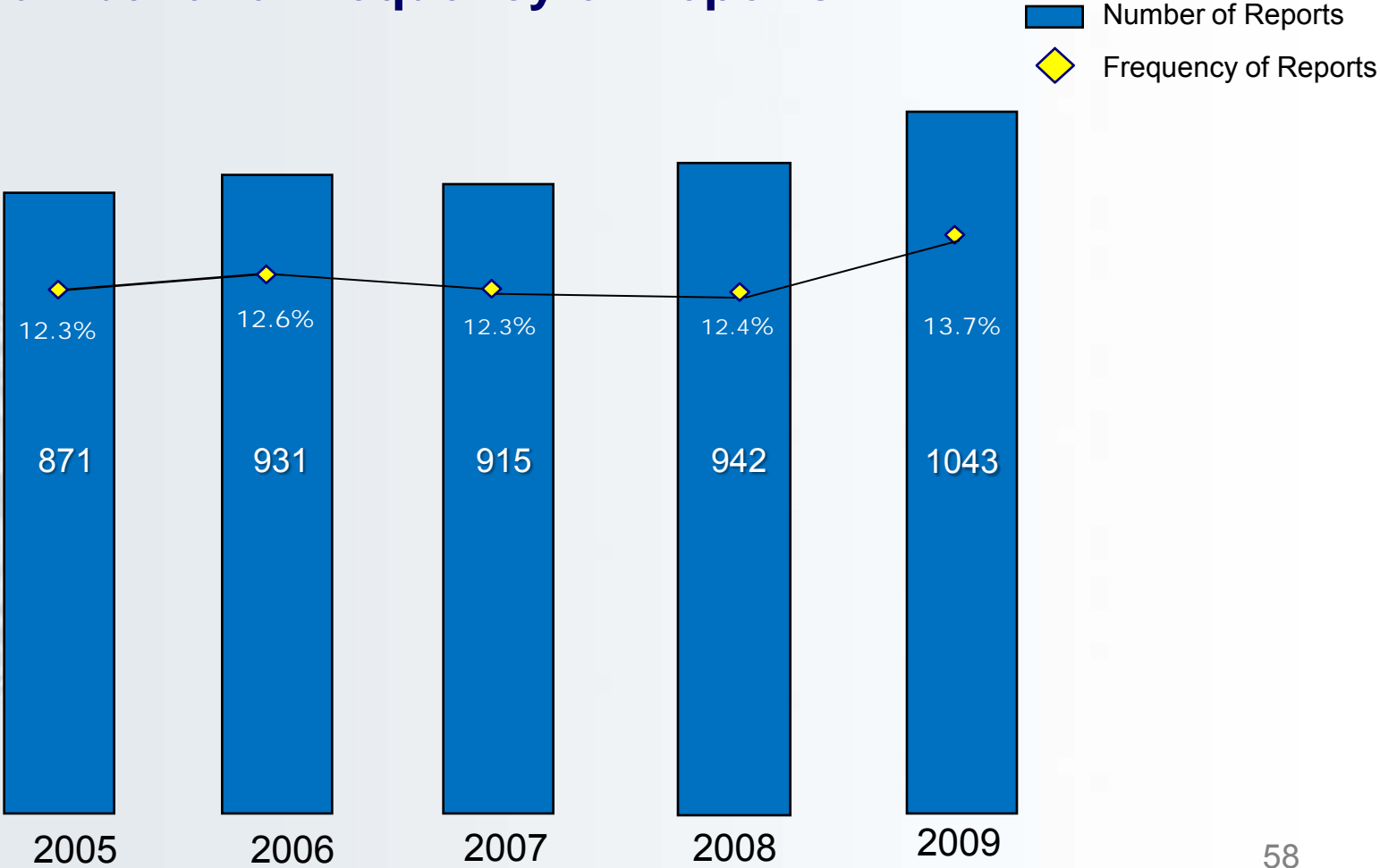
4. Insureds lawyers demonstrate a high rate of satisfaction (80% choose 4 or 5 on a 5 point scale) in Service Evaluation Forms.

In 2009, 97% of insureds selected 4 or 5.



Key Activities

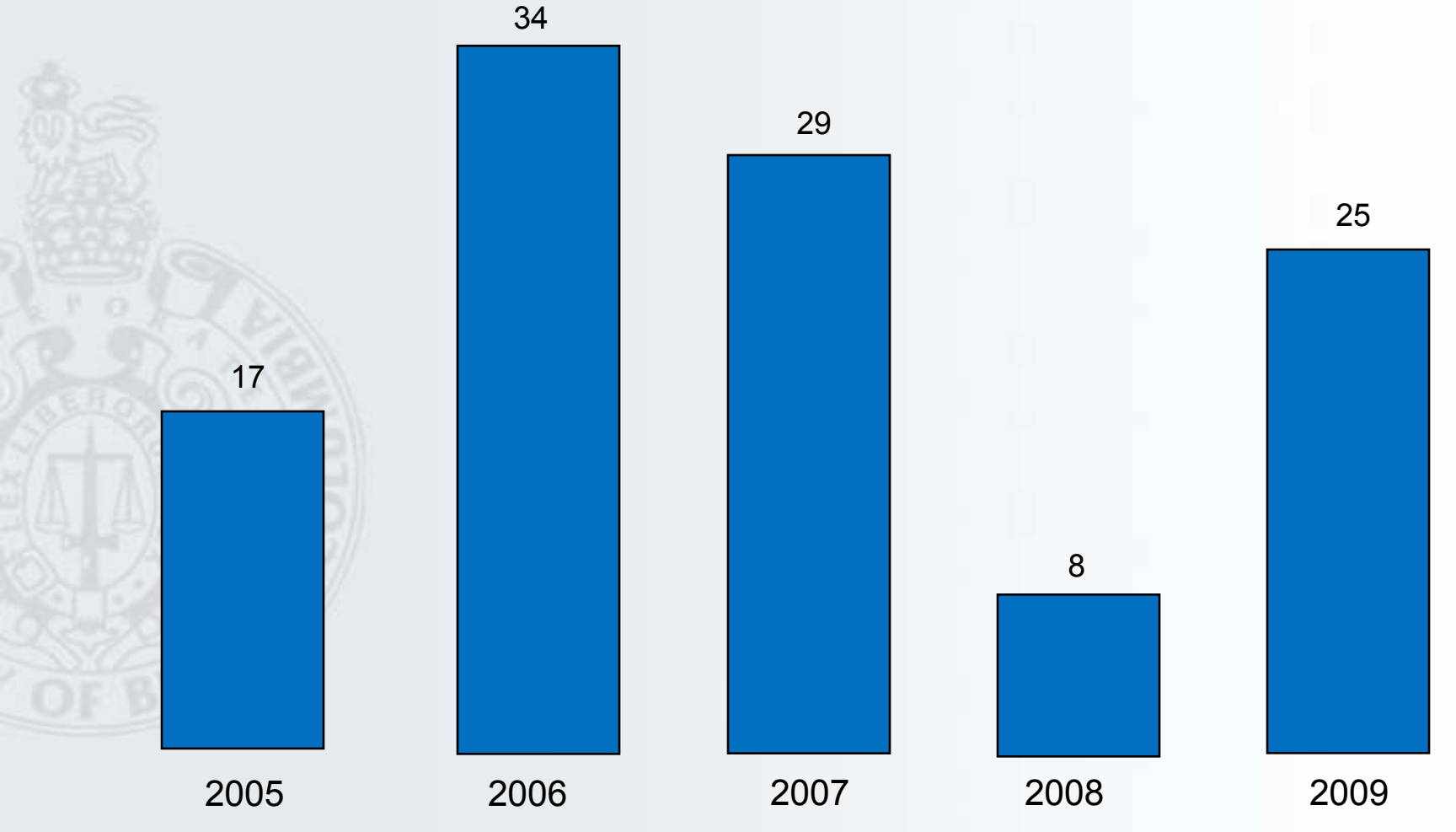
PART A – Number and Frequency of Reports





Key Activities

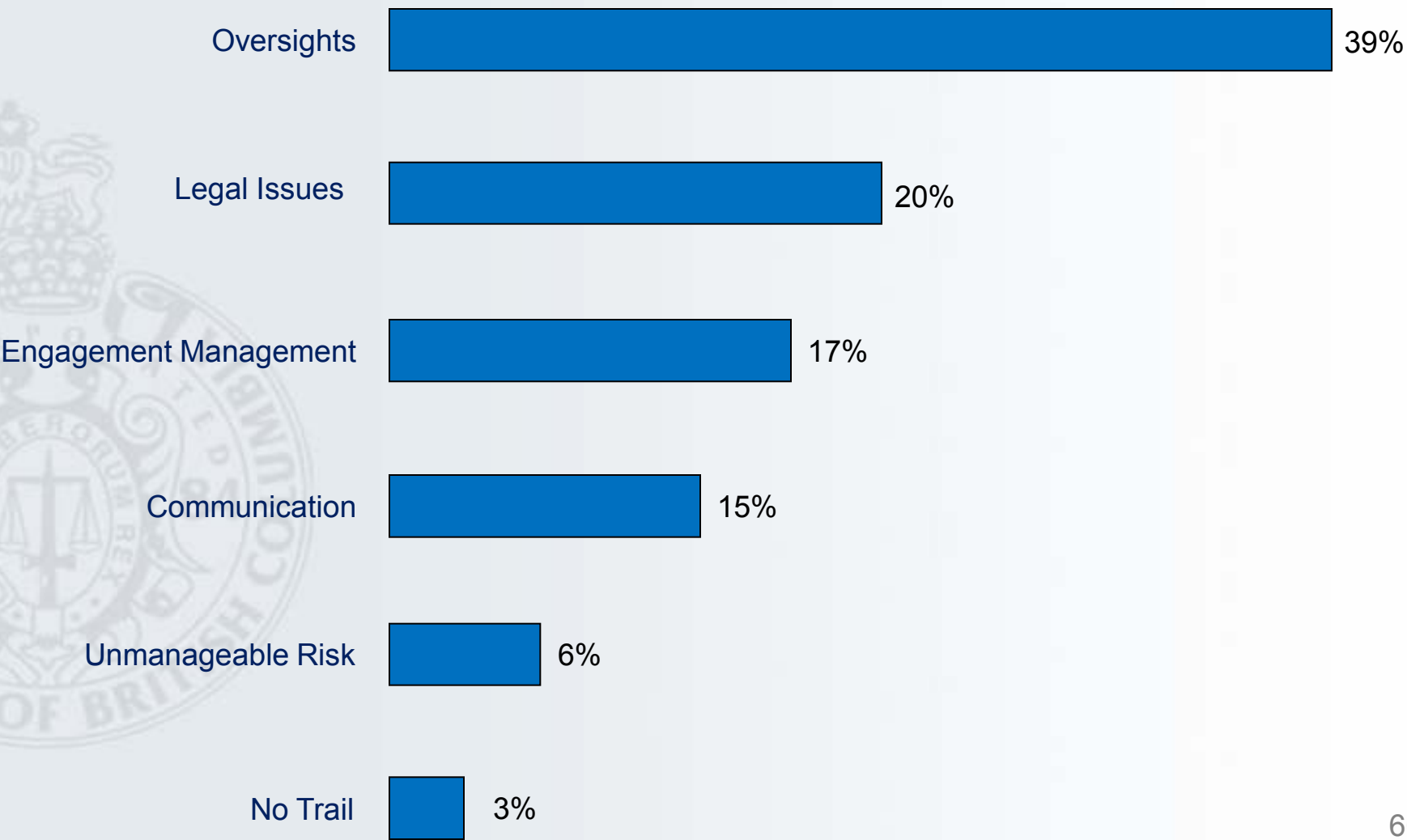
PART B – Number of Reports



Key Activities

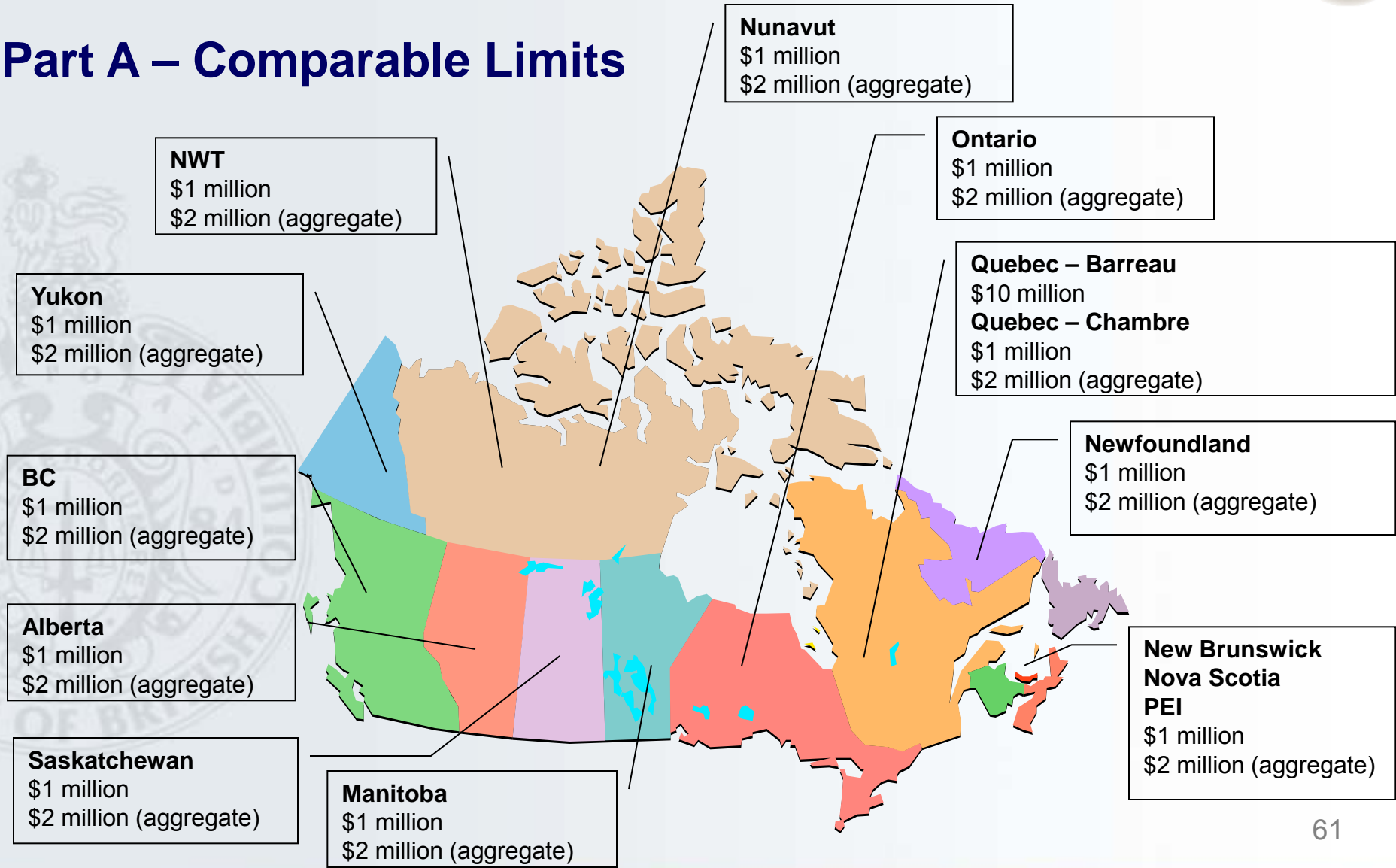


Causes of Reports



Key Performance Measures

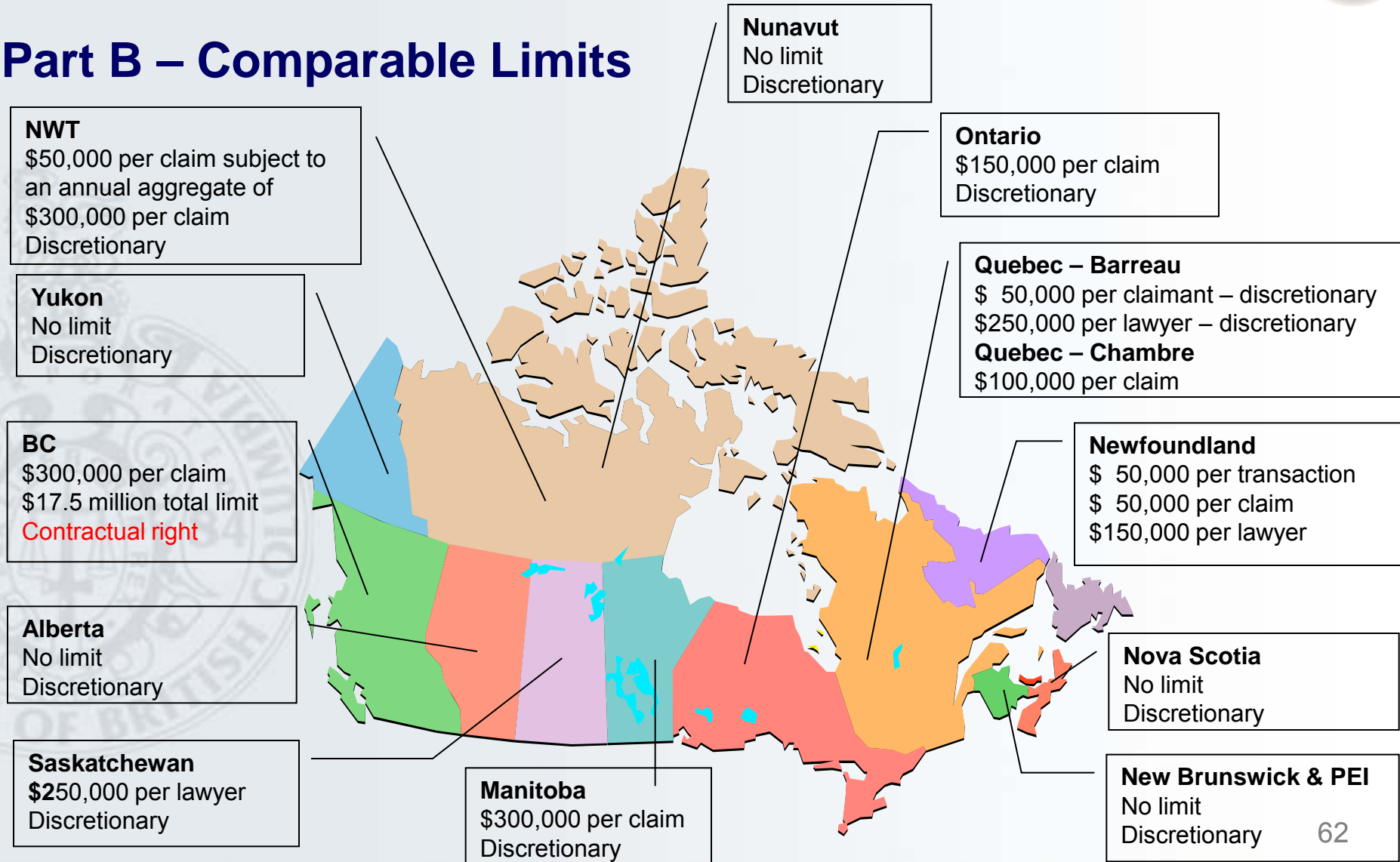
Part A – Comparable Limits





Key Performance Measures

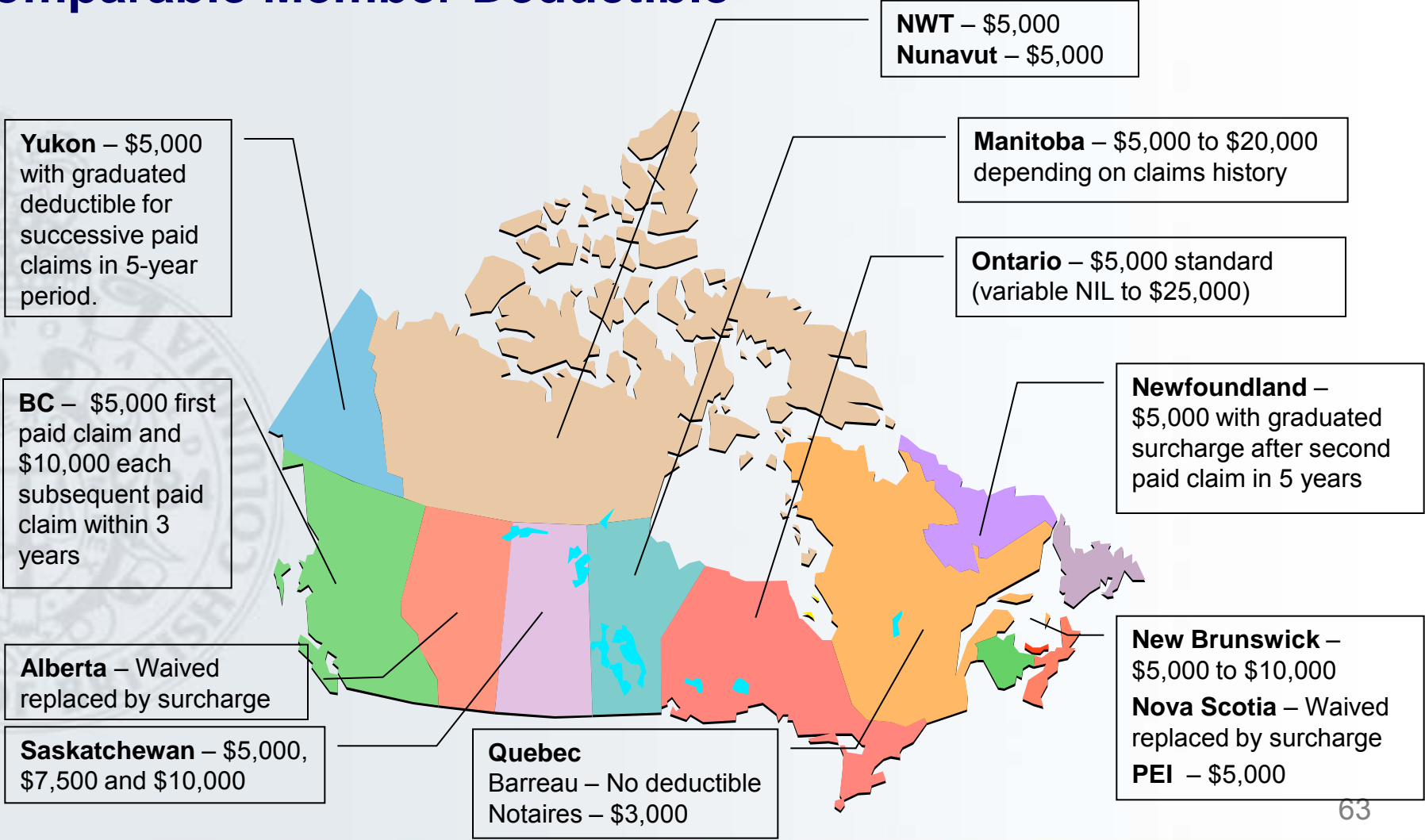
Part B – Comparable Limits





Key Performance Measures

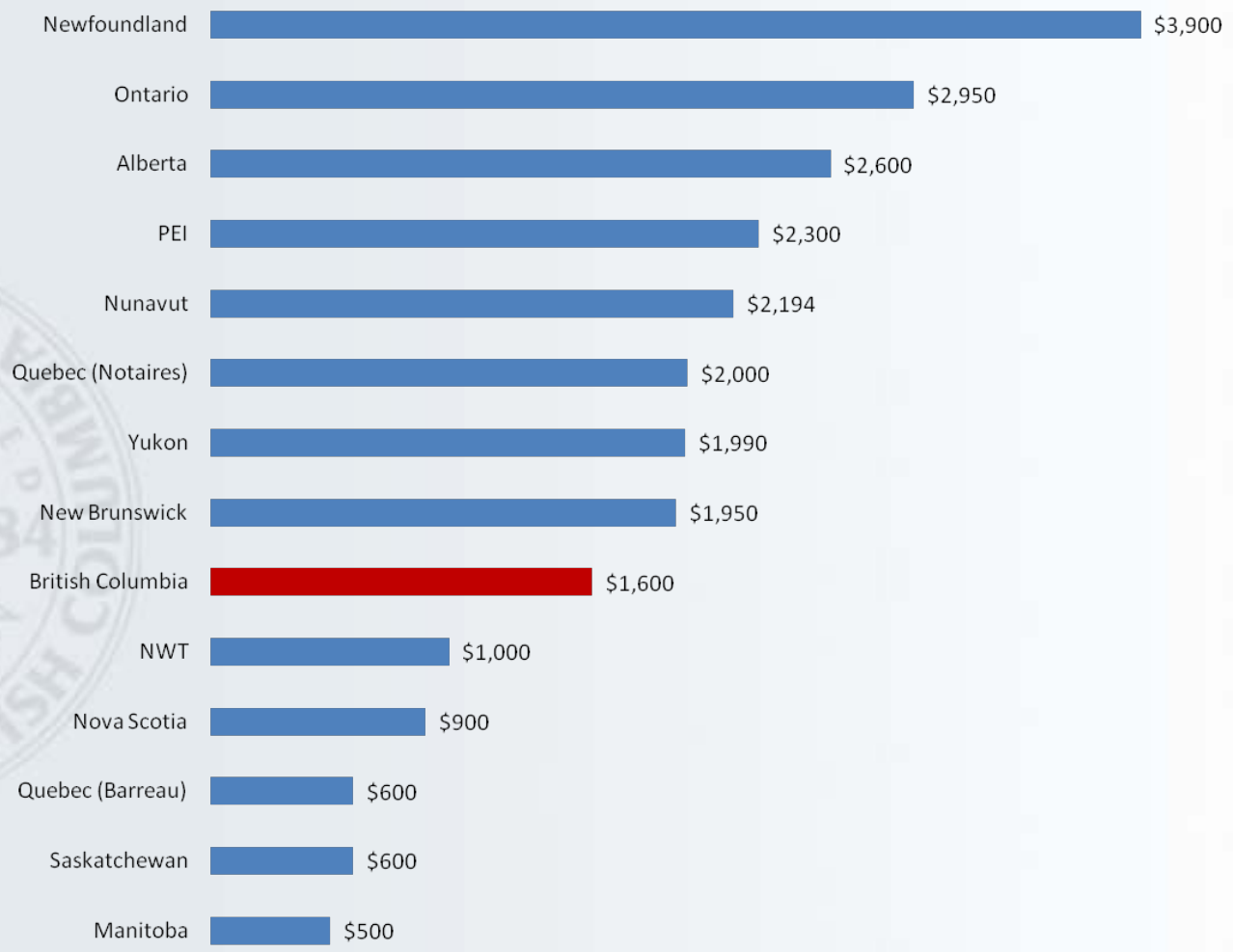
Comparable Member Deductible





Key Performance Measures

Comparable Current Insurance Premium





Key Performance Measures

Outside claims audit every 5 years: obtain opinion

2006 Nicholl Paskell-Mede Audit Findings

“We are also satisfied that LIF’s management of its files balances the interests of the public, the members and the Society, in the sense that claims counsel evidently give careful consideration in good faith to all claims against LSBC members, and consistently ‘take the high road’ in approaching both coverage and liability issues.”

“...the Lawyers Insurance Fund is in a class of its own among Bar mutual organizations ...the level of professionalism and sense of mission achieved by staff remains unique.”

“In our opinion, LIF is doing an excellent job, even by its own high standards.”



Key Performance Measures

Outside claims audit every 5 years: obtain opinion

2006 CBELA Audit Findings

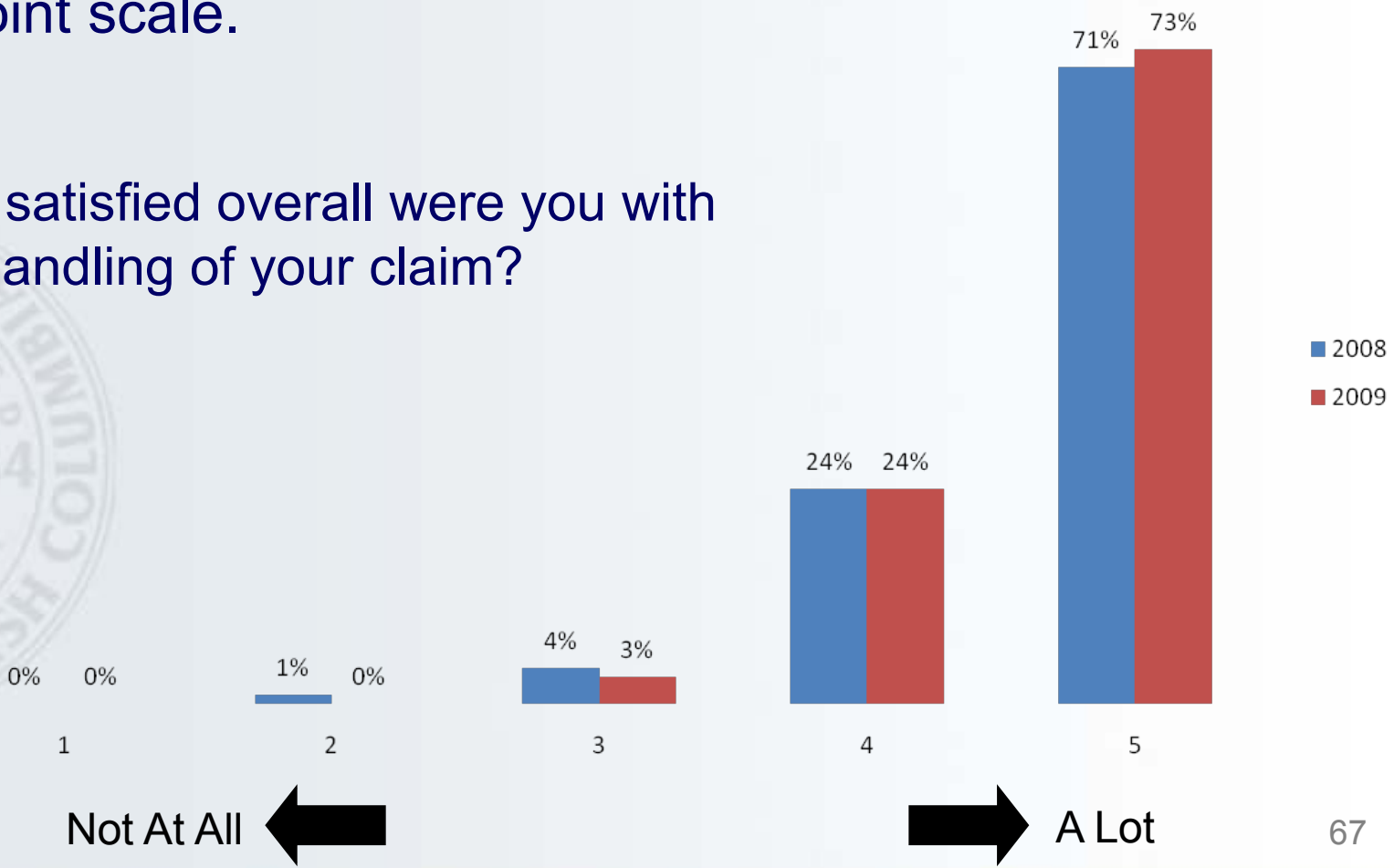
“The Insurance program continues to be managed and staffed with a knowledgeable and passionate group, who work in a highly co-operative atmosphere, due in part to excellent leadership. File loads are on the high side given the complexity of these types of claims and the fact that most Claims Counsel are also conducting in-house defence of many claims themselves. Even with their heavy file loads, Claims Counsel appropriately and consistently apply both the Fund’s reserving strategy along with the checks and balances employed by management. The lawyers in B.C. are being well served by this group.”



Key Performance Measures

Results of Service Evaluation Forms: 80% choose 4 or 5 on a 5 point scale.

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





To Benchers
From Michael Lucas & Susanna Tam
Date February 22, 2010
Subject **2009 AGM Resolutions Related to Aboriginal Lawyers in the Profession - Update and Time Constraints**

This memo provides a progress update regarding three resolutions passed at the 2009 AGM related to the participation of Aboriginal lawyers in the profession. While resolutions passed at general meetings are not binding on the Benchers, members can attempt to compel a referendum on a resolution if it has not been substantially implemented within six months following the AGM; in this case, March 29, 2010. The Benchers should discuss these resolutions and communicate to the profession about any decisions made in connection with the resolutions in advance of March 29.

The Resolutions

A majority voting at the Law Society's 2009 AGM passed three resolutions regarding improving the representation and participation of Aboriginal lawyers in the profession. These resolutions arose out of the perceived lack of implementation of recommendations made in the Law Society's report from the Aboriginal Law Graduates Working Group in 2000, *Addressing Discriminatory Barriers Facing Aboriginal Law Students and Lawyers*.

The resolutions passed at the AGM directed that the Law Society:

- Amend the 2009-2011 Strategic Plan so as to include the retention of Aboriginal lawyers as a priority at Strategy 1-3 on page 4;
- Strike a working committee comprised of Benchers, Aboriginal lawyers and Aboriginal law students that will review and update the 2000 report on *Addressing Discriminatory Barriers Facing Aboriginal Law Students and Lawyers*; and
- Establish a full-time staff lawyer position whose sole purpose is to support Aboriginal law students, articling students and lawyers.

Implementing Resolutions

Section 13 of the *Legal Profession Act* provides:

- 13** (1) A resolution of a general meeting of the society is not binding on the benchers except as provided in this section.
- (2) A referendum of all members must be conducted on a resolution if
- (a) it has not been substantially implemented by the benchers within 6 months following the general meeting at which it was adopted, and

- (b) the executive director receives a petition signed by at least 100 members in good standing of the society requesting a referendum on the resolution.
- (3) Subject to subsection (4), the resolution is binding on the benchers if at least
 - (a) 1/3 of all members in good standing of the society vote in the referendum, and
 - (b) 2/3 of those voting vote in favour of the resolution.
- (4) The benchers must not implement a resolution if to do so would constitute a breach of their statutory duties.

Progress Update

Resolution 1

Resolution 1 has been implemented. The Law Society's revised strategic plan includes the strategy of improving the retention rate of lawyers in the legal profession including, in particular, Aboriginal lawyers. This strategy, aimed at advancing the goal of enhancing access to legal services, includes an initiative to develop a business case for increasing diversity in the profession and retaining Aboriginal lawyers in particular.

Resolution 2

With respect to Resolution 2, rather than striking a new working group whose only purpose would be to review and update the 2000 report, the Equity & Diversity Advisory Committee plans to:

- Review the 2000 report;
- Examine the forthcoming results of the current demographic project;
- Review recent research regarding lawyer retention; and
- Consider recent reports from other jurisdictions.

The Advisory Committee (a Committee that includes the participation of Aboriginal lawyers) will review this material in order to develop a more comprehensive strategy to support Aboriginal lawyers and law students. This action plan meets the intent and purpose of Resolution 2, and therefore Resolution 2 should be viewed as having been substantially implemented.

Resolution 3

Resolution 3 has not yet been implemented. The Equity & Diversity Advisory Committee plans to make recommendations to support Aboriginal lawyers and law students after considering the data currently being gathered and reports that have been released since the 2000 report. While a full-time staff lawyer position may be an effective response, it may also be only one of several responses that can be developed and considered. Alternatively, the data and research being gathered and developed through other equity and diversity activities may identify other, possibly more effective, solutions that would be a better use of resources.

If the Benchers support this approach, their decision should be communicated to the membership in advance of the March 29, 2010 deadline.

Current Initiatives

The Equity & Diversity Advisory Committee continues to make progress on current initiatives and to identify opportunities to support Aboriginal lawyers. The demographic project is well underway; this project was initiated in response to the need for information regarding the representation and participation of Aboriginal lawyers in the profession. Data from the demographic project will also provide the foundation for the business case for diversity and advancing Aboriginal lawyers in particular.

In addition, Law Society staff is currently planning an event to celebrate and support Aboriginal lawyers, and to connect young Aboriginal lawyers, law students and those interested in the profession with senior, leading Aboriginal lawyers from various regions around the province. This event will be held either in June, to coincide with National Aboriginal Day (June 21), or in September, to maximize student participation. Staff will keep Benchers updated regarding this event.

With the support of a policy staff lawyer specifically responsible for equity issues, these current initiatives related to Aboriginal lawyers will comprise a considerable amount of the Equity & Diversity Advisory Committee's work for the year. Other tasks, of course, will include matters (such as follow up to the Report of the Retention of Women in the Law Task Force) that fall to the Committee as identified in the Strategic Plan.

Conclusion

The resolutions passed at the AGM were based on the perceived lack of action on the part of the Law Society to support Aboriginal lawyers and law students. It is important for the Benchers to communicate clearly the Law Society's commitment to increasing the participation of Aboriginal people in the profession.

Staff has already heard from members who are concerned about implementation of the resolutions, Resolution 3 in particular. If the Benchers choose to defer implementing Resolution 3 until recent research and potential responses are identified and considered as described above, then this decision and the reasons for it should be explained to the members.