

Minutes for the Meeting of the Benchers Held Friday, May 1, 2020, via Zoom

Present:

Gerald Tegart, Q.C., Foluke Laosebikan, Ph.D, Leslie Belloc-Pinder, Q.C., Craig Zawada, Q.C., Andrea Argue, Jeff Baldwin, Monte Gorchinski, Cara Haaf, Glenn Hepp, Suzanne Jeanson, Nolan Kondratoff, James Korpan, Q.C., Lynda Kushnir Pekrul, William Lane, 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, Paul Westgate, Jakaeden Frizzell, Julie Sobowale, Liz Lynchuk and Riva Farrell-Racette

Erin Kleisinger, Q.C., Federation Council

The meeting was called to order at 10:15 am.

1. Approval of the Agenda

Moved by James Korpan, Q.C., seconded by Monte Gorchinski, to approve the Agenda as written.

1.1 Apologies for Absence

Apologies for absence were received from Scott Moffat, Jill Drennan and Kaitlynn McArthur.

1.2 Confirmation of Agenda

1.3 Bencher Conflict of Interest Disclosures

Craig Zawada, Q.C. disclosed a conflict of interest regarding the College of Law Collaboration and will excuse himself from any discussion on that topic.

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

- i. CPLED
- ii. Futures Class – College of Law
- iii. Appointments

2. Consent Agenda

The items included on the consent Agenda were set out in 2.1 and 2.2 below:

2.1 Approval of the Bencher Minutes

A motion is required for the following Minutes:

- i. Bencher Minutes from the meeting held February 14, 2020 and *In-Camera* Bencher Minutes from the meeting held February 14, 2020
- ii. Special *In-Camera* Bencher Minutes from the meeting held March 22, 2020
- iii. *In-Camera* Bencher Minutes from the meeting held April 2, 2020

Moved by John Morrall, seconded by Leslie Belloc-Pinder, Q.C., that the Bencher Minutes held February 14, 2020, the *In Camera* Bencher Minutes held February 14, 2020, the *In Camera* Bencher Minutes held March 22, 2020 and the *In Camera* Bencher Minutes held April 2, 2020, be approved as written. The motion carried.

2.2 Terms of Reference

The following revised Terms of Reference required Bencher approval.

- i. *Amended* Audit Committee Terms of Reference (Updated to reflect new Act and Rule references)
- ii. Executive Committee Terms of Reference (Updated to reflect new Act and Rule references)
- iii. Equity & Access Committee Terms of Reference (Updated to reflect new Act and Rule references and to reflect that the Committee is now one committee, rather than two meeting jointly)
- iv. Governance Committee Terms of Reference (Updated to reflect new Act and Rule references)

Moved by Glenn Hepp, seconded by Craig Zawada, Q.C., to approve the Terms of Reference for the Audit Committee, the Executive Committee, the Equity & Access Committee and the Governance Committee, as written. The motion carried.

3. Decision Items

3.1 Strategic Initiatives

- i. Legal Services Task Team (Increased Access to legal Services – Goal 5)

Notice Forms (In-Camera)

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

3.2 Appointments

i. Senate of the University of Regina

David Brundige's final term will end June 30th and a call for volunteers attracted a total of 5 applicants. A secret vote was held via survey monkey and the results were presented to the Benchers for a motion.

Moved by Jeff Baldwin, seconded by James Korpan, Q.C., that Diana Lee, Q.C. be approved as Law Society Representative for the University of Regina Senate, commencing July 1, 2020 to June 20, 2023. The motion carried.

3.3 Regulation

i. Rule Amendments

Part 7 – Membership & Practice Privileges

Transition from CPLED to PREP

The Competency Committee recommended Rule amendments for approval by the Benchers to accommodate the transition from our current CPLED program to PREP. The following materials were provided for review:

- memo from Andrea Johnston and Kiran Mand proposing amendments to the Law Society Rules related to the transition from our current CPLED program to PREP.
- relevant Law Society Rules, redlined, to highlight the proposed amendments, along with Schedule 1 – Law Society Fees and Assessments.

Andrea Johnston reported that we are moving from CPLED to the new PREP program in June 2020, with all 4 participating jurisdictions (Saskatchewan, Alberta, Manitoba and Nova Scotia). It was important that the rules and policies that support PREP be developed and adopted across all four jurisdictions so that the operational policies and principles are as consistent as possible. Administration examined Law Society Rules to update and reflect the changes caused by this transition.

CPLED will be responsible for a number of centralized functions that were formerly administrated by individual law societies, such as processing student registrations, collecting tuition fees, managing delivery of the PREP program and administering student requests for accommodation, deferral

and withdrawal. As such, the content of Rules 711 and 712 has been removed and Rule 711 has been amended to state that students-at-law are required to register for PREP (via CPLED) as part of the Bar Admissions process.

Since tuition fees will now be handled by PREP, our Schedule of Fees must be amended to remove the portion regarding student-at-law fees pertaining to the Bar Admission Program and the Competency Evaluation re-read fee.

Other minor changes have also been made to the Rules to refer to the new PREP program

CPLED will also become responsible for the Appeals process. Administration worked with other jurisdictions to develop a centralized appeal process, whereby appeals will now be made to the new CPLED Appeal Committee. Each law society will retain jurisdiction over the student-at-law admission criteria, including good character assessments and fitness to practice. Any hearings and appeals resulting from admissions applications would remain with each law society. In addition, if a PREP student were to engage in conduct that calls into question their integrity and/or character, PREP will inform the law society and the Benchers would retain jurisdiction to revoke their student-at-law status or discipline the student. The CPLED appeals process will be set out within PREP policy.

Andrea Johnston drew attention to an error in the redlined version of the Rules posted to APRIO. Rule 712(2)(a) should contain a strike-through to indicate that it was removed.

The Competency Committee sought approval of the amendments made to Part 7 of the Rules, as well as the Schedule of Fees, effective June 1, 2020.

Moved by James Korpan, Q.C., seconded by Crystal Norbeck to amend *Part 7 – Membership Practice Privileges*, as well as *Schedule 1, Law Society Fees and Assessments*, as outlined in the Memo and tracked documents dated April 22, 2020 prepared by Andrea Johnston, and to be effective **June 1, 2020**. The motion carried.

A motion to grant second reading on the same day was presented by Ian Wagner, seconded by Foluke Laosebikan, Ph.D. The motion carried.

On second reading, the motion was presented by John Morrall, seconded by Crystal Norbeck, to amend *Part 7 – Membership Practice Privileges*, as well as *Schedule 1, Law Society Fees and Assessments*, as outlined in the Memo and tracked documents dated April 22, 2020 prepared by Andrea Johnston, and to be effective **June 1, 2020**. The motion carried.

ii. Insurance Levy

The Benchers were asked to consider the proposed Insurance Levy for the year beginning July 1, 2020.

Brad Hunter, Q.C., Insurance Counsel, explained the recommendation to the Benchers and provided an overview of the Insurance Committee recommendation that the levy be increased by 30% from last year, mainly driven by a higher CLIA insurance premium.

The Benchers deliberated at length and the consensus was not to increase the levy. Brad Hunter, Q.C. mentioned that the Part B coverage in the amount of \$45 may be reduced somewhat, so the Benchers agreed that the levy rate would not exceed last year's rate in the amount of \$926.

Moved by Ian Wagner, seconded by Jeff Baldwin, that under the unprecedented circumstances of Covid-19, the Benchers deny the recommendation set out by the Insurance Committee and instead approve and set the 2020 – 2021 Insurance Levy not to exceed the rate of \$926, the same rate approved last year. The motion carried.

4. Discussion Items

4.1 Society Governance

i. Operational Reporting

- a. President's Report (a written report was provided)
- b. Executive Director's Report (written reports have been provided on a weekly basis)
- c. Federation Council Report (a written report was provided)

ii. Financial Reporting

a. Financial Statements

Financial statements for the period ended March 31, 2020 were provided to the Benchers for consideration.

A memo from Tim Brown, Q.C. and Kara Dawn Jordan setting out the issues and assumptions considered by Administration in attempting to forecast the potential financial effects of the pandemic on the 2020 Law Society Budget were also provided for consideration by the Benchers.

Tim Brown, Q.C. spoke to the Benchers regarding his observations. In making our assumptions, we took a rather conservative view of what the remainder of the year looks like. It is easier to pivot from that view to a more positive view as we move along. Some observations may seem

extreme, for example, no in-person meetings for the balance of 2020, so it is important to be vigilant and stay on top of forecasts as the months progress and the matter develops.

The ultimate forecast projection is that once revenue and expenses are offset, our financial position will only be marginally worse than budget.

Tim Brown, Q.C. reported on the applicability of available government relief programs. He advised that Administration considered the Canadian Emergency Wage Subsidy (CEWS) and the Canadian Emergency Benefit Account (CEBA).

The Law Society of Saskatchewan would qualify for both programs, but only on the most technical basis. At present, the Law Society cannot legitimately claim to have suffered Covid-19 related harm; we have not laid off any employees and our work has neither been frustrated or impaired. If anything, the pace of our work has increased, along with our output throughout the emergency. There is significant reputational risk associated with this type of application. Therefore, the Administration recommends not to proceed.

The Benchers deliberated and agreed that making application for any of the government relief programs was not appropriate.

b. Quarterly Investment Report

The Greystone Quarterly Investment Report was provided to the Benchers.

Administration's understanding of our current investment position was set out in a memo and month-end investment report for March 2020.

Tim Brown, Q.C. advised that there was a decline in our investments at a rate of 3.7% in the first quarter, however, we have already experienced significant recovery. Greystone has advised that we leave our portfolio where it is and remain patient. Based on our own internal analysis to year end, Administration is comfortable with Greystone's advice to stay the course. Administration will continue to monitor the Society's investments.

5. Information Items

5.1 Strategic Initiatives

i. Expanded Approach to Competency (Goal 1)

a. CPLED (*In-Camera*)

A memo was provided by Tim Brown, Q.C. reporting on the CPLED update. This was informational to the Benchers and there was no discussion.

b. CPD (Informational)

A memo was provided by Tim Brown, Q.C. reporting on the CPD update.

ii. Trusted and Transparent Regulation (Goal 2)

a. Communications

A report from Julie Sobowale was attached for review.

A question was posed to Administration, asking to what extent Ms. Sobowale's expertise is available to SLIA.

Tim Brown, Q.C. explained that SLIA is supported by and has access to all our communication platforms and channels and that we work closely to ensure their communication needs are met.

b. Hearing Administrator Position (Informational)

The *ad hoc* Recruitment Committee met on February 25th to refine the position requirements and the job posting. The job posting has been completed and was approved by the Committee. The intent was to have the position posted by the beginning of April and filled by June 2020. However, the timeline was delayed due to the pandemic.

The ad will now be posted so that the Committee can move forward with seeking out and vetting candidates. A further communication will go to the membership prior to posting.

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

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

This portion of the discussion was to be held *in-camera*, but no discussion was necessary.

iv. Increased Access to Legal Services (Goal 5)

a. Dean's Forum on Access to Justice and Dispute Resolution (Informational)

A memo from Melanie Hodges Neufeld was provided to the Benchers, containing an update with respect to the Dean's Forum.

v. Working Remotely (new item)

A question was posed about security concerns associated with working remotely.

Tim Brown, Q.C. advised that Law Society staff are working through secure VPN connections established by our IT provider. The biggest risk is phishing scams and staff have been well trained to avoid these scams from the IT episode in 2017. Therefore, the risk is low.

More broadly speaking, we have not received any reports of confidentiality or data breaches from our membership.

During the initial phase of chaos created by the shutdown, the Law Society began providing resources to the membership via email and the blog about the heightened risk of hackers and scammers poised to take advantage of the situation. Other resources for the membership curated by the Law Society included a series of excellent videos by Craig Zawada, Q.C., highlighting safe remote practice techniques. We have also received tremendous cooperation from the Designated Representatives in getting information out safely and in a timely fashion to all the firms.

5.2 Society Governance

i. Execution of Strategy

a. Action Plan Progress Update (Informational)

Much of our strategic focus has been diverted to responding to the events of the pandemic as has been reported to the Benchers on a weekly basis. In many ways, the steps we have taken in response to the pandemic have accelerated pre-existing strategic priorities. The pandemic has also provided us a lens through which to evaluate both our strategy and the steps we are taking to implement it.

ii. Annual General Meeting (Informational)

On March 18, 2020, the membership was notified through *ReSource* that the AGM would be moved to a date in June.

The impact of the social distancing requirement posed by the pandemic makes it impossible to proceed with an in-person meeting. Administration has been working on a proposal to hold the AGM via electronic means.

5.3 Regulation

i. Practice Directives (informational)

Administration reported to the Benchers in relation to the Practice Directives through weekly communications.

5.4 Committee Reports

- a. Audit: the business of this Committee is concluded, subject to anything coming out of the AGM.
- b. Competency: a written report was attached.
- c. Conduct Investigation: a meeting is scheduled for May 7th.
- d. Discipline Policy: a meeting is scheduled for April 29th.
- e. Equity and Access: a meeting is being planned for some time in May to focus on legal information guidelines.
- f. Ethics: an Ethics ruling was made in February and will be posted to the Law Society website in advance of Convocation. Another meeting has been scheduled for May 19th.
- g. Executive: the Committee has met several times since last Convocation to plan Benchers meetings, consider Practice Directives and generally discuss issues related to Covid-19.
- h. Firm Regulation: a meeting will be scheduled following Convocation to receive an update and discuss the firm registration process and development of the online Assessment Tool, review and update work and communication plans, and begin to look at the needed criteria to facilitate implementation of Rule 902(5) (requiring members to obtain Law Society approval prior to opening a trust account), as well as to look at options for a trust account supervisor program to present to the Committee at a later date.
- i. Governance: a written report was attached.
- j. Insurance: see Agenda item 3.3 ii.
- k. Truth and Reconciliation Advisory Group: the Group has been canvassed about the next meeting.

5.5 Other Informational Items

- a. Saskatchewan Legal Aid Commission – report from Valerie Macdonald, Q.C.

6. Meeting Finalization

6.1 Review Actions to be Taken

6.2 Confirm Items under 1.4

6.3 Meeting Evaluation

Gerald Tegart, Q.C. requested feedback from the Benchers regarding their first virtual Convocation meeting.

Overall, the Benchers were satisfied with the progress of the meeting, however, look forward to the return of in-person meetings.

With regards to voting in advance, some of the Benchers would prefer to meet and discuss the candidates before placing their secret vote. President Tegart responded that under the circumstances, there was no ability for a secret vote in the usual manner. Administration will look at options for addressing this concern in future.

Gerald Tegart, Q.C. concluded that business was completed. The next virtual meeting will be on Friday, June 19th and Administration will be in touch as soon as possible with further details.

The meeting adjourned at 12:04 pm.

6.4 Next Meeting (virtual June 19, 2020)

6.5 Motion to Adjourn

- 7. Bencher *In-Camera* Session with Executive Director**
- 8. Bencher *In-Camera* Session without Executive Director**

TIMOTHY J. BROWN, Q.C.
Executive Director