

# **Minutes for the Meeting of the Benchers Held Friday, September 13, 2019 Hotel Saskatchewan, Regina, SK**

## **Present:**

Leslie Belloc-Pinder, Q.C., Gerald Tegart, Q.C., Craig Zawada, Q.C., Andrea Argue, Jeff Baldwin, Monte Gorchinski, Cara Haaf, Glenn Hepp, Suzanne Jeanson, Nolan Kondratoff, James Korpan, Q.C., William Lane, Foluke Laosebikan, Ph.D, 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, Andrea Johnston, Jody Martin, Kiran Mand, Melanie Hodges-Neufeld, Jenna Kraushaar, Kara-Dawn Jordan, Jakaeden Frizzell and Paul Westgate

Erin Kleisinger, Q.C., Federation Council and Dr. Kara Mitchelmore, CPLED CEO, were also in attendance.

## **1. Approval of the Agenda**

### **1.1 Apologies for Absence**

Apologies for absence have been received from Lynda Kushnir Pekarul and Kaitlynn McArthur. Jill Drennan attended Convocation on Thursday, but sent her regrets for Friday.

### **1.2 Confirmation of Agenda**

### **1.3 Bencher Conflict of Interest Disclosures**

Craig Zawada, Q.C., item 4.3(ii) and Martin Phillipson, item 5.2(v).

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

- i. Articling Experience
- ii. CPLED
- iii. Collaboration with the College of Law
- iv. Sandboxing New Technologies
- v. PBLF Funding Proposal 2020
- vi. CLASSIC Funding Proposal 2020
- vii. Bencher Self-Evaluation Questionnaire

## 2. Approval of the Minutes

- i. Bencher Minutes for the meeting held June 21, 2019
- ii. *In Camera* Bencher Minutes for the meeting held June 21, 2019.

Moved by Jeff Baldwin, seconded by Nolan Kondratoff, that the Minutes from the Bencher meeting held June 21, 2019 and the *In Camera* Bencher Minutes also held June 21, 2019, be approved as written. The motion carried.

### 2.1 Amendments

### 2.2 Confirmation of Minutes

### 2.3 Business Arising from Minutes

## 3. Governance Reform (*In Camera*)

This portion of the meeting was held *in-camera*.

## 4. Strategic Initiatives

### 4.1 Expanded Approach to Competency (Goal 1)

- i. Membership Analytics (Informational)

Paul Westgate has been added to the data conversation with the Law Society of Alberta and provided an update on progress. Paul participated in a joint data team meeting on July 24, 2019. Paul then met with the Law Society of Alberta Data Team in Calgary in early August.

The focus is on identifying a path to collaboration, keeping in mind that every jurisdiction is using different platforms to house their data and that each jurisdiction has their own particular way of describing their individual data points and practices when recording information. We are discussing the creation of a data dictionary for our own data and an exchange of information with Alberta about all of the available data points with a view to finding commonalities and creating new areas of commonality. This is an important step in our collaboration with Alberta and an important foundational proof of concept piece with respect to data work with other law societies, should interest in participation expand beyond our prairie working group.

In addition, Alberta has a dedicated specialist (data scientist - consultant) who is assisting them with their reporting and advanced analytics. We will be exploring potential 3<sup>rd</sup> party specialist resource options as our data reporting/insight requirements grow.

ii. Articling Experience (*In-Camera*)

This portion of the meeting was held *in-camera*.

iii. CPLED (*In-Camera*)

This portion of the meeting was held *in-camera*.

iv. Legal Resources – Regina Space Update (Informational)

A meeting was held with Court Services in July and the renovation start date has been revised to late October/early November. We have been consulting with the architect and a draft plan is in place. It will accommodate two staff members and our essential collection needs on the 2<sup>nd</sup> floor. Court Services is covering all associated costs.

v. CPD Policy - Proposed Change to CPD Term

A memo from Andrea Johnston was brought before the Benchers, proposing a revision to the CPD Policy to change from a three-year rolling CPD term to a one-year CPD term.

The Competency Committee (A & E and PSC) has considered this proposal and is recommending it for approval by the Benchers. Although the Competency Committee has the authority to amend the CPD Policy, due to the fundamental nature of this change, Administration and the Committee agreed that this matter should be discussed and ratified by all Benchers.

Andrea Johnston provided an overview of the reasons for the change, including:

- The complexity of the infrastructure required for the current framework. The transition to the new Alinity platform will be much smoother (and timelier) if we move to a one-year term.
- Consistency with the majority of other jurisdictions is desirable, given national mobility.
- A one-year term would be less confusing for the membership and easier to administer.

The Competency Committee is recommending the following for approval by the Benchers:

1. Change from a three-year rolling CPD term to a one-year CPD term (effective January 1, 2020);
2. Minimum annual CPD requirement of 12 hours, not fewer than 2 of which must qualify as ethics hours;
3. Allowance for carry-over of up to 12 CPD hours (2 of which qualify as ethics) into the consecutive year; and

4. In order to facilitate the transition from the three-year rolling term to a one-year term, allow members to carry over all CPD hours reported in 2018 and 2019 (up to a maximum of 24 CPD hours, 4 of which can be ethics) into 2020, with the 12-hour (2 ethics hour) carryover provision triggered for 2021.

Moved by Glenn Hepp, seconded by Suzanne Jeanson, that the CPD term be changed from a three-year rolling term to a one-year CPD term, *effective January 1, 2020*, along with the transitional requirements, as written. The motion carried.

## 4.2 Trusted and Transparent Regulation (Goal 2)

- i. Communications Report (Informational)

A report from Melanie Hodges Neufeld was reviewed by the Benchers.

Key insights from the member survey which closed on June 17<sup>th</sup> were also provided to the Benchers. The results will allow the Law Society to make changes in the way information is provided to our members. We will communicate any changes resulting from the survey with the membership to reinforce our commitment to listening to member needs.

Since the report was drafted, we have hired a Communications Specialist, Julie Sobowale, who will start in early October.

- ii. Law Society Podcast (Informational)

The Law Society has released its first Podcast entitled “Legal Skies.” An email blast was sent to the membership on August 29, 2019 with a link to the [Podcast](#).

Currently, this is envisioned to be a monthly offering, although consideration is being given to increasing its frequency. The hope is that it will provide an opportunity to expose the membership to Society initiatives and to developments in the law and its regulation through interviews with thought leaders and influencers in a convenient format for members.

Later this month, we will be working on a podcast to provide an overview of the major initiatives that are happening at the Law Society and to prepare our membership for the communications they will be receiving in the coming months.

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

- i. Collaboration with the College of Law (*In Camera*)

This portion of the meeting was held *in-camera*.

- ii. Sandboxing New Technologies (*In-Camera*)

This portion of the meeting was held *in-camera*.

- iii. Vincent (Informational)

Legal Resources recently added *Vincent* to the Member Resource Section. Vincent is an intelligent research assistant by vLex that can analyze a judgment, brief, legal memorandum or any other legal document and extract significant concepts to generate the most relevant results from among vLex Canada's extensive legal libraries. We are excited to see how artificial intelligence, natural language processing and machine learning will help facilitate our members' research.

- iv. Law Society Blog (Informational)

To follow the Law Society blog and receive automatic email notifications about our new initiatives and resources, please click on [instructions](#) to subscribe to automatic notifications.

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

- i. Equity & Diversity

The Equity and Access Committee has reviewed the practice of collecting demographic data as part of the annual membership renewal process and is recommending that the completion of the demographic data questions through a third party platform (to protect the anonymity of respondents), with the option to complete any or all of the questions by selecting "I choose not to answer," be a required step in the online annual membership process in 2019. If the Benchers approve the recommendation, the Equity & Access Committee will meet to review and approve the communication(s) in relation to the practice in advance of it being released.

A memo from Kara-Dawn Jordan, setting out the Equity and Access Committee's recommendation, as well as a May 2019 memo to the Equity & Access Committee providing background information on this issue, was provided to the Benchers for consideration.

Kara-Dawn Jordan provided an overview of the demographic questions being asked and the reasons the Law Society has an interest in this information, including:

- better understanding of the current makeup of its membership;
- focussing its efforts to increase equity, diversity and inclusion in the profession; and
- monitoring its progress over time.

She also provided an overview regarding the Law Society's history of asking demographic questions as part of the annual renewal process, including:

- the concerns that some members expressed when completion of the questions, with an option to select "I choose not to answer," was initially required in order to complete the annual renewal process in 2017;
- the analysis done in relation to the issue by Administration; and
- information regarding response rates both when completion was required compared to when the option to bypass the questions entirely was provided later in the 2017 annual renewal process and again in 2018.

Should the Benchers choose to make completion of the demographic data questions, with the option to complete by indicating a choice not to answer any one or all of the questions, a required step in the annual renewal process, the result will be an administrative suspension as of January 1 for failure to complete one of the two steps of annual renewal which are (1) completion of the online renewal process and (2) payment of fees.

The annual renewal process will commence in early November prior to the next Convocation. Any communication in relation to the collection of demographic data will be considered and approved at the Committee level only.

Ian Wagner moved that the completion of the demographic data questions, with the option to complete any or all of the questions by selecting "I choose not to answer," be a required step in the online annual membership process in 2019, as recommended. Craig Zawada, Q.C. seconded. The motion carried.

Kiran Mand reported that Administration has also been 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;
- obtain information about membership views regarding equity, diversity and inclusion in the profession; and
- obtain suggestions for addressing barriers.

Administration has received a second draft of the survey and will work with the consultant before bringing a draft to the Equity & Access Committee for consideration. Administration is working towards a timeline that would have the draft approved and the survey distributed by late fall.

#### **4.5 Increased Access to Legal Services (Goal 5)**

##### **i. Legal Services Task Team (Informational)**

Consultations with relevant stakeholders have started and will continue into early fall. Consultation letters and materials were included for Bencher review.

The consultation process has two streams:

- Stream one will involve reconnecting with previous stakeholders from the original Task Team consultation to receive guidance on implementing recommendations 2(b) and 5(a);
- Stream two will involve a new consultation with other professions (e.g. accountants) regarding exception 'o'.

These consultations will assist and guide the development of the framework and guidelines to support the implementation of the recommendations. The Equity and Access Committee will be working with Administration on this initiative. Further details about the proposed proclamation of the related sections in *The Legal Profession Act* will be addressed under item 6.1(i), Rule Revision Timeline.

##### **ii. Saskatchewan A2J Network (Informational)**

The last meeting of the A2J Network was held on June 26<sup>th</sup>. We were primarily interested in hearing about the government's progress related to their "A2J" portal and possibilities for network collaboration. The initiative seems likely in the short term to be confined to an online dispute resolution or "ODR" platform. However, Tim Brown, Q.C. and Melanie Hodges Neufeld will likely be leading a discussion on a larger collaboration in the near future.

## **5. Society Governance**

### **5.1 Operational Reporting**

#### **i. President's Report**

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

- She met with Kris Dangerfield, Q.C., CEO, Law Society of Manitoba, on a trip to Manitoba.
- She attended the most recent Governance Committee, Discipline Policy and Truth & Reconciliation Advisory Group meetings.

- She gave remarks to CPLED students at the face-to-face sessions in Saskatoon.
- She was invited by CLASSIC to speak to their students.
- An Executive meeting was held to plan Convocation.
- She met with the Craig Zawada, Q.C., Chair of Governance, Tim Brown, Q.C. and Kara-Dawn Jordan to plan the Governance session held on September 12<sup>th</sup>.
- She will be attending Federation meetings in October.

ii. Executive Director's Report

Tim Brown, Q.C. reported the following:

- The Law Society lost long-time employee Kelly Chiu in July to illness. Kelly worked with the LSS from 1999 until 2018.
- Julie Sobowale will join our staff as a Communications Specialist in October.
- Stephanie Kievits, CPA, CA has returned from parental leave and is back in our audit department.
- Sidney Young completed her summer position with the LSS and has returned to complete her last year of law school.
- He will be attending the IILACE conference in September and Federation meetings in October.

iii. Federation Council Report

Erin Kleisinger, Q.C. reported the following:

- The next Council meeting will be held in October in Newfoundland. There are two parts to the upcoming Federation Meetings. The first is the strategic planning session and the second is the conference which focusses on mental health and wellness.
- The Standing Committee on the Model Code has met. At their last meeting, they spent quite a bit of time on proposed amendments to the discrimination and harassment provisions of the Model Code presented by LSEN. There will be a package regarding proposed changes to the Code coming out in January for consideration.
- 7 jurisdictions have approved the AML Rules. All other jurisdictions are indicating that Rules will be implemented for January 2020.

## 5.2 Financial Reporting

i. Financial Statements

Financial statements for the period ended August 31, 2019, along with the budget variance analysis, were provided for review and consideration.



ii. Quarterly Investment Report

A copy of the Quarterly Investment Report for the period April 1 – June 30, 2019 was provided to the Benchers.

iii. Pre-Budget Discussion (Informational)

Legal Resources and the CPLED Bar Admission Program submitted their annual grant requests on August 22<sup>nd</sup> to the Law Foundation.

A meeting to consider grant requests is scheduled for September 16, 2019. Bob Watt, FCPA, FCA has advised that the information submitted is clear and our attendance is not required.

iv. PBLIS Funding Proposal 2020 (*In Camera*)

This portion of the meeting was held *in-camera*.

v. CLASSIC (*In Camera*)

This portion of the meeting was held *in-camera*.

### 5.3 Execution of Strategy

i. Action Plan Progress (Update)

Team Action Plans for Competency; Modernizing Regulation, Communications; and Data & Technology were provided, along with updated progress reports.

Some timelines were adjusted for some tactics. In some cases, this was a result of decisions that have been made in relation to the roll-out of certain initiatives. In other cases, the timeline was adjusted because Administration now has more information about what is involved in each project, including consultant/contractor timelines or factors related to staff resources. Some timelines have also been adjusted simply to reflect the ongoing nature of the work.

ii. Metrics/Dashboard (Update)

Administration has been working with Sage to upgrade our accounting system to allow better reporting for management and the board and to allow it to automatically feed the dashboard once complete. Now that the prototype is complete for the dashboard, Administration is continuing its work with MicroAge to build out the content.

Paul Westgate provided an update and visual overview of Administration's progress on the dashboard.

## 5.4 Appointments

### i. Legal Aid Commission

Valerie Macdonald, Q.C. is currently serving her first term, which will expire September 21, 2019. Raymond Wiebe is currently serving a second term, which will expire December 31, 2019.

Both representatives are willing to serve another term.

According to the Bencher Policy Manual, appointments are usually made for two-year terms, with the possibility of renewal. The maximum tenure is usually six years.

The convention has been to renew these appointments unless there is an unwillingness to continue, there are concerns about reporting back to the Law Society, or there is a lack of attendance at meetings. Since no issues have come to Administration's attention, reappointment of our current representatives is recommended.

Moved by Craig Zawada, Q.C., seconded by Crystal Norbeck, that Valerie Macdonald, Q.C. be re-appointed a *second two-year term*, from September 23, 2019 to September 23, 2021. The motion carried.

Moved by Foluke Laosebikan, Ph.D., seconded by John Morrall, that Raymond Wiebe be re-appointed *one final term*, January 1, 2020 to December 31, 2021. The motion carried.

## 5.5 Bencher Self-Evaluation Questionnaire (*In Camera*)

A summary report containing the results of the Bencher evaluation conducted in July was provided by Kara-Dawn Jordan *in-camera*.

## 5.6 Election of Vice President (Informational)

Traditionally, an email is sent to all Benchers near the end of September to encourage Benchers to consider running for Vice-President. With new Benchers on board, the Executive wishes to provide an early reminder to all Benchers to consider whether they have an interest in running for this position. A further reminder will be sent via email in accordance with our past practices.

Anyone who is interested should feel free to reach out to colleagues on the Board who have fulfilled these roles if they have questions about workload/time commitment, or any other questions relating to the position.

The deadline for notice is October 31<sup>st</sup> and Benchers may simply send Liz an email to advise their interest in running.

Benchers will vote via secret ballot at November Convocation.

## 6. Regulation

### 6.1 Rule Amendments

#### i. Rule Revision Timeline (Update)

An updated Rule revision timeline prepared by Jody Martin was provided for information.

Pursuant to the timeline, and in order to ensure all necessary Rules are in place when amendments to the *Act* come into force at year end, it is expected that the Benchers will have completed a review of all substantive Rule changes prior to November Convocation. Each Committee (as needed) will be scheduled to meet in October to review the relevant Part of the Rules that will incorporate all the changes pertaining to the Rules overhaul (changes to numbering, language, etc.).

The expectation is that all will come into force, except for limited licenses.

#### ii. New Rules Part 10 - Alternative Legal Service Providers

A memorandum from Jody Martin was provided on behalf of the Discipline Policy Committee and the Equity and Access Committee detailing new *draft* Rules, providing a definition of Legal information and a list of unauthorized practice exemptions to be added under new Part 10 of the Rules, Alternative Legal Service Providers.

These *draft* Rules were considered at Committee meetings on September 3, 2019. The Committees recommended that the *draft* Rules be provided to the Benchers for their review and approval, *in principle*, to allow for any housekeeping or other numbering changes further to the Rules overhaul, for final approval at November Convocation.

Moved by Craig Zawada, Q.C., seconded by James Korpan, Q.C., that the new Alternative Legal Service Provider Rules, Part 10, be approved *in principle*, as written in the memo provided by Jody Martin, dated September 4, 2019. The motion carried.

#### iii. Part 11 – Directing Prosecutions

At the Bencher meeting in June 2019, proposed *draft* Rules relating to the direction of prosecutions and amendments to Conduct Investigation Committee motions were tabled from the larger set of *draft* Rules, to allow for consultation with the Conduct Investigation Committee.

Following this consultation, these proposed *draft* Rules were placed before the Benchers for approval *in principle*. Attached was a memo by Valerie Payne regarding the results of the consultations and the proposed *draft* Rules.

Moved by John Morrall, seconded by Jeff Baldwin, that the Directing Prosecutions Rules, Part 11, be approved *in principle*, as written in the memo provided by Valerie Payne, dated September 5, 2019. The motion carried.

#### iv. Part 7 – Membership and Practice Privileges

A memo from Andrea Johnston proposing amendments to Part 7 of the Rules (Membership and Practice Privileges) was provided for consideration. The amendments are needed in order to bring the Rules in line with the upcoming changes to *The Legal Profession Act, 1990*, as well as some housekeeping amendments to clean up and add clarity to various Rules.

The Competency Committee has considered the proposed Rule amendments and recommended them for approval by the Benchers. A copy of the redlined Rules was included for review and approval *in principle*. Final reading and approval of the Rules will be before the Benchers at November Convocation.

Moved by Cara Haaf, seconded by Scott Moffat, that the Membership and Practice Privileges Rules, Part 7, be approved *in principle*, as written in the memo provided by Andrea Johnston, dated August 26, 2019, and according to the redlined Rules provided by Andrea Johnston. The motion carried.

## 6.2 Code of Professional Conduct

The Law Society's summer student, Sydney Young, was tasked with the responsibility of monitoring the *Code of Professional Conduct* and reviewing it for errors, inconsistencies and ensuring it aligns with the Federation's Model Code. Sydney also input cases into annotations.

Minor grammatical corrections and formatting were found and made to the Code. These changes were simply to make the document consistent and to correct minor grammatical errors. There was only one amendment to the Code that required Bencher approval, located in section *2.1 Integrity, Commentary #1*.

Moved by Crystal Norbeck, seconded by William Lane, that amendments to the *Code of Professional Conduct* be approved, as written.

A motion to grant second reading on the same day was presented by Glenn Hepp, seconded by Foluke Laosebikan, Ph.D.

On second reading, the motion was presented by Craig Zawada, Q.C., seconded by John Morrall, that amendments to the *Code of Professional Conduct* be approved, as written. The motion carried.

### **6.3 Honorary/Posthumous Call for World War One Law Students**

Patrick Shea, a partner with the Gowling Law Firm in Toronto, approached the Law Society about a project regarding honorary calls to law students and law students who were lost in WWI.

According to Mr. Shea, there are 40 law students from Saskatchewan who were lost in WWI. Other law societies have participated in the project and he was hoping the Law Society of Saskatchewan would do something similar. For example, the Law Society of Alberta posted biographies on their website and Mr. Shea prepared a book, as well. The Law Society of Ontario and Newfoundland also participated in the project in some form. Patrick Shea has done all the research at his own cost, as he considers it a personal labour of love, so the cost will be minimal.

Tim Brown, Q.C. has suggested that the photos and bios be published on the Law Society website on or about November 11, 2019. Honorary memberships could also be sent to the families if approved by the Benchers. The Executive Committee was comfortable with the approach.

Administration seeks approval from the Benchers to provide honorary memberships to the law students who were either lost in WWI or who were unable to complete their legal studies as a result of having served.

Moved by Suzanne Jeanson, seconded by William Lane, that in memory and recognition of their sacrifice, honorary memberships be provided to law students who were either lost in WWI or who were unable to complete their legal studies as a result of having served. The motion carried.

## **7. Committee Reports**

- a. Audit (Monte Gorchinski, Chair)
  - Nothing to report
- b. Competency (joint Committee of Admissions & Education and Professional Standards) (Glenn Hepp, Chair)
  - Nothing further to report.
- c. Conduct Investigation (Jeff Baldwin, Chair)
  - The Committee met on September 12<sup>th</sup> to deal with three matters.
- d. Discipline Executive (Barbara Mysko, Vice-Chair)
  - Nothing further to report.

- e. Entity Regulation (Ian Wagner, Chair)
  - Nothing to report.
- f. Equity and Access (joint Committee of Equity & Diversity and Access to Legal Services) (Foluke Laosebikan, Ph.D, Chair)
  - Nothing further to report.
- g. Ethics (Scott Moffat, Chair)
  - Nothing to report.
- h. Executive
  - Nothing further to report.
- i. Governance (Craig Zawada, Q.C., Chair)
  - Nothing further to report.
- j. Insurance (James Morrison, Q.C., Vice-Chair)
  - Nothing to report.
- k. Legal Resources (Dean Martin Phillipson, Chair)
  - Nothing to report.
- l. Trust Safety (Monte Gorchinski, Chair)
  - The Committee has met a couple of times regarding the Trust Safety Rules. There will be one more meeting to clarify the meaning of one of the Rules.
- m. Truth and Reconciliation Advisory Group (Gerald Tegart, Q.C., Chair)
  - Nothing that requires reporting.

## **8. Informational Items**

The following articles/reports were provided to the Benchers for information:

- a. “Advocate for justice” in Saskatoon ordered to stop practising law without a licence - Regina Leader Post, by Kathy Fitzpatrick, August 6, 2019

- b. Creators of novel Gladue database hope it becomes widely used after free access – *Lawyers Daily*, online, by Terry Davidson, posted July 8, 2019
- c. Blackladder meets the Law Society of Ontario – *CanadianLawyer*, online, opinion by Dean Ian Holloway, July 29, 2019
- d. LSO reduces number of committees, extends appointments of former benchers on tribunal – *Lawyers Daily*, online, by Amanda Jerome, posted August 9, 2019
- e. College of Law Endowment Fund – report from Derek Maher, CPA, CA
- f. PLEA Board – Report from Maya Scott
- g. Sask Legal Aid Commission – report from Ray Wiebe

## **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** – October 25, 2019 in Saskatoon at the Sheraton.  
President’s Dinner to follow in the evening.
- 9.5 Motion to Adjourn**

Cara Haaf moved that the meeting adjourn.

## **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