

**Minutes for the Meeting of the Benchers
Held Thursday, April 18, 2019
Hotel Saskatchewan, Regina**

Present:

Leslie Belloc-Pinder, Q.C., Gerald Tegart, Q.C., Craig Zawada, Q.C., Andrea Argue, Jill Drennan, Monte Gorchinski, Cara Haaf, Glenn Hepp, Suzanne Jeanson, James Korpan, Q.C., Lynda Kushnir Pekrul, William Lane, Foluke Laosebikan, Ph.D, Kaitlynn McArthur, Scott Moffat, John Morrall, James Morrison, Q.C., Barbara Mysko, Crystal Norbeck, Martin Phillipson and Ian Wagner

In attendance:

Tim Brown, Q.C., Tim Huber, Valerie Payne, Stacey McPeek, Andrea Johnston, Jody Martin, Kiran Mand, Melanie Hodges Neufeld, Jenna Kraushaar, Kara-Dawn Jordan, Don Hansen, FCPA, FCA, Mary Ellen Wellsch, Q.C., Jakaeden Frizzell and Brad Hunter, Q.C.

Erin Kleisinger, Q.C., Federation Council, was also in attendance.

1. Approval of the Agenda

1.1 Apologies for Absence

Apologies for absence were received from Jeff Baldwin and Nolan Kondratoff.

1.2 Confirmation of Agenda

Moved by Ian Wagner, seconded by Andrea Argue, that the Agenda for the meeting be approved as presented. The motion carried.

1.3 Bencher Conflict of Interest Disclosures

1.4 Agenda Items, Committee Reports and Documents Which Are Not Open to the Public

- i. Governance Reform Session

2. Approval of the Minutes

- i. Minutes of the Bencher Meeting held February 8, 2019
- ii. *In Camera* Minutes of the Benchers held March 26, 2019 to approve the 2018 Audited Financial Statements

Moved by Glenn Hepp, seconded by James Korpan, Q.C., that the Minutes from the Bencher meeting held February 8, 2019 be approved as written. The motion carried.

Moved by John Morrall, seconded by Lynda Kushnir Pekrul that the Bencher *In-Camera* Minutes held March 26, 2019, be approved as written. The motion carried.

2.1 Amendments

2.2 Confirmation of Minutes

2.3 Business Arising from Minutes

3. Decision Items

The following decisions were brought to the front of the Agenda:

- i. Approval sought for Insurance Levy [item 6.1(ii)].
- ii. Approval sought for Strategic Development Budget 2019 [item 5.4(ii)];
- iii. Approval sought for Terms of Reference [item 5.6]:
 - a. Legal Resources Committee
 - b. PSC Committee
 - c. Equity and Access Committees (combined). Amendment to Rule 110 is also required
- iv. Approval sought *in principle* for Firm Regulation Rules [item 6.1(i)(a)].

4. Strategic Initiatives

4.1 Expanded Approach to Competency (Goal 1)

- i. Anti-Money Laundering and Terrorist Financing Tools

In October 2018, the Council of the Federation approved amendments to the No Cash and Client Identification and Verification Model Rules, and the adoption of a new Trust Accounting Model Rule. Council's decision was in response to recommendations from the Federation's Anti-Money Laundering and Terrorist Financing Working Group.

Draft Rules are currently under review by the Law Society Auditors. Thereafter, they will be considered by the Trust Safety Committee with a view to having the Benchers review in June such that they can be brought forward to the Benchers for approval at September Convocation.

Erin Kleisinger, Q.C. reported the Federation is stressing the importance of moving this matter forward in a timely and coordinated manner. She has reported to the Federation that this matter would be on the current Bencher Agenda and that we are moving towards approval of Rules in September.

ii. Membership Analytics

At February Convocation, Administration reported that Tim Huber attended a meeting with Andrew Norton and others from the Law Society of Alberta (LSA) to discuss possibilities for collaboration with respect to data analytics.

We have since executed confidentiality agreements (currently *vis-a-vis* the Alberta data), which will allow Tim Huber to participate (via video conference) in Alberta Data Team meetings. The first meeting is set for May 2, 2019 and there are monthly meetings scheduled for the remainder of the year.

Tim Huber reported that the LSA has made significant progress in the data analytics area, having completed some projects to test the effectiveness of and identify possible areas for improvement on their programming. The collaboration between the LSA and the LSS may serve as a proof of concept for other data collaborations, the point of which is to have reliable data sets to inform decision-making. Two other legal regulators have already expressed interest.

iii. Articling Experience

The Law Society of Alberta is interested in gathering feedback on the quality of training and the value of the articling experience to determine whether the training successfully prepares new lawyers for entry level practice. Questions on discrimination and harassment were also included, considering how these issues affect the articling experience.

Administration has been working with the Law Society of Alberta to develop the survey. The survey will go out later in the spring with the results to be presented to the Competence Committee for evaluation.

iv. Legal Resources Update

a. Regina Space Update

Court Services has provided a design for discussion and are hopeful that construction will begin before summer, with an end-of-summer completion. In anticipation of the downsizing, three staff members have moved to Avord Tower and book disposal has begun. Melanie Hodges Neufeld will meet with Court Services on May 1st to discuss next steps and potential costs.

b. Westlaw

Westlaw has been renewed for two years, with the addition of Employment Source to the previous suite.

4.2 Trusted and Transparent Regulation (Goal 2)

i. Communications

a. Communications Report

A report was provided by Anna Willey.

b. Strategic Communications Plan

An updated report of the 2019 Strategic Communications Plan was provided by Anna Willey.

ii. 2018 Annual Report

An e-copy of the 2018 Annual Report was posted to our [website](#). Printed copies will no longer be produced. An email was sent to the membership containing a link to the Annual Report whereby members could view the report and watch the Executive Director's message on video.

4.3 Innovative and Flexible Leader of an Engaged and Forward Thinking Membership (Goal 3)

i. ABA TechShow

For review, Tim Brown, Q.C. and Leslie Belloc-Pinder, Q.C. have prepared a "vlog" of the 2019 TechShow.

The Law Society has also been approached with its first sandboxing project, which would be done in partnership with the Law Society of Alberta. The Law Society is expecting a proposal with respect to the project. Further details will follow.

ii. Tech Training Options

Administration has negotiated a comprehensive Tech training program with Barron Henley from Affinity Consulting Group, a renowned practical Legal Tech guru. The Law Society has worked with Affinity Consulting before and has been impressed with the quality of the service provided. The proposal is attached for information at this point. Determinations have yet to be made as to what content the Law Society will provide and how it will be delivered.

4.4 Increased Equity, Diversity and Inclusion in the Law Society and Legal Service Provision (Goal 4)

i. Equity & Diversity

The demographic data survey was included in the annual renewal process for the second time in 2018. A memo from Barbra Bailey regarding the analysis of the survey results of the demographic data survey was provided at the last Convocation.

The Equity and Access Committees will be looking at the demographic data survey again this year with a view to improving the response rate and will bring a recommendation to the Benchers in advance of annual renewal.

Administration is also working with an Equity, Diversity and Inclusion consultant to draft a survey to obtain member feedback about barriers faced by members of equity seeking groups in the profession and suggestions for addressing them. The Equity and Access Committees will oversee this work.

ii. TRC Advisory Committee

We have now confirmed all members of the Truth & Reconciliation Advisory Group and are working out the logistics of the initial meeting scheduled May 6, 2019.

4.5 Increased Access to Legal Services (Goal 5)

i. Legal Services Task Team

This work has shifted to the internal Modernization Action Team. Jody Martin and Melanie Hodges Neufeld will be the lead staff responsible going forward, given their combined knowledge of and involvement in professional regulation, communication and access to legal services. Anna Willey will remain involved at a strategic communications level.

Jody Martin and Melanie Hodges Neufeld will be putting together a lunch & learn presentation for the Ministry of Justice, Automobile Injury Appeal Commission. Presentations will be held Mid-May in both Saskatoon and Regina.

ii. Dean's Forum

The Dean's Forum was held in Saskatoon on March 13, 2019 and was attended by Gerald Tegart, Q.C., Tim Brown, Q.C., Foluke Laosebikan, Ph.D and Melanie Hodges Neufeld.

A post-forum summary created by Brea Lowenberger was attached for information. Three additional documents were posted to APRIO under Documents/Convocation/2019 entitled:

- a. Follow-Up Report: Student and Attendee Reflections on Dean's Forum, March 13, 2019
- b. Follow-Up Report & Summary Notes: Diversity and Inclusion in the Legal Profession, March 13, 2019
- c. Follow-Up Report & Summary Notes: Meeting Saskatchewan's Justice Needs with Technology, March 13, 2019

Tim Brown, Q.C. reported that the Dean's Forum was very successful and noted the high quality of the students' work. The Law Society will be involved in exploring the possibility of a Saskatchewan Access to Justice Website with other members of the Forum.

5. Society Governance

5.1 Financial Reporting

The following documents were attached for consideration and discussion:

- i. Financial statements for the period ended March 31, 2019, including a budget variance analysis.
- ii. Audited Financial Statements for the year ended December 31, 2018.

The audited financial statements were posted to our website, along with the Annual Report, on April 5, 2019. The audited financial statements were attached for information.

Also attached was a memo and attachments from Don Hansen, FCPA, FCA, describing the 2018 Financial Results and Analysis (budget variance).

Tim Brown, Q.C. provided an overview of the changes to the 2019 financial statements which reflect the creation of board restricted funds.

Tim Brown, Q.C. also provided an overview of the Law Society's financial position at the end of 2018, compared to budget, noting that the deficit position is largely as a result of unrealized losses in investments. Excluding unrealized losses, which have now recovered, the Society was very close to budget for 2018.

- iii. Quarterly Investment Report

The Quarterly Investment Report for the period January 1, 2019 to March 31, 2019 was not ready in time for April Convocation.

Tim Brown, Q.C. provided a memo describing an update from Loren Gee, CFA at Greystone.

5.2 Operational Reporting

i. President's Report

Leslie Belloc-Pinder, Q.C. reported on the following:

- She attended Federation meetings with Gerald Tegart, Q.C, Erin Kleisinger, Q.C., Tim Brown, Q.C., Tim Huber and Kara-Dawn Jordan in March.
- She attended the ABA TechShow in Chicago with Tim Brown, Q.C. and Tim Huber.
- An Executive Committee meeting was held in advance of April Convocation.
- She attended the Provincial Court Judicial Council Meeting in April.
- She encourages Benchers to reach out to her at any time with any thoughts, questions or concerns.

ii. Executive Director's Report

Tim Brown, Q.C. provided a written report for the Benchers. He reported that since the writing of his report, the Law Society of Saskatchewan has been contacted to host the Federation of Law Societies Conference in 2020.

iii. Federation Council Report

Erin Kleisinger, Q.C., reported on the March Federation meetings in Montreal:

- Council meeting topics included:
 - Anti-Money Laundering and Terrorist Financing as reported on earlier in the meeting.
 - NCA Assessment Modernization - the Federation is responding to concerns that NCA applicants may not possess the competencies necessary for success in bar admissions courses and practice. The Federation is moving to a competency based assessment process. The first step is performing consultations to identify gaps. This will occur over the next few months. The information will be used to create an entry to practice competency profile, which is expected to take a year to complete.
 - Response to TRC Calls to Action – the TRC Advisory Committee is working on strategy to engage law societies on a response to Call to Action 27. The Committee has also been collecting information on initiatives of law societies across the

- country and information and resources are available on the Federation intranet.
- Public Advocacy- the Federation has developed ground rules in relation to public advocacy statements. These were recently tested in relation to SCC appointment process.
 - She attended her first Standing Committee Meeting on the Model Code. The Committee looked at its priorities and processes with a view to moving matters ahead. Matters before the Committee include:
 - technical competence: development of rules is close, working with Nunavut to ensure that wording is appropriate, given infrastructure issues;
 - Contingency fees and fee agreements;
 - Conflicts and doing business with clients;
 - Watching briefs:
 - cultural competence;
 - harassment and gender language – waiting on proposal form LSEN;
 - fee sharing as it relates to multidisciplinary practices;
 - password sharing issue related to online immigration filings; and
 - relaxing of conflict rules for pro bono and legal aid lawyers to represent both parties in a dispute.

5.3 Governance Reform

Time was allotted on Wednesday April 17, 2019 for a Benchers session focusing on governance reform. Tim Brown, Q.C. and Craig Zawada, Q.C. provided an overview of:

- the facilitated sessions led by Glenn Tecker that have been planned for the June retreat;
- an overview of amendments to *The Legal Profession Act, 1990* relevant to governance reform; and
- an overview of governance reform initiatives undertaken and an overview of issues identified and considered by Benchers regarding governance reform in recent years.

A memo from Kara-Dawn Jordan, as well as the Strategic Plan and Governance Reform memo from June 2017 were provided for reference.

The Benchers discussed a variety of considerations and provided feedback about further information that would be of assistance in advance of the June Retreat.

5.4 Action Plans

i. Action Plans

Action Plans, along with progress reports for the Modernizing Regulation Action Team, the Competency Action Team, the Data & Technology Action Team and the Communications Action Team were provided as an update to the Benchers.

ii. Strategic Development Costs

A memo from Kara-Dawn Jordan, as well as a budget for 2019 Strategic Development Costs, were provided for consideration.

Tim Brown, Q.C. provided some background information on the 2019 budget process which occurred in 2018, explaining that the budget contemplated an operating and capital reserve as well as the creation of a strategic reserve to fund implementation of the strategic plan over its three-year cycle. At the time of budgeting, a range of estimates was provided for strategic spending for 2019-2021, but Administration did not seek approval for spending on strategic development, as it was still in the process of developing and costing its plans for implementation. Tim Brown, Q.C. explained that the work of Administration has now matured to the point that it is able to present a budget for 2019 strategic development costs.

Discussion:

- There was a question as to whether consulting costs for committee and electoral reform was included in the Strategic Development Budget. Costs related to the facilitated sessions planned for June are included.
- There was a question as to when the Benchers could expect requests for approval for Strategic Development spending for 2020 and 2021. Tim Brown, Q.C. explained that Administration's intention is to request approval for 2020 spending in conjunction with presentation of the operating budget in October of this year. To the extent possible, Administration will also seek allocations to the Strategic Reserve for 2021 expenditures at that time.

Moved by Martin Phillipson, seconded by James Korpan, Q.C., that the Strategic Development Budget 2019 be approved as presented. The motion carried.

Moved by Monte Gorchinski, seconded by James Morrison, Q.C., that an allocation of \$385,000 be made from the General Fund to the restricted Strategic Fund to cover the budgeted Strategic Development expenditures for 2019. The motion carried.

5.5 Risk Management Plan

A memo from Tim Brown, Q.C. on the Risk Management Plan, along with attachments, were provided to outline the history and status update respecting risk management.

It is Administration's intention to revise this plan with the mitigation strategies coming out of the work of the Action Teams and to present a revised document at June Convocation.

5.6 Terms of Reference

At February Convocation, Terms of Reference for the following committees were discussed at their respective committee meetings and were presented to the Benchers for final approval:

- Legal Resources Committee Terms of Reference.

Moved by Ian Wagner, seconded by Craig Zawada, Q.C., that the Terms of Reference for the Legal Resources Committee be approved, as written. The motion carried.

- PSC Committee Terms of Reference.

Moved by Crystal Norbeck, seconded by Martin Phillipson, that the Terms of Reference for the Professional Standards Committee be approved, as written. The motion carried.

- Combined Equity and Access Committees.

A memo regarding approval of a combined Terms of Reference and Rule amendments to Part 6, Committees, Rule 110 was provided for consideration.

A Combined Terms of Reference for the Equity and Access Committee (Joint Equity & Diversity and Access to Legal Services Committees) were provided for approval.

Moved by John Morrall, seconded by Barbara Mysko, that the Terms of Reference for the combined Equity and Access Committees be approved, as written. The motion carried.

Rule 110 – The Equity & Diversity Committee was established as a standing committee, but identified as an *ad hoc* Committee in the Terms of Reference. Access to Legal Services was established as an *ad hoc* Committee. For consistency, it was proposed that both Committees be established as standing Committees.

Moved by Suzanne Jeanson, seconded by John Morrall, to approve amendments to Rule 110, Part 6, Committees, to add the Access to Legal Services Committee as a standing committee. The motion carried.

A motion to grant second reading on the same day was presented by Ian Wagner, seconded by Glenn Hepp.

On second reading, the motion was presented by Ian Wagner, seconded by James Korpan, Q.C., to approve amendments to Rule 110, Part 6, Committees, to add the Access to Legal Services Committee as a standing committee. The motion carried.

5.7 New Bencher Orientation

To begin the training process, new Benchers were provided with previously recorded videos in December and further training was provided at a Bencher Training session held during February Convocation.

Discussion was also held at February Convocation to determine areas where new Benchers feel they need more information and feedback was gathered to assist the Society in improving the overall training process.

As follow-up, a survey was sent to all new Benchers to determine more clearly how effective our training is and 10 new Benchers responded. Survey results were provided to the Governance Committee, who are responsible for evaluating the on-boarding process.

5.8 Appointments

None.

6. Regulation

6.1 Rule/Legislative Amendments

- i. Rule Amendments
 - a. Firm Regulation Rules

The Firm Regulation Committee proposed a new Part 8 of the Rules with respect to Firm Regulation. A memo from Jody Martin, setting out the proposed Firm Regulation Rules, was attached for consideration and deliberation.

Jody Martin explained that the Committee is seeking approval in principle at this stage and that the Firm Regulation Rules, with any necessary housing keeping amendments, will come back to the Benchers at the end of the year for approval with the revised Rules as a whole. The draft Firm Regulation Rules incorporate the framework approved by the Benchers in December of 2018 with some added efficiencies to streamline Law Society Rules and processes, such as including the Annual Report in the TA-3.

Ian Wagner provided an overview of the work that the Firm Regulation Committee has done to incorporate the framework approved by the Benchers including the in-depth consideration it gave to issues such as requiring firms to report all non-members involved in the delivery of legal services at this time. He also spoke to the

focus of firm regulation which is to assist firms in putting practices in place to prevent problems from happening.

Discussion:

- There was discussion about the performance indicators to suggest that the approach to firm regulation will achieve its desired purpose.
- There was a suggestion that the Firm Regulation Committee consider revising the name of Firm Regulation to better reflect that the focus is on assisting rather than policing firms.

Moved by Ian Wagner, seconded by Lynda Kushnir Pekar, that the new Firm Regulation Rules, Part 8, Entity Regulation, be approved *in principle*, as written in the memo provided by Jody Martin, dated April 10, 2019. The motion carried (20 in favour; 1 abstained).

b. Law Society Rules Overhaul

Bill 163, an *Act* to amend *The Legal Profession Act, 1990*, was introduced in the Saskatchewan Legislature on December 4, 2018. Changes to our Rules are necessitated by these changes and since our Rules have not been overhauled since 1990, they will be substantially redrafted in 2019 to align with the statutory changes.

Mary Ellen Wellsch, Q.C. was retained on a contract basis to work on amending Law Society Rules. A draft Rule Revision Timeline prepared by Jody Martin in consultation with all departments was provided to the Benchers.

ii. Insurance Levy

The Benchers were asked to consider a proposed Insurance Levy for the year beginning July 1, 2019.

A memo from Brad Hunter, Q.C. dated April 9, 2019 and a memo from Brad Hunter, Q.C. dated April 16, 2019, which contained a *revised* proposal based on new information received by the Committee, were provided to the Benchers to assist them in their deliberations.

Brad Hunter, Q.C. and James Morrison, Q.C. provided an overview of the Insurance Committee recommendation that the levy be reduced by \$167 from last year due to lower than anticipated CLIA premiums. This will result in a levy of \$926 (\$881 for Part A Coverage and \$45 for Part B Coverage).

Moved by James Morrison, Q.C., seconded by James Korpan, Q.C., that the Benchers approve and set the Insurance Levy for 2019 – 2020 at \$926. The motion carried.

Moved by Jill Drennan, seconded by Craig Zawada, Q.C., that amendments to *Schedule 1, Law Society Fees and Assessments, Liability Insurance Assessment, Annual Assessment* in the amount of \$926, be approved. The motion carried.

A motion to grant second reading on the same day was presented by Crystal Norbeck, seconded by James Korpan, Q.C.

On second reading, the motion was presented by Scott Moffat, seconded by Lynda Kushnir Pekrul, that amendments to *Schedule 1, Law Society Fees and Assessments, Liability Insurance Assessment, Annual Assessment* in the amount of \$926, be approved. The motion carried.

7. Committee Reports

a. Audit

Monte Gorchinski, Chair, reported the following:

- The Audit Committee met twice regarding completion of the 2018 Audited Financial Statements. This work is now complete and was reported to the Bencher table on March 26, 2019.

b. Competency (joint Committee of Admissions & Education and Professional Standards)

Glenn Hepp, Chair, reported the following with respect to their March meeting:

- The Committee considered next steps regarding cloud computing. Stacey McPeek will reach out to Craig Zawada, Q.C. to obtain suggestions on reaching out to people to join a working group.
- Jakaeden Frizzell and Stacey McPeek are working with ISM to deliver a cloud-computing webinar and are looking into related CPD content.
- The Committee considered the issue of wellness hours. Administration will be coming back to the Committee with more information on this topic.
- The Committee made a motion to give credit for 3 CPD hours to non-Bencher lawyer volunteers.

c. Conduct Investigation

Ian Wagner, Vice-Chair, reported the following:

- The Conduct Investigation Committee has met a number of times using the new process. So far, it is working well. Staff materials have been appropriate and it has been helpful to have the perspectives of the group.

d. Discipline Policy

Barbara Mysko, Vice-Chair, reported the following with respect to its last meeting:

- Rule revision timelines were discussed;
- The Committee went over the National Discipline Standards and the National Discipline Standards report;
- The Committee is considering the issue of who directs prosecutions;
- The Committee is considering the use of formal cautions; and
- The Committee began discussion the professionalization of hearing committees.

e. Entity Regulation

There was nothing further to report.

f. Equity and Access (joint Committee of Equity & Diversity and Access to Legal Services)

Foluke Laosebikan, Ph.D, Chair, reported on their March Meeting:

- The Committee reviewed a workplan for the year.
- They discussed concerns relating to limited scope retainers. Administration is putting together some information on this topic and the issue will come back to the Committee once information has been gathered.
- Staff had training on LGBTQ earlier and there was a free member webinar on this topic. The webinar was very good. Thanks were extended to Jakaeden Frizzell and the CPD staff.

g. Ethics

Scott Moffat, Chair, reported the following:

- The Committee considered and recommended the revised terms of reference; and
- Continues to work on a real estate trust letter.

h. Executive

i. Governance

There was nothing further to report. Craig Zawada, Q.C. re-extended an invitation to request further information in advance of the facilitated governance session at the June retreat.

j. Insurance

There was noting further to report.

k. Legal Resources

Dean Martin Phillipson, Chair, reported the following:

- Melanie Hodges Neufeld updated the Committee on Westlaw and the library space;
- Melanie continues to do great work with Brea Lowenberger on the SALI project; the two will be presenting at a conference in Dallas on the project this spring.

l. Trust Safety

There was nothing to report.

8. Informational Items

- a. *National Discipline Standards Report 2018* – from Valerie Payne, Complaints Counsel
- b. “Limited Practice Legal Professionals: A Look at Three Models” (The Bar Examiner, Winter 2018-2019, Vol. 87, No. 4)
- c. Law Foundation [Annual Report 2018](#)
- d. CLIA Report – April 2019

9. Meeting Finalization

- 9.1 Review Actions to be Taken**
- 9.2 Confirm Items under 1.4**
- 9.3 Meeting Evaluation**
- 9.4 Next Meeting - June 19 – 21, 2019 (Cypress Hills)**
- 9.5 Motion to Adjourn –**

Cyrstal Norbeck moved to adjourn the Meeting. The meeting was adjourned.

10. Bencher In-Camera Session with Executive Director

11. Bencher In-Camera Session without Executive Director

TIMOTHY J. BROWN, Q.C.
Executive Director

TJB/el