1st Floor 123 Collins Street
Hobart Tasmania 7000

0411805676

mailbox@phillipgray.com.au

www.phillipgray.com.au

Phillip Gray LL.B (Hons)
Barrister

ABN 23 456 821 185

Scan QR Code
above with
mobile for vCard

18 March 2015

Attention Mr Luke Rheinberger
Executive Director
The Law Society of Tasmania
Via email luke.rheinberger@lst.org.au

Dear Sir

THE LST PII SCHEME MASTER POLICY – EXCLUSION RELATING TO COMPUTERS, COMPUTER SOFTWARE AND TIME

This letter is to raise an issue on an exclusion clause under The Law Society of Tasmania Professional Indemnity Insurance Scheme Master Policy.

I refer you to clause 4(xv) of the policy wording for 2014/2015, which reads as follows:

> *This insurance shall not indemnify the Insured in respect of any liability:*
>
> *. . .*
>
> *(xv) arising from or contributed to by any flaw or malfunction in or inadequate or lack of programming of the Insured's information technology system, computer, computer software or hardware resulting in the failure to manage a date, time or time limitation or to otherwise function accurately;*

This exclusion is archaic given the modern day legal practitioner's reliance on computer software such as Microsoft Outlook, Leap and other case management software.

The LPLC's *Contract for Professional Indemnity Insurance for Solicitors: 2014/2015* policy for Victorian solicitors contains no such or similar exclusion. ***Attached*** is a copy of that policy and I refer you to clause 5.1. The Victorian policy has a more commercial "deterrent excess" on limitation period issues and makes no mention of matters arising from the accurate functioning of a computer or computer software.

Although personally I am not an insured under the Scheme, I feel compelled to bring this issue to the attention of your members. In the best interests of the overwhelming majority, I ask that consideration be given to the removal of the exclusion, and if required, the adoption of a "deterrent excess" for limitation period matters.

Please treat this as an open letter if that assists with any consultation on and consideration of this issue.

I look forward to hearing from you on the LST's position.

Yours faithfully

PHILLIP J GRAY
Barrister