

# **Minutes for the Meeting of the Benchers Held Friday, June 19, 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, Jill Drennan, Monte Gorchinski, Cara Haaf, Glenn Hepp, Nolan Kondratoff, James Korpan, Q.C., Lynda Kushnir Pekrul, William Lane, 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, Christine Johnston, Jody Martin, Kiran Mand, Melanie Hodges-Neufeld, Jenna Kraushaar, Kara-Dawn Jordan, Paul Westgate, Jakaeden Frizzell, Julie Sobowale, Pamela Harmon, CPA, CA, Stephanie Kievits, CPA, CA, Sydney Young, Riva Farrell-Racette and Liz Lynchuk

Erin Kleisinger, Q.C., Federation Council and Jordan Furlong, Law21

The meeting was called to order at 10:11 am.

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

Moved by Jeff Baldwin, seconded by Nolan Kondratoff, to approve the Agenda as written. The motion carried.

### **1.1 Apologies for Absence**

An apology for absence was received from Suzanne Jeanson.

Ian Wagner and Scott Moffat were present for a portion of the meeting.

### **1.2 Confirmation of Agenda**

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

Erin Kleisinger, Q.C. will be put into a “waiting room” when the Benchers deliberate on her re-appointment as Federation Council for a second term. Paul Westgate will invite her back into the meeting when the Benchers have concluded their discussion.

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

- i. Legal Services Task Team – Notice Forms
- ii. Q.C. Nominations
- iii. CPLED – new PREP program

## 2. Consent Agenda

The Consent Agenda included items which were not considered controversial and would be collectively be enacted by one motion.

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

### 2.1 Approval of the Bencher Minutes

The following Minutes required Bencher approval:

- i. Bencher Minutes from the meeting held May 1, 2020
- ii. *In Camera* Bencher Minutes from the meeting held May 1, 2020

### 2.2 Terms of Reference

The following revised Terms of Reference required Bencher approval:

- i. Model Code Sub-Committee Terms of Reference (new)
- ii. Competency Committee Terms of Reference

Administration has updated both the A & E and PSC Terms of Reference and consolidated them to create a proposed Terms of Reference for the newly created Competency Committee. The redlined portions reflect updated Rule numbers and the insertion of the PSC Terms of Reference into the A & E Terms of Reference.

- iii. Ethics Committee Terms of Reference

Updated to reflect new Act and Rule references. There was one addition to IV. Key Responsibilities, as a section regarding changes to the *Code of Conduct* that was previously deleted is now part of the Rules again.

- iv. CIC Committee Terms of Reference

Updated to reflect new Act and Rule references. Some changes were made to clean up out-of-date references (ie. the Terms of Reference still referred to a “Panel” in once place).

Some further changes were made to clarify or correct sections that were not clear or perfectly accurate in the previous version (ie. the prosecutor does

not “conduct” hearings – the Hearing Committee conducts the hearing, and the prosecutor acts as counsel to the CIC at the hearing).

The actual roles and responsibilities of the Committee and staff have not changed, just the manner in which they are described.

v. Discipline Policy Committee Terms of Reference

Updated to reflect new Act and Rule references. Some changes were made to clean up out-of-date references (ie. the Terms of Reference still referred to the Discipline Committee in one place).

Since 2019, the responsibility for the Model Code Subcommittee has shifted from the Ethics Committee to the Discipline Policy Committee, so the Terms of Reference have been changed to reflect that additional responsibility.

Moved by Ian Wagner, seconded by Foluke Laosebikan, Ph.D, to approve items 2.1 Approval of Bencher Minutes and 2.2 Terms of Reference on the Consent Agenda, as written. The motion carried.

### 3. Decision Items

#### 3.1 Strategic Initiatives

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

*Discovery Period Consultation Update and Notice Forms (In-Camera)*

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

#### 3.2 Appointments

i. Queen’s Counsel Selection Committee

The Committee consists of the past President, a Bencher, a Public Representative and a member-at-large.

We received interest from 4 Benchers.

Lynda Kushnir Pekrul was the only Public Representative Bencher who expressed interest in being on this committee, therefore, was acclaimed.

We received applications from 5 interested members (attached).

The Benchers voted “live” via secret ballot and selected Suzanne Jeanson for the Bencher position.

The Benchers voted “live” via secret ballot and Sherry Fitzsimmons, Q.C. was selected as the member-at-large on the Queen’s Counsel Selection Committee for 2020.

ii. Federation Council

The term for Erin Kleisinger, Q.C. runs until December 31, 2020. She has indicated interest in serving a second term. Ms. Kleisinger has served one term and is eligible for two more two-year appointments.

Ms. Kleisinger was temporarily removed from the virtual meeting to allow for discussion and a motion by the Benchers.

Moved by Jeff Baldwin, seconded by John Morrall, to re-appoint Erin Kleisinger, Q.C. for the position of Federation Council for a second term, from January 1, 2021 to December 31, 2022. The motion carried.

### 3.3 Regulation

- i. Rule Amendments – none.

## 4. Discussion Items

### 4.1 Society Governance

- i. Operational Reporting

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

Erin Kleisinger, Q.C. provided a written report and also reported on the following:

A national well-being study pursued out of the University of Sherbrook, including a canvassing of lawyers across Canada, is in the works. We will obtain some valuable data from this project.

The TRC Advisory Committee released a report which has been adopted by the Federation. The report includes a number of specific recommendations urging law societies to take certain steps. She had discussed the report with the Executive and recommended it to the Benchers. The report is already percolating into the work of the Federation.

The Model Code Committee meeting took place yesterday and as part of its work in review of the Model Code, the Committee will attempt to

apply the guiding principles and look at where changes need to be made. More education is needed first, although we have also learned from missteps of the past.

The recommendations also affect national law schools and a number of pieces of work. The Model Code Committee will not move forward without consulting other stakeholders and committees to ensure we are not intruding on other jurisdictions. It has taken a long time to get to this point and it is exciting to see the results.

The TRC Advisory Committee is finished with this report and it is now the job of the academy, committees and law societies to implement the recommendations.

Gerald Tegart, Q.C. added that our own TRC Advisory Group postponed its meeting when they learned about the release of the report. It will definitely be beneficial for this group's work.

## ii. Financial Reporting

### a. Financial Statements

Financial statements for the period ended April 30, 2020 were provided for review.

Tim Brown, Q.C. reported that the Society is in a better financial position than expected at commencement of the pandemic, due to controlling expenses, expenses being delayed and positive re-investments. We will remain cautious throughout 2020. At the present time, we are \$375,000 ahead of budget. Much is timing and investments have done well.

The financial statements for May 31, 2020 were not ready in time for June Convocation. Unless Convocation is scheduled near the end of the month, financial statements will not be available for the month immediately preceding the month of Convocation, as the Audit department requires 10 business days to complete the statements and then they must be reviewed for summaries and forecasting by department heads.

### b. Quarterly Investment Report

The next report from Greystone will cover the period April 1, 2020 to June 30, 2020.

Tim Brown, Q.C. reported that since we will not receive the quarterly investment report until the end of June, Don Hansen, FCPA, FCA, provided a memo that sheds light on how our investments are

rebounding. Overall, we are in a situation where we believe our investments are positive by \$25,000 as at the end of May.

c. TD Greystone Investments

The TD Greystone Investment Policy has been revised to reflect that the balances from the self-insurance fund were moved to the general administrative department. This is an artifact in our accounting that dates back to pre-CLIA (1988) when each Law Society administered its own insurance program. This change represents long overdue housekeeping and will have no impact on the financial statements in any way.

A copy of the *redlined* Policy was included for Bencher review. It was brought before the Benchers to keep them informed.

## 4.2 Data Analytics Strategy

A memo summarizing the Law Society's proposed data analytics strategy was included for Bencher review.

Paul Westgate and Pam Harmon, CPA, CA, attended a *Data Analytics for Leaders* course to learn how data analytics could benefit the Law Society. A short presentation was provided by Paul Westgate to explain the proposed plan and briefly discuss potential data analytic projects being considered.

Paul and Pam will be trained to use the system in September, then department heads will be trained, followed by the Benchers. By November, we will have some dashboards ready for use. We will also do a webinar and record it, as training is very important.

Craig Zawada, Q.C. added that this is an excellent product and he would also like to see the Society utilizing *Microsoft Teams* as our main tool, instead of the 6 different programs currently being utilized now (APRIO, Zoom, Email App to do surveys, etc.). Using Teams as our primary platform would mean all the documents would be in one place, making it more user friendly. It would also reduce costs by having fewer platforms, such as APRIO.

Paul Westgate advised that a general channel for Benchers and staff has already been created in *Teams* and directed the Benchers to its location. Tim Brown, Q.C. supports the transition to *Teams* since government employees cannot use Zoom for meetings and must use an alternate computer for Law Society meetings. In light of a new crop of Benchers in the fall of 2021, it would be desirable to make the transition before the next group of Benchers are elected.

## 5. Informational Items

### 5.1 Strategic Initiatives

#### i. Expanded Approach to Competency (Goal 1)

##### a. CPLED

The new PREP Program launched on June 1, 2020.

This year, we have approved 72 student-at-law applications. At this time, 69 of those students confirm that they have an articling position. We expect that we will receive more applications through the month of June. Comparative data from previous years is set out below:

2019-20:	88
2018-19:	84
2017-18:	92
2016-17:	75

At present, it would appear that our 2020 student cohort will be slightly smaller than the previous year; our numbers are greater than initially feared at the outset of the pandemic.

##### b. CPD

A brief memo from Andrea Johnston provided an update on CPD OnDemand.

Administration will be engaging *zu.com* to facilitate a design-thinking workshop to explore issues and opportunities to build a business case for CPD OnDemand beyond the piloting phase.

#### ii. Trusted and Transparent Regulation (Goal 2)

##### a. Communications

i. A report from Julie Sobowale was attached for review.

ii. Law Society Podcasts

In February, we published a special podcast series from the ABA Techshow. Due to COVID-19, we suspended recording new episodes for March and April.

In May, we published an [episode](#) featuring Craig Zawada, Q.C. about his [technology webinars](#), cybersecurity and how lawyers are adapting in this pandemic.

iii. Annual Report

The [Annual Report](#) has been posted to the Law Society website.

b. Hearing Administrator Position (*In-Camera*)

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

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

Nothing to report.

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

a. Equity and Access Committee

Work on this project has resumed. Melanie Hodges Neufeld and Kiran Mand have sourced two prospective providers to redraft the survey into a more user-friendly format and provide analysis: The Forensic Centre at the University of Saskatchewan and Illumina.

We expect proposals/quotes from the providers within the next two weeks with the aim of launching the survey this fall. The final results will be available in early 2021.

v. Increased Access to Legal Services (Goal 5)

a. Legal Information Guidelines (Informational)

John Greacen, one of the foremost experts on the distinction between legal information and legal advice, met virtually with the Equity and Access Committee on May 19<sup>th</sup> to begin work on this project. The aim is to have the guidelines completed for the fall.

b. Consultation and Legal Needs Assessment (Informational)

Consultation with non-lawyer legal service providers resumed in May, using the service provider inventory supplied by CREATE Justice. Melanie Hodges Neufeld will work with Riva Farrell Racette and the Truth and Reconciliation Committee to develop an outreach strategy with Indigenous providers/communities.

Melanie Hodges Neufeld is also working with CREATE Justice on a plan for a Saskatchewan Legal Needs Assessment, as there is some intersection between our consultation goals and an understanding of



legal needs in the province. The timelines for both projects have been impacted and may continue to be impacted by COVID-19, but the goal is to have both projects completed by the end of 2020.

## 5.2 Society Governance

### i. Execution of Strategy

#### a. Action Plan Progress Update

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

### ii. Annual General Meeting

Administration advertised to the members that the AGM will be held via *Zoom* on Friday, June 26, 2020 at Noon. No Resolutions were received.

### iii. Law Foundation Grants (*In-Camera*)

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

### iv. Return to Office

A copy of the Law Society RTO plan was attached for review.

The province's 5-phase re-opening plan contemplates that employees who can work effectively from home should continue to do so through all 5 phases. While safety of our staff and their families remains the Administration's primary concern, the Administration has worked with all Staff to create a Return to Office ("RTO") plan for individuals whose effectiveness will be improved by physical attendance at the office. The necessary PPE and a scheduling mechanism to ensure maximum numbers are not exceeded are in place. The offices will remain closed to the public until further notice. This is not viewed as a barrier, since other modes of contact have been well utilized by both members of the profession and the public.

## 5.3 Committee Reports

- a. Audit: work has been completed for the year.
- b. Competency: nothing further to report since last Convocation.
- c. Conduct Investigation: has met as a whole on two occasions this year. Over the course of both meetings, nine matters were considered for determination. In addition, the Committee Terms of Reference were updated primarily to reflect the amended Act and Rules. Committee members continue to assist in the direction of prosecutions and complete Conduct Reviews in the normal course.

- d. Discipline Policy: a written report from Leslie Belloc-Pinder, Q.C. is attached.
- e. Equity and Access: items are covered in the Agenda.
- f. Ethics: met on May 15, 2020 and considered one lengthy matter. Another meeting is set for June 22, 2020, at which time we will have a further 5 matters on the Agenda.
- g. Executive: covered in the President's Report.
- h. Firm Regulation: a written report from Ian Wagner is attached.
- i. Governance: met on June 4<sup>th</sup> to discuss the Bencher Evaluation process and to have a preliminary discussion about whether any improvements can be made to the LSS election process (e.g. a shorter voting window). The Committee will be meeting to consider the evaluation process further at its next meeting and it is anticipated that a revised annual evaluation will launch in the third quarter of this year.
- j. Insurance: nothing to report.
- k. Truth and Reconciliation Advisory Group: meeting postponed to collect further information.

#### **5.4 Other Informational Items**

- a. Public Representative Bencher – Glenn Hepp has been re-appointed for another 3-year term, effective May 13, 2020
- b. National Discipline Standards Report 2019 – from Valerie Payne, Director of Professional Responsibility
- c. University of Saskatchewan Senate – report from Max Bilson

### **6. Meeting Finalization**

- 6.1 Review Actions to be Taken**
- 6.2 Confirm Items under 1.4**
- 6.3 Meeting Evaluation**
- 6.4 Next Meeting** (September 16 – 18, 2020, Saskatoon, if possible)
- 6.5 Motion to Adjourn**

### **7. Bencher *In-Camera* Session with Executive Director**

### **8. Bencher *In-Camera* Session without Executive Director**

The meeting adjourned at 12:08 pm and the Benchers met *in-camera* with the Executive Director.

**TIMOTHY J. BROWN, Q.C.**  
**Executive Director**